By Raul Magallanes

A Maritime Regulatory Strategy

In September, we discussed maritime regulations in the United States as stated in the rules for Earth Stations on Vessels (ESV). Here, we expand our discussion to include general guidelines as part of a maritime regulatory strategy to operate ESVs around the globe.

A comprehensive global maritime regulatory strategy is almost impossible to develop in advance. This is because every nation can promulgate laws for how vessel antennas must operate as they approach the nation's territorial waters. What is legal in one country could be illegal in another. Further, regulations change all the time — sometimes without notice.

So how should vessel operators or satellite service providers deal with multiple jurisdictions? The following is a list of items to include in your first-level strategy:

1. List Equipment on the Ship's Radio License

Regardless of where the vessel goes, it is important to list the VSAT equipment in the ship's radio license. While this will not authorize transmissions in a country's territorial waters, it is a first and necessary step towards maritime regulatory compliance.

2. Make Sure the Hub is Licensed

Earth stations installed onboard vessels constitute the remote end of a satellite communications circuit. Regardless of where the ship travels, the hub or master station with which ESVs communicate must be licensed by the country where the hub is located. Sometimes the hub just needs a conventional Earth station license issued by the country where the hub is located. But in a number of countries, including the United States, a hub responsible for the control of remote ESVs needs a separate ESV license.

3. Take Note of Your Position

Where a vessel operates is the most important piece of information in planning your first-level strategy. There are three maritime geographical demarcations to calculate: territorial waters, ESV Boundary, and international waters.

Territorial Waters

Defined as the area starting from a nation's coastline, territorial waters ending 12 nautical miles offshore. A country has the right to regulate transmissions within its territorial waters. For instance, a VSAT antenna operating within the territorial waters of Mexico might as well be transmitting from downtown Mexico City. In either case, an Earth station license from Mexico is needed. Therefore, while in territorial waters (including in-port operations), assume a local VSAT license is required.

ESV Boundary

This is defined as the area starting from territorial waters and ending 125 kilometers from the coastline for Ku-band or 300 kilometers for C-band. The ESV Boundary came about after the 2003 World Radio Conference, which required that vessels transmitting in the ESV Boundary obtain prior consent from local administrations. The ultimate decision of whether prior consent is required rests within the coastal nation itself. Generally, only a few nations require prior consent for C-band operations within their ESV Boundary, while nearly all countries require prior consent for C-band. But there are cases, such as in the United Kingdom, where C-band ESV operation are completely prohibited.

The ESV Boundary partially overlaps with what is called the Exclusive Economic Zone (EEZ), which, typically, is 200 nautical miles from the coast. Countries have the right to exploit natural resources within their EEZ, which may include the electromagnetic spectrum and may require a local VSAT license. Here is where it is important to dig into the details as vessels operating in the EEZ and/or the ESV Boundary could be required to obtain a local VSAT license, only prior consent or nothing at all.

International Waters

International waters are defined as the area starting from the ESV Boundary and continuing to the high seas. Most countries are silent with regards to ESV regulations in this area, but the United States requires an ESV license for international waters where a U.S.-hub is involved or the vessel is U.S.-registered.

Raul Magallanes runs a Houston-based law firm focusing on telecommunications law. He may be reached at +1 (281) 317-1397 or by email at raul@rmtelecomlaw.com.