

The Flight and Maritime Connectivity Rules, 2018

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The Flight and Maritime Connectivity Rules, 2018¹

In exercise of the powers conferred by Section 4 read with Section 7 of the Indian Telegraph Act, 1885 (13 of 1885), the Central Government, hereby makes the following rules for grant and regulation of authorisation for in Flight and Maritime Connectivity, namely:—

1. Short title and commencement.—(1) These rules may be called the Flight and Maritime Connectivity Rules, 2018.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—(1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Indian Telegraph Act, 1885 (13 of 1885);
- (b) “Access Service (AS)” means telecommunication service provided to subscribers by means of a telegraph for the conveyance of voice or non-voice messages through wired or wireless telegraphy on the network of the Access Service Provider;
- (c) “designated authority” means the officer specially authorised by the Central Government or a State Government under Section (5) of the Act;
- (d) “DoT” means Department of Telecommunications, Government of India;
- (e) “DoS” means Department of Space, Government of India;
- (f) “In Flight and Maritime Connectivity (IFMC) or IFMC service” means the establishment, maintenance and working of telegraph to provide wireless voice or data or both type of telegraph messages in aircraft and on ships;
- (g) “In Flight and Maritime Connectivity service provider or IFMC service provider” means a company authorised by the DoT to provide In Flight and Maritime Connectivity (IFMC);
- (h) “internet” means a globally interconnected network system that is logically linked together by globally unique addresses using standardised communication protocols and provides a variety of information and supports communication facilities;
- (i) “Internet Service Provider (ISP) category A” means Internet Service Provider licensed by DoT to provide internet service throughout India;
- (j) “Long Distance Charging Area (LDCA)” means one of the several areas, into which the country is divided and declared as such for the purpose of charging for trunk calls;
- (k) “licence” means a licence granted or having effect as if granted under Section 4 of the Act and Indian Wireless Act, 1933 as the case may be;

1. Ministry of Communications (Deptt. of Telecommunications), Noti. No. G.S.R. 1211(E), dated 14-12-2018, published in the Gazette of India, Extra., Part II, Section 3(i), dated 14-12-2018, No. 899.

- (l) "licencee" means a registered Indian company that has been awarded licence to provide service authorised under the licence, within the geographical boundaries of the specified service area under the Act;
- (m) "SACFA" means Standing Advisory Committee for Frequency Allocation;
- (n) "satellite gateway earth station" or "land earth station" means an earth station in the fixed satellite service or, in some cases, in the mobile satellite service, located at a specified fixed point or within a specified area on land to provide a feeder link for the mobile satellite service;
- (o) "service" means collection, carriage, transmission and delivery of messages over licensee's network;
- (p) "service area" means the geographical area as specified under the licence granted for service authorisation;
- (q) "Short Distance Charging Area (SDCA)" means one of the several areas into which a Long Distance Charging Area (LDCA) is divided and declared as such for the purpose of charging for trunk calls and within which the local call charges and local numbering scheme is applicable;
- (r) "National Long Distance (NLD) service" refers to the provision of telegraph service over the national long distance network of the licensee between SDCAs of two licensed service areas;
- (s) "TEC" means Telecom Engineering Centre, Department of Telecommunications, Government of India;
- (t) "VSAT CUG" means Very Small Aperture Terminal Closed User Group;
- (u) "Wi-Fi" means a facility that allows computers, smartphones, or other devices to connect to the Internet or communicate with one another wirelessly within a particular area;
- (v) "WPC" means Wireless Planning and Co-ordination Wing of the Department of Telecommunications, Government of India.

(2) Words and expressions used and not defined herein but defined in the Act shall have the same meaning as assigned to them in the Act.

3. Applicability.—The IFMC service provider, shall establish, maintain and work telegraph to provide wireless voice or data or both type of telegraph messages on ships within Indian territorial waters and on aircraft within or above India or Indian territorial waters.

