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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**The Wireless Telegraphy Act 2006  
(Directions to OFCOM) Order 2010**

**PART 2**

**Variation of 900MHz, 1800MHz and 2100MHz licences**

4.—(1) OFCOM must use its powers under section 10 of and paragraph 6 of Schedule 1 to the Act to vary existing 900MHz, 1800MHz and 2100MHz licences to make provision as set out in this article.

(2) OFCOM must vary each existing 900MHz licence to—

- (a) permit the licensee to use the frequencies in the 900MHz band to which the licence relates for both GSM and UMTS systems;
- (b) require the licensee to provide on request and on a wholesale basis in rural areas to any relevant network provider all the retail data services the licensee offers in rural areas where the licensee uses any system other than a GSM system using frequencies in the 900MHz band to provide those services;
- (c) require the licensee to provide at any time during the period in paragraph (d) where the licence covering the use of frequencies between 811 and 821MHz and 852 and 862MHz has not come into force in respect of those frequencies by 31st March 2013, on request and on a wholesale basis to any person with an 800MHz licence all the retail services it offers in any part of the United Kingdom where the licensee uses any system other than a GSM system using frequencies in the 900MHz band to provide those services;
- (d) provide that the period during which the services referred to in subparagraph (c) must be provided on request is to be from 31st March 2013 until a date which is two years after the date when all the 800MHz licences that have been granted pursuant to the Combined Auction or any subsequent auction have come into force in respect of the frequencies in the 800MHz band;
- (e) make provision as set out in article 17;
- (f) require the licensee to comply with the spectrum defragmentation process set out in Schedule 3; and
- (g) amend the period of notice for revocation for spectrum management reasons from 1 year to 5 years.

(3) OFCOM must vary each existing 1800MHz licence to—

- (a) permit the licensee to use the frequencies in the 1800MHz band to which the licence relates for both GSM and UMTS systems;
- (b) require the licensee to comply with the spectrum defragmentation process set out in Schedule 3; and
- (c) amend the period of notice for revocation for spectrum management reasons from 1 year to 5 years.

(4) OFCOM shall, subject to the consent of each holder of existing 2100MHz licences to vary those licences to provide all of the following, vary those licences to provide that—

- (a) by 30th June 2013 the licensee must provide an electronic communications network that is capable of providing mobile telecommunications services to an area within which at least 90% of the population of the United Kingdom lives and with a 90% probability that users in outdoor locations within that area can receive the service with a sustained downlink speed of not less than 768kbps in a lightly loaded cell;
- (b) the licensee is required to comply with the spectrum defragmentation process set out in Schedule 3;
- (c) the licence shall continue in force unless or until revoked by OFCOM; and
- (d) OFCOM may revoke the licence either for spectrum management reasons on not less than 5 years' notice, such notice not to be given before 31st December 2016 or otherwise in accordance with their powers under the Act.