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Via electronic mail to: consult@cck.ki

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Communications Commission of Kiribati
PO Box 529
Betio, Tarawa
REPUBLIC OF KIRIBATI

Re: Consultation on the CCK's Proposed Rules for Licensing Communications Networks and Services

Dear Sir or Madam:

O3b Limited ("O3b") submits its views on this Consultation as a global provider of broadband communications satellite capacity, and thus a potential stakeholder. O3b has been asked by Telecom Services Kiribati Ltd ("TSKL") to provide insight and feedback on the Proposed Rules, in case TSKL decides to provide broadband services to its customers in the Republic of Kiribati by using O3b's satellite capacity.

O3b operates an innovative non-geostationary orbit satellite system to provide very high speed broadband connectivity to emerging markets worldwide in the Ka band. O3b launched the first four satellites in its constellation in June 2013, and O3b's second launch of four satellites is expected in mid-2014.

The CCK has invited comment on its Proposed Rules, and highlighted three broad purposes in its Public Notice:

Purpose 1: "Promote entry by new licensees through a transparent, simple application process"

Purpose 2: "Foster investment and innovation in communications networks"

Purpose 3: "Provide incentives for new and existing licensed service providers to provide services to the Outer Islands...."

O3b supports these broad purposes, and is pleased to see the CCK taking these steps which will surely “create more choices for consumers and promote the socio-economic development of Kiribati.”

Regarding Purpose 1, O3b has dealt with national regulatory agencies (“NRAs”) in every region of the world, and transparency is one of the best practices CCK can promote. Having a public consultation on licensing is a good example of “transparency” and we welcome the opportunity to participate in Kiribati’s public discussion of the proposed rules.

As for Purpose 2, as O3b itself is an “innovation” in satellite technology, we are particularly pleased to see Kiribati’s encouragement of new kinds of networks and technologies. Regulators and industry worldwide are increasingly realizing how difficult it is for national telecommunications laws and regulations to stay apace with technology and service developments. Thus, regulatory flexibility is an important feature for the CCK to consider adopting, so that new and effective technologies and services can be swiftly introduced to the people of Kiribati, without being encumbered by an unnecessarily complicated or rigid regulatory process. This flexibility can be ensured by having simple, low-cost, pro-competitive rules to apply for communications networks and service licenses (new and renewals); the explicit powers to grant rule waivers for licensing innovative services, the ability to issue short term testing authorizations to allow experiments and demonstrations; and a streamlined means for changing the rules as technology and services advance in Kiribati.

Purpose 3 is an example of the kind of “universal access” that governments across the world aim to provide to their citizens. The incentives the CCK proposes to offer (waived or lowered annual fees for service provision to the outer islands) are a thoughtful way to achieve quality communications services for all the people throughout Republic of Kiribati. In order to be most effective whilst also being technology neutral, we would suggest that *local operators who provide satellite-based services in the Outer Islands* should also be eligible for zero annual license fees, any designated subsidies, and/or other assistance available through the future Universal Access Fund system (see also our comments on this later in this submission).

Regarding the actual proposed Licensing Rules, O3b understands that the CCK is working with the ITU to develop these Rules and a spectrum management plan. O3b have a few observations we would like to make regarding the currently proposed Rules:

1. Clarity for License Requirements. It is unclear in the proposed rules which licenses might be necessary for a local operator that wishes to use international satellite capacity, such as O3b’s, to provide local services. Looking at “Schedule 2” (Licensing Fees), it would be possible to interpret the license descriptions to mean that one operator, wishing to resell O3b’s satellite capacity via one or more earth stations (satellite dishes) in Kiribati, in order to provide high speed broadband to the people of Kiribati, might need up to four different licenses: a

“network infrastructure services” license; a “satellite services” license; an “international gateway services” license; and/or an “internet exchange services” license. This is confusing for both license applicants and CCK staff who will be asked for guidance on which licenses are appropriate. It also could prove to be an unintended barrier to entry in an environment where the government really seeks to bring in more competition, more services, and lower prices for the citizens of Kiribati. O3b suggests that the proposed rules be clarified to ensure that satellite service providers of international satellite capacity are not financially or procedurally prejudiced by having to obtain multiple licenses.

2. Application and Annual License Fees. It is usually recommended that the fees for license applications and annual fees be gauged to the administrative cost of processing the necessary paperwork. Best practices generally are to keep fees as low as possible so that the passed-on costs to end users do not inhibit growth of the service provided. While the proposed application fees themselves are not unduly high, the proposed annual license fees are not commensurate with recuperation of administrative cost and could cause severe financial burdens on service providers. If the license application and recurring annual fees are too high, new entrants will not come into the market, and those in the market will be impacted very negatively. O3b therefore respectfully recommends that (a) the proposed text in Paragraphs 38, 39, 42, 43, and 44 to impose a % of AGR not be adopted for annual license fees, and (b) instead the annual license fees should be the same amount as the currently proposed application license fees.
3. Universal Service Fund. As one of the Commission’s stated “Purposes” is to cover all the islands in the Republic (which we would call a “universal access” proposal), O3b notes that the CCK desires to have a process of contributions from and distributions to telecom service providers to enhance the universalization of essential telecommunications for all citizens. Universal service contributions are often assessed by regulators on the basis of service provider revenues. The amounts that the CCK are proposing in this consultation to assess as *annual license fees* really seem more like assessments for universal service fund contributions. It is our experience that a well-designed *universal service contribution and distribution system* in a country is more complicated to prepare than the initial assessment of application and annual license fees. O3b believes that the impact of contribution levels on start-up and existing operators (e.g., % of total AGR, and whether multiplied by numbers of licenses held); as well as the administrative mechanisms for evaluating need, and apportioning and distributing these funds to relevant service providers deserves careful consideration by the Commission. As a result, O3b respectfully recommends that a separate public consultation be conducted on this critical topic, and that the proposed assessment on service provider revenues (% of AGR) not be assessed at this time under the proposed new Licensing Rules.

O3b would be pleased to provide specific line-by-line comments of the proposed regulations if that would be useful to the Commission in addition to our comments in this submission.

In conclusion, O3b thanks the CCK for the opportunity to provide these humble comments, and would welcome the chance to work with the Commission in the coming months on the next iteration of these important regulations, as well as on the CCK's proposals for a national universal service approach.

Sincerely,

A handwritten signature in cursive script that reads "Joslyn Read". The signature is written in black ink and features a prominent, sweeping flourish at the beginning.

Joslyn Read
Vice President, Regulatory Affairs
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