4. IFMC standards.—(1) The Aircraft Earth Station or Earth Station in Motion established by an IFMC service provider for providing the IFMC service shall confirm to the applicable standards set by International standardisation bodies, such as, International Telecommunications Union (ITU), European Telecommunications Standards Institute (ETSI), Institute of Electrical and Electronics Engineers (IEEE); or set by International fora such as 3rd Generation Partnership Project (3GPP).

(2) IFMC communication systems using Direct-Air-to-Ground Communications (DA2GC) shall be permitted to be used for in Flight Connectivity,

provided they are in compliance of standards set by the international bodies referred to in sub-rule (1).

5. Eligibility.—(1) A licensee shall be eligible to apply for authorisation to provide IFMC service if it—

- (a) holds a licence for access service or an ISP category A licence; and
- (b) holds an NLD licence or a commercial VSAT CUG service licence, and has satellite gateway earth station within the service area of the licence as specified in clause (a), in case connectivity through satellite is used.

(2) The following companies shall also be eligible to apply for authorisation to provide IFMC service by entering into commercial agreements as referred to in sub-rules (5) and (6), namely:—

- (a) any Indian airlines company or foreign airlines company having permission to enter Indian airspace by the Directorate General of Civil Aviation;
- (b) any Indian shipping company or foreign shipping company whose vessels or ships call Indian ports or transit Indian territorial waters and intend to carry out communication for non-GMDSS (Global Maritime Distress and Safety System) [routine] or for commercial purpose; and
- (c) any company incorporated under the Companies Act, 2013 (18 of 2013) or under any previous company law.

(3) A licensee referred to in sub-rule (1), may provide voice or data or both services in accordance with the scope of the licence, held by it.

(4) Data service may be provided by the IFMC service provider through Wi-Fi.

(5) For providing data service, the companies referred to in sub-rule (2), shall enter into a commercial agreement with at least one licensee of—

- (a) access service or ISP category A; and
- (b) commercial VSAT CUG service or NLD service, having satellite gateway earth station within the service area of partnering licensee as referred to in clause (a), in case connectivity through satellite is used.

(6) For providing voice and data service, the companies referred to in sub-rule (2), shall enter into a commercial agreement with at least one licensee of—

- (a) access service; and
- (b) commercial VSAT CUG service or NLD service, having satellite gateway earth station within the service area of partnering licensee of access service, in case connectivity through satellite is used.

6. Application for obtaining authorisation to provide IFMC service.—(1)

Any eligible licensee or company referred to in sub-rules (1) and (2) of Rule 5, shall make an application in the form as per Annexure appended to these rules, to Under Secretary (AS-I), Department of Telecommunications, Sanchar Bhawan, 20 Ashoka Road, New Delhi - 110 001, for obtaining the authorisation to provide IFMC service.

(2) The applicant under sub-rule (1) shall pay non-refundable application processing fee as per the details given in the said application form at Annexure.

(3) The DoT, if the application is found in order in all respects, shall grant the authorisation to the applicant under sub-rule (1), to provide IFMC service.

7. Validity.—The authorisation granted under sub-rule (3) of Rule 6 shall be valid for a period of ten years from the date of its grant.

8. Revocation of Authorisation.—The DoT may, at any time, revoke the authorisation granted under sub-rule (3) of Rule 6, if it is necessary or expedient to do so in public interest or in the interest of the security of the State or in case of violation of any provisions of these rules or in default of payment of any consideration payable thereunder:

Provided that the DoT shall give a written notice of twenty-one days to the IFMC service provider before such revocation and any such revocation shall be effective from the sixty-first calendar day from the date of its issuance:

Provided further that the DoT shall not be responsible for any loss which may arise out of such revocation.

9. Restrictions.—(1) The IFMC service provider shall provide the operation of mobile communication services in aircraft at minimum height of 3000 meters in Indian airspace to avoid interference with terrestrial mobile networks.

(2) Internet services through Wi-Fi in aircraft shall be made available when electronic devices are permitted to be used only in airplane mode.

10. Regulatory provisions.—(1) The regulatory permissions under these rules shall be same for both, Indian registered airlines or ships and foreign registered airlines or ships offering IFMC services.

(2) These rules shall also be applicable for business jets, executive aircraft and yachts.

