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| **Radiocommunication Advisory Group Geneva, 22-24 May 2013** |  |
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|  | **Document RAG13-1/5-E** |
| **22 April 2013** |
| **Original: English** |

United States of America

Implementing the Results of WRC-12

Subsequent to the coming into force of the results of WRC-12, the Radiocommunication Bureau and the Radio Regulations Board initiated and, as appropriate, adopted and promulgated Rules of Procedure (RoP) related to the new regulations. In this respect the BR and Board are to be guided by the provisions of No. 13.12A as specified below:

**“13.12A** In the preparation and development of the Rules of Procedure, the Board, the Bureau and administrations shall apply the following steps:

*a)* the Bureau shall also publish under No. **13.17**, on the ITU website, a list of future proposed Rules and the time-frame for their consideration by the Board and for comments by administrations on the list of future proposed Rules;

*b)* any practice used by the Bureau in the application of the provisions of the Radio Regulations shall be identified and proposed for inclusion in the Rules of Procedure in accordance with the procedures of this section;

*c)* all draft Rules prepared by the Bureau shall be available to administrations on the ITU website and by Circular Letter at least ten weeks prior to the start of the Board meeting;

*d)* any comments on these draft Rules of Procedure from administrations shall be submitted to the Bureau at least four weeks before the start of the Board meeting;

*e)* in submitting comments administrations should, if possible, suggest the actual text of their proposed Rules;

*f)* all comments from administrations shall be posted on the ITU website. However, those comments that do not meet the above time-limits shall not be considered by the Board;

*g)* any Rules of Procedure are to be in conformity with the spirit and principle of the Constitution, Convention and the Radio Regulations and shall avoid any relaxation to the application of the corresponding provisions of the Radio Regulation to which the Rules make reference. (WRC-03)”

Recently a BR Circular was sent to Administrations (CR/343) entitled, “Implementation of provisions relating to the bringing into use and suspension of a frequency assignment to a space station in the geostationary orbit”. In review of this Circular, it appears that the guidance indicated  in No. 13.12A, in several respects, was not followed: 1)Administrations were not consulted with respect to certain sections of the RoP; 2) The BR exceeded, in its guidance, the guidance provided in the RoP. This Administration has provided comments to the BR on this matter (see attachment). However, the purpose of this contribution is to advise the Director that, in implementing the results of WRC-12,  in particular, and all radiocommunication conferences, in general, the BR should strictly follow the guidance of No. 13.12A with regard to the development of RoPs, and having done so, not  exceed the guidance specified therein.

Attachment: 1

ATTACHMENT

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|  | **United States Department of State**  ***Washington, D.C. 20520*** |

Mr. François Rancy

Director, Radiocommunication Bureau  
International Telecommunication Union  
Place des Nations, CH-1211, Geneva 20  
Switzerland

Reference: Comments on Circular Letter **CR/343**

Dear Mr. Rancy:

The United States has reviewed Circular Letter **CR/343**. The Circular Letter contains the Bureau’s plans for implementing provisions relating to the bringing into use and suspension of a frequency assignment to a space station in the geostationary-satellite orbit. The Circular Letter also includes procedures that the Bureau will use in application of No. **11.41.2** regarding efforts made to effect coordination with those administrations whose assignments were the basis for the unfavorable finding under No. **11.38**, without success. The Circular Letter notes that the Radio Regulations Board, at its 61st meeting, approved the Rules of Procedure (ROP) relating to No. **11.44B** and No. **11.49**, which became effective on 1 January 2013.

In reviewing this Circular Letter, the United States was unable to find any citation to provisions of the Radio Regulations for adopting these procedures or other statement that the Bureau has encountered difficulty in the application of these procedures. If so, it appears that the Bureau is implementing procedures which are inconsistent with Article **13**. We note that when there is uncertainty in the provisions of the Radio Regulations, the Radio Regulations (specifically No. **13.01**) provide the mechanism for addressing such uncertainty in the interval before the next WRC. If the Bureau experiences difficulty in the application of the Radio Regulations, the Bureau generally includes a report of such difficulties to a WRC.

With regard to No. **11.44B** and in particular the phrase, “with the capability of transmitting or receiving that frequency assignment,” this administration provides comments on paragraphs 2.4.1 and 2.4.2, as related, of the Circular Letter regarding a non-exhaustive list of possible types of information that the Bureau might request to verify that capability. Additionally, the United States also provides comments on the possible complementary information to determine what efforts were made to effect coordination with those administrations whose assignments were the basis of the unfavorable findings under No. **11.38**, without success. Finally, the United States provides comments on the Bureau’s procedure in paragraph 2.3.5 of the Circular Letter that would require an administration to notify a frequency assignment earlier than required under No. **11.48**, Sections **4.1.3** and **4.2.6** of Appendices **30** and **30A**, and Section **6.1** of Appendix **30B**.

