

**Legal Department**

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**INTERNAL PROCEDURE ON ORDINARY AGREEMENTS****Preamble**

In accordance with Article L225-38 of the French Commercial Code, any agreement entered into directly or indirectly between EUTELSAT COMMUNICATIONS (hereinafter the "**Company**") and certain persons must be authorized in advance by the Board of Directors of the Company (hereinafter "**Related Party Agreements**"), with the exception of ordinary agreements entered into under normal terms and conditions (hereinafter "**Ordinary Agreements**") which may be freely entered into without the need for prior authorization by the Board of Directors.

The PACTE law of May 22, 2019<sup>1</sup> introduced an obligation for the Board of Directors of listed companies to establish procedure for the evaluation of any agreement, in order to determine whether it relates to ordinary transactions and has been entered under arm's length conditions. This procedure is only to be deployed within the Company and not in its subsidiaries<sup>2</sup>.

The purpose of this procedure is to define (i) the criteria used by the Company to classify an agreement as an Ordinary Agreement and (ii) the method for regularly reviewing and assessing these criteria.

In accordance with the legal and regulatory provisions in force, this procedure is included in the corporate governance report and is also published on the Company's website.

**I. ORDINARY AGREEMENT****A. Persons covered by the Ordinary Agreements evaluation procedure**

Any agreement entered directly or through an intermediary between the Company and the persons listed below (hereinafter "**Interested Parties**")<sup>3</sup>:

- One of its corporate officers (Chairman, Chief Executive Officer, Deputy Chief Executive Officer, Director, permanent representative of a Director);
- One of its shareholders holding more than 10% of the voting rights or, in the case of a corporate shareholder, the company controlling it within the meaning of Article L. 233-3 of the French Commercial Code;
- A company of which one of the Company's corporate officers or directors is the owner, partner with unlimited liability, manager, director, member of the supervisory board or, in general, a director of the company;
- Any agreement in which one of the persons referred to above, without being personally a party to the agreement, has an indirect interest in the agreement;

may only be entered if it has been priorly authorized by the Board of Directors of the Company.

The Board of Directors of the Company has decided to apply the definition of "indirectly interested person" adopted by the *Autorité des marchés financiers* (AMF – French Financial Markets Authority).

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<sup>1</sup> Law n°2019-486 relating to the growth and transformation of companies, which amended articles L225-38 and following of the Commercial Code

<sup>2</sup> Opinion ANSA 2019-IV, December 2019, n°19-061

<sup>3</sup> Article L225-38 of the French Commercial Code

A person will be considered to be indirectly interested in an agreement to which it is not a party if, by virtue of its relationship with the parties and the powers it possesses to influence their conduct, it derives or is likely to derive an advantage from it, for instance:

- a shareholder company controlled by the shareholder ultimately benefiting from the agreement shall not influence the vote on the agreement;
- the shareholder controlling the company benefiting from the agreement shall not influence the vote on the agreement;
- shareholders acting in concert, in particular when this concert provides for a common voting policy, shall not influence the vote on an agreement entered into with one of the co-concert parties.

These persons shall not take part in the deliberations.

## **B. Definitions**

Under the terms of Article L. 225-39 of the French Commercial Code, an Ordinary Agreement is an agreement relating to ordinary transactions entered under arm's length conditions.

### **1) What is an ordinary transaction?**

An ordinary transaction is a transaction that the Company carries out in the ordinary course of its corporate activity<sup>4</sup>. It is, therefore, a transaction that is carried out by the Company in the course of its ordinary business and, in the case of disposals, a transaction concluded under conditions that are sufficiently common to amount to an ordinary transaction<sup>5</sup>.

It is, therefore, appropriate to consider the Company's ordinary activity, but also the usual practices for companies in the same sector in a similar situation<sup>6</sup>.

However, the criterion of habituality itself is not decisive, since the circumstances surrounding the conclusion of the agreement must also be taken into consideration, as well as its nature and legal importance, or its economic consequences, or even its duration<sup>7</sup>.

### **2) What is an arm's length transaction?**

Arm's length transactions are those carried out under the same terms and conditions as those normally applied by the Company in its dealings with third parties<sup>8</sup>.

Normality is assessed by reference to economic conditions and, therefore, by reference to a market price or usual market conditions. Normal terms and conditions must be understood as being comparable to those usually granted by the Company or a company in the same sector of activity for the same type of transaction.

## **C. Agreements deemed to be ordinary and entered under arm's length conditions**

As an internal rule within the Eutelsat Group, the following agreements **are presumed to be Ordinary Agreements**<sup>9</sup>:

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<sup>4</sup> Cass. Com. 21 April 1977

<sup>5</sup> Cass. Com 1<sup>st</sup> October 1996

<sup>6</sup> CNCC " *Les conventions réglementées et courantes* ", February 2014

<sup>7</sup> CNCC legal study "the agreements between the entities and the persons concerned", May 2004

<sup>8</sup> Min. reply to Mr. Valbrun, O.J. debate A.N. 31 March 1977, p. 1398, Bull. CNCC No. 25, March 1977, p 102.