(3) The modification of aircraft registered in India, to provide IFMC facility, shall be approved by the Directorate General of Civil Aviation as per the Aircraft Rules, 1937.

(4) There shall be separate infrastructure for IFMC and navigation system in aircraft and ships to avoid interference.

(5) IFMC shall be in exclusive control of the pilot or captain of the aircraft or ship to enable him to turn off the connectivity during any adverse condition.

11. Location of satellite gateway earth station.—In case of using satellite system for providing IFMC services, the telegraph message shall be passed through the satellite gateway earth station located within India, as specified in Rule 5 and such satellite gateway earth stations shall be interconnected with the NLD or access service or ISP licensee's network for further delivery of service.

12. Satellite system.—(1) The IFMC service provider shall be permitted to use either Indian satellite system or foreign satellite system capacity duly authorised through the Department of Space.

(2) Spectrum neutral approach shall be adopted in satellite system being used for providing IFMC services.

(3) The IFMC service provider or its partnering licensee shall acquire the right to use radio spectrum with frequency assignment made by WPC Wing of DoT.

(4) The IFMC service provider or its partnering licensees shall obtain SACFA clearance and Wireless Operating Licence, for satellite gateway earth stations, wherever required.

(5) The DoT shall have right to inspect as well as monitor on board radio stations or satellite gateway earth stations to ensure compliance of technical parameters.

(6) A telecom licensee shall be permitted to use satellite bandwidth already assigned to it, for the provision of IFMC services.

13. Monitoring or interception.—(1) The designated authority, shall have the right to monitor or intercept the telegraph message passing through the IFMC network.

(2) The hardware and software required for lawful interception and monitoring of telegraph message shall be arranged by the IFMC service provider either itself or through its partnering licensee at the premises of designated authorities of the Central Government or a State Government.

(3) For establishing connectivity to a centralised monitoring system, the IFMC service provider at its own cost shall arrange either itself or through its partnering licensee, appropriately dimensioned hardware and bandwidth or dark fibre upto a designated point as required by the DoT.

(4) The IFMC service provider shall make arrangement for monitoring of telegraph message in en clair form either itself or through its partnering licensee.

(5) Any service permitted under these rules, shall be commenced by the IFMC service provider only after giving an intimation to do so to the DoT:

Provided that the monitoring facilities as specified in sub-rules (2), (3) and (4) shall have to be demonstrated by the IFMC service provider to the DoT, within ninety days from the date of intimation.

14. Fee.—(1) The IFMC service provider shall pay annual fee of one rupee to be paid on annual basis to the DoT through Bharatkosh.

(2) The fee as specified in sub-rule (1), is in addition to the satellite bandwidth charges, licence fees, spectrum charges and such other charges which are to be paid by the telecom licensees under the respective licenses.

(3) Revenue earned by the partnering licensee from IFMC service providers or by the licensee providing IFMC services, shall be included in the gross revenue of the licensee, for the purpose of licence fee and spectrum usage charges.

ANNEXURE

[See Rule 6]

GOVERNMENT OF INDIA

MINISTRY OF COMMUNICATIONS

DEPARTMENT OF TELECOMMUNICATIONS

(ACCESS SERVICES CELL)

SANCHAR BHAWAN, 20 ASHOKA ROAD, NEW DELHI-110001.

APPLICATION FORM FOR AUTHORISATION FOR PROVIDING
IN FLIGHT AND MARITIME CONNECTIVITY (IFMC) SERVICE

1. Name of Applicant: _____

2. Complete postal address with Telephone Nos./FAX No./E-mail: _____

(i) Corporate Office: _____

(i) Registered Office: _____

3. Address for correspondence with
Telephone Nos./FAX No./E-mail: _____4. Name of Authorised contact person,
his designation, address and
Telephone Nos./FAX No./E-mail: _____

5. Details of payment of non-refundable application processing fee of Rs 50,000 (fifty thousand rupees only), being submitted along with the application. (DD/PO to be enclosed in a separate envelope):

(Application processing fee to be submitted in the form of demand draft/pay order from a schedule Bank payable at New Delhi, issued in the name of Pay and Account Officer (Head Quarter) DoT or through Bharatkosh by e-payment)

6. (i) Which service is proposed to be provided?