On 3 September 2012, prior to the 61st RRB meeting, the Bureau prepared a proposed Rule of Procedure in Circular Letter **CCRR/45** for No. **11.44B** inviting administrations’ comments. At the 61st meeting, the RRB adopted a Rule of Procedure for this provision, based on the Bureau’s proposal and comments from Administrations. The procedures indicate that a “frequency assignment to a space station in the geostationary-satellite orbit shall be considered as having been brought into use under No.**11.44B** only when the administration informs the Bureau within thirty day from the end of the ninety-day period specified in that provision.” As such, it is the responsibility of the notifying administration to make the determination of the capabilities of the space station.

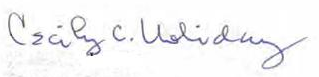
WRC-12 engaged in substantive debate on the issue of defining bringing into use of frequency assignments. This debate included, among other issues, consideration of actual operation of an assignment and of technical capabilities and what, if any, additional information necessary from an administration is required to bring an assignment for a network into use. As a consequence of that debate, WRC-12 decided that the phrase “with the capability of transmitting or receiving that frequency assignment” provides administrations the necessary regulatory certainty when deciding to inform the Bureau that a space station has brought frequency assignments into use. WRC-12 never intended that the Bureau would undertake any analysis of an administration’s statement under No. **11.44B** that it had brought frequency assignments into use. The Conference did not include any requirement for an administration to provide information to the Bureau beyond its statement.

WRC-12 also decided, after extensive discussion, that there should be no conditions to preclude an administration from registering an assignment under No. **11.41** and as a result adopted No. **11.41.2**. The Conference agreed that the particular wording, “the notifying administration shall indicate to the Bureau **that** efforts have been made …” (emphasis added), only requires administrations to indicate that they made such efforts with no requirement as to the specificity of those efforts. The Bureau’s procedures on complementary information in paragraph 4.2 of the Circular Letter could lead to conditions that may limit the ability of an administration from registering an assignment under No. **11.41** in ways WRC-12 did not adopt.

Paragraph 2.3.5 of Circular Letter **CR/343** would alter the timing of when an administration would have to submit notification information for a satellite network under Article **11** or, in the case of planned BSS, Article **5** of Appendix **30** or, in the case of planned FSS, under Article **8** of Appendix **30B**. In Paragraph 2.3.5, the Bureau states that it will require an administration to submit the notification for a satellite network no later than 120 days after bringing an assignment into use. This could significantly shorten the time period available for administrations to complete coordination prior to their first notification of their satellite networks. For the unplanned bands, this could result in notification significantly earlier than the regulatory timeframe specified in Nos. **11.44** and **11.48** and would result in increased notifications under No. **11.41**. For the planned bands, where provisions similar to No. **11.41** are not applicable in all cases, this is a significant burden on notifying administrations. This Administration is unable to find any basis in the Radio Regulations, or in the Rules of Procedure, for the requirement to notify within 120 days of bringing an assignment into use. No. **11.44B** requires only that the Bureau be informed within 30 days after the completion of the 90-day bringing into use period; it does not require submission of the notification information if the deadline for submission of such information has not yet been reached. Further, other provisions in the Radio Regulations, such as No. **11.44.1**, provide that an administration could bring into use its assignment prior to notification. Consequently, the Bureau’s procedure in the Circular Letter requires an analysis of its effect on other provisions in the Radio Regulations.

Pursuant to No. **13.12**, the Board shall approve a set of Rules of Procedure to govern its own activities and those of the Bureau in the application of the Radio Regulations, to ensure the impartial, accurate and consistent processing of frequency assignment notices and to assist in the application of these Regulations. The Bureau’s implementation of procedures in Circular Letter **CR/343** to request additional information relating to No. **11.44B** and on complementary information for No. **1.41.2** is made without agreement by a WRC or the approval of a Rule of Procedure developed in accordance with the Radio Regulations. No. **13.12A** b) requires that any practice used by the Bureau in the application of the provisions of the Radio Regulations shall be proposed for inclusion in the Rules of Procedure. The United States notes that the Rule of Procedure for No. **11.44B** does not include any instruction to the Bureau to prepare a list to be used to verify the transmitting and receiving capability of a satellite. Likewise, there is no Rule of Procedure for No. **11.41.2**, nor any Regulation or Rule of Procedure to require an early notification within 120 days of bringing an assignment into use. The procedure in paragraphs 2.3.5, 2.4.1, and 4.1 in Circular Letter **CR/343** did not follow the procedures in Article **13** for preparing and adopting a Rule of Procedure. Therefore, the United States requests the Bureau either to publish a revision to Circular Letter **CR/343** with paragraph 2.3.5, paragraph 2.4.1, the related paragraph 2.4.2, and the second sentence in paragraph 4.2 beginning with “Possible complementary information” removed, or to withdraw Circular Letter **CR/343** and document any difficulties it may experience in the application of the Radio Regulations in its Report to WRC-15 under Agenda Item 9.2.

Sincerely yours,



Cecily C. Holiday

Director, ITAC-R

International Communications and Information Policy

CC:

Members of the Radio Regulations Board

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