<sup>9</sup> These criteria will have to be reviewed every year at the time of the evaluation of Ordinary Agreements entered under arm's length conditions by the Board of Directors in light of, in particular, any changes in the business and organization of the Eutelsat Group.

**1) Agreements entered into with Interested Parties where the amount is insignificant.**

- insignificant agreements representing an amount of less than 1 000 € (provided that the financial consideration can be considered as fixed under arm's length conditions,
- facilities granted by a company (rental of offices or buildings, provision of staff) invoiced at cost,

**2) Agreements between the Company and companies in the Eutelsat Group**

- Intra-group agreements giving rise to rebilling and concluded at market conditions relating to administrative or management assistance (particularly in the areas of human resources, IT, management, purchasing) or other operational services,
- the sale of assets of Group companies at market conditions,
- intra-group transfers or reclassifications of securities carried out under market conditions,
- cash management and/or loan management operations, provided that the operation is carried out at market rates,
- trademark license agreements entered into at market conditions,
- agreements for the provision of premises to enable a group company controlled directly or indirectly by the Company to establish its registered office there.

**II. AGREEMENT REVIEW PROCESS****A. Identification of an agreement - Information to the Legal Department (DAJ) and the Financial and Administrative Department (DFA)**

The DAJ or the DFA must be informed immediately and prior to their conclusion by the operational departments or by any Interested Part of any operation likely to constitute an Ordinary Agreement.

**B. Internal review of the agreement by the DAJ and the DFA**

It is then up to the DAJ and the DFA to decide on the qualification of the agreement prior to its conclusion and to verify that it relates to ordinary operations and was indeed concluded under arm's length conditions.

In contrast, any agreement that is not classified as an Ordinary Agreement will be classified as either a Related Party Agreement, an agreement subject to a specific audit or a prohibited agreement.

Each agreement must be examined according to the following procedure:

- Is the agreement presumed to be a, ordinary agreement concluded under arm's length conditions (I-B)?
- If not:
  - o Presentation by the operational management concerned or by the Interested Party in the agreement to the DAJ and the DFA and in particular its:
    - Amount
    - Parties
    - Overall context of the operation
  - o Review by the DAJ and DFA of the agreement to determine in which category it falls.
- Opinion of the statutory auditors in case of doubt as to the qualification of a transaction.

If the DAJ is the originator of the agreement to be examined, it will be examined by the DFA. Conversely, if the DFA is the originator of the agreement to be examined, it will be examined by the DAJ.

If the agreement to be reviewed is originated by the DAJ and DFA, it will be reviewed by the Audit, Risk and Compliance Committee (ARCC).

At least once a year, the Company's Legal and Finance Departments will meet to review any Ordinary Agreements that have been entered into and to review the qualification criteria and the means of informing

and raising the awareness of the departments concerned. A meeting report will be provided by the General Secretary to the ARCC for study and review.

### **C. Role of the Audit, Risk and Compliance Committee (ARCC)**

The ARCC will receive an update from the DAJ and the DFA on the Ordinary Agreements that were entered or renewed by the Company during the fiscal year.

Certain agreements that have been entered into could, in a specific context, meet the conditions for the qualification of Ordinary Agreements (e.g., an agreement entered with a person who has become an Interested Party since its conclusion). In such cases, the ARCC will have to review the agreements concerned and verify whether they meet the criteria for the qualification of Ordinary Agreements. If a member of the ARCC is a party, directly or through an intermediary, to the agreement under review, that member will not be able to participate in the discussions, nor will he or she be able to give an opinion on the classification of the agreement.

Awareness of Ordinary Agreements and the developments observed should enable the ARCC to guide the policy relating to these agreements in subsequent fiscal years.

The ARCC will, therefore, be able to assess:

- The relevance of the criteria used to distinguish between Ordinary Agreements and other types of agreements (related party, prohibited, subject to a specific regime),
- The possible evolution of the predefined thresholds for qualification as an Ordinary Agreement,
- Any changes in the conditions under which the Company operates,
- The detection of possible anomalies that could make it necessary to effectuate the internal control procedures.

Once a year, the ARCC will submit a report to the Board of Directors on the Ordinary Agreements concluded during the fiscal year.

### **D. Annual review by the Board of Directors of the qualification criteria for Ordinary Agreements**

The Board of Directors shall review the report of the ARCC and assess the criteria for qualifying the Ordinary Agreements. The Board of Directors is under no obligation to take a position on or to approve the report presented by the ARCC ; however, upon reading the report, the Board of Directors may:

- Review and modify certain internal control practices,
- Reconsider the *a priori* classification of certain categories of Ordinary Agreements,
- Re-examine, at the time of their revision, any agreements that no longer meet the criteria of the Ordinary Agreements.

During its review, the Board of Directors will also be briefed on the application of the procedure set up to evaluate the Ordinary Agreements. The Board of Directors may then amend and adapt it if necessary.