Data/Voice/Both.

(ii) Details of the Licence(s) (CMTS/UASL/ISP-A) or authorisation(s) (AS/ISP-A) under Unified Licence, held by the applicant or its partnering Licensee(s):

Sl. No.	Name of Licensee	Name of Licence/ Service authorisation	Service area	No. and date of licence/ authorisation

(iii) Details of the Licence(s) (NLD/V-SAT) or authorisation(s) (NLD/V-SAT) under Unified Licence, held by the applicant or its partnering Licensee(s):

Sl. No.	Name of Licensee	Name of Licence/ Service authorisation	No. and date of licence/ authorisation	Satellite system used

(iv) Certified copy of commercial agreement(s) with the Indian Telecom licensee(s) mentioned in (i) and (ii) above, to be enclosed in case if the applicant enters into any such agreement.
 _____ (To be certified by the Director duly authorised by the company)

(v) Location of Satellite Gateway Earth Station: _____

7. Certified copy of Certificate of Registration along with Memorandum and Articles of Association to be enclosed. (From Registrar of Companies, India, in case of company incorporated under the Companies Act, 2013 or under any previous company law or from corresponding authority of the country where the company is registered, in case of foreign airline/shipping company). _____

(To be certified by the Company Secretary/Statutory Auditor and countersigned by the Director duly authorised by the company)

8. (i) Details of Promoters/Partners/Shareholders in the Company:

SI. No.	Name of Promoter/ Partner/Shareholder	Indian/ Foreign	Equity %age	Networth
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(Complete break-up of 100% of equity must be given. Equity holding upto 5% of the total equity shared among various shareholders can be clubbed but Indian and Foreign equity must be separate)

(Certificate from Company Secretary/Statutory Auditor countersigned by Director duly authorised by the company to be attached)

(ii) Equity details:

India _____

Foreign _____

Total _____

(Certificate from Company Secretary/Statutory Auditor countersigned by Director duly authorised by the company to be attached)

(iii) FDI up to 100% with 49% under automatic route and beyond 49% through FIPP route is allowed in case of company incorporated under the Companies Act, 2013 or under any previous company law. Certified copy of FIPB/FIPP approval is required to be enclosed in case if FDI is more than 49%.

(To be certified by the Company Secretary/Statutory Auditor countersigned by the Director duly authorised by the company)

9. Certified copy of permission from the designated Indian authorities to enter Indian airspace, to be attached.

(To be certified by the Director duly authorised by the company)

10. Power of Attorney by Resolution of Board of Directors, that the person signing the application is authorised signatory.

11. Certificates/undertaking:

(A) I hereby certify that I have carefully read the "Flight and Maritime Connectivity Rules, 2018". I undertake to fully comply with the terms and conditions therein.

(B) I understand that this application if found incomplete in any respect and/or if found with conditional compliance or not accompanied with the application processing fee, shall be summarily rejected.

(C) I understand that all matters relating to the application or authorisation if granted will be subject to jurisdiction of courts or Tribunal(s) in Delhi or New Delhi only.

(D) I understand that if at any time, any averment made or information furnished for obtaining the authorisation is found incorrect, then the application and the authorisation if granted thereto on the basis of such application, shall be cancelled.

(E) I understand that the application processing fee is non-refundable irrespective of any reason whatsoever.

(F) I understand that in case of any change(s) in the information furnished above, at a later date, the same shall be intimated to the DoT within 15 days from the date of change.

(H) I understand that in case it is decided to change the applicable annual fee or change the present process of authorisation, at a later date, this authorisation, irrespective of its remaining validity, shall stand cancelled after the specified period as decided by the competent authority and I shall have to apply as per new process at that point of time, as per terms and conditions applicable for such new process and I shall pay all the revised fees.

Note.—(a) Concerned authority for submitting the application is Under Secretary (AS-I).

(b) All the enclosures must be in English.

Date:

Signature and name of the

Place:

Authorised Signatory

(Company's Seal).