



Regulatory Impact Assessment
for the Wireless Telegraphy
(Exemption and Amendment)
(Amendment) Regulations 2014

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Section 1

Regulatory Impact Assessment

Introduction

- 1.1 Ofcom acts consistently with Government practice that, where a statutory regulation is proposed, a Regulatory Impact Assessment (“RIA”) should be undertaken. We also comply with our duty under section 7 of the Communications Act 2003 (the ‘2003 Act’) to undertake impact assessments.
- 1.2 The analysis presented in this document, and set out more fully in the consultation and statements referred to, is an impact assessment as relating to the Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2014 (the ‘Regulations’). It is consistent with Government practice on RIAs and Ofcom’s duty under section 7 of the 2003 Act.
- 1.3 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making and are commonly used by other regulators. This is reflected in section 7 of the 2003 Act, which means that we will generally carry out impact assessments where proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in our activities.
- 1.4 However, as a matter of policy we are committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom’s approach to impact assessment, which are on our website: http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf.
- 1.5 The impact of our policy decisions that have been implemented by the Regulations has already been assessed in the other documents referred to in this impact assessment. Accordingly, a separate impact assessment for the Regulations may not strictly be necessary. We nevertheless publish this document, which summarises the fuller assessments, as a matter of good practice.

Background

- 1.6 This impact assessment relates to the decision to make regulations exempting a number of low powered devices which meet certain criteria from the need for a licence under the Wireless Telegraphy Act 2006 (the ‘WT Act’).
- 1.7 In the UK, Ofcom is responsible for authorising civil use of the radio spectrum and achieve this by granting wireless telegraphy licences under the Wireless Telegraphy Act 2006 (the ‘WT Act’) and by making regulations exempting users of particular equipment from the requirement to hold such a licence. Under section 8(1) of the WT Act, it is an offence to install or use wireless telegraphy equipment without holding a licence granted by us, unless the use of such equipment is exempted. Under section 8(4) of the WT Act, we are required to make regulations to exempt the use of wireless telegraphy equipment if the conditions in section 8(5) of the WT Act are met, namely, if its installation or use is not likely to:
 - involve undue interference with wireless telegraphy;

- have an adverse effect on technical quality of service;
- lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
- endanger safety of life;
- prejudice the promotion of social, regional or territorial cohesion; or
- prejudice the promotion of cultural and linguistic diversity and media pluralism.

1.8 In accordance with the requirements of section 8(3B) of the WT Act, the terms, provisions and limitations specified in the regulations must be:

- objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus to which they relate;
- not such as to discriminate unduly against particular persons or against a particular description of persons;
- proportionate to what they are intended to achieve; and
- transparent in relation to what they are intended to achieve.

Decision

1.9 The Regulations would amend the Wireless Telegraphy (Exemption and Amendment) Regulations 2010, to make the following changes:

- provide for a new licence exemption for Short Range devices (SRD) operating in the 870 to 876 MHz and 915 to 921 MHz bands and for a new exemption of land-based Earth Stations on Moving Platforms (ESOMPs);
- extend the use of existing licence-exempt Citizens Band (CB) Radio devices to cover AM transmission modes; and
- make amendments to the technical conditions for use of existing SRD licence-exempt devices in order to implement Commission Implementing Decision 2013/752/EU¹ (the 'Amending Decision').

1.10 We have previously consulted, and made decisions, on the policy behind these changes, with the exception of the changes to implement the Amending Decision². These consultations provide an analysis of the policy options and the potential impacts of our decision, including a full impact assessment where relevant and appropriate. Therefore, this document should be read in conjunction with the following documents:

¹ Commission Implementing Decision of 11 December 2013 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices and repealing Decision 2005/928/EC, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013D0752&from=EN>

² This is because, as a Member State of the European Union, the UK is bound by the requirements of the Amending Decision and therefore has to implement them by the deadlines set out in the Decision. Given this, we did not consider it appropriate to first conduct a policy consultation regarding the changes to implement the Amending Decision.

- “Licence Exempt Short Range Devices in the 870 to 876 MHz and 915 to 921 MHz Bands: Technical Proposals” (the ‘870/915 Consultation’) published on 18 December 2013³.
- “Statement on the Authorisation of Short Range Devices in 870 to 876 MHz and 915 to 921 MHz” (the ‘870/915 Statement’) published on 2 April 2014⁴.
- “Earth Stations on Mobile Platforms Consultation on the authorisation of Earth Stations on Mobile Platforms” (the ‘ESOMPs Consultation’) published on 15 August 2013⁵.
- “Statement on the Authorisation of Earth Stations on Mobile Platforms” (the ‘ESOMPs statement’) published on 20 January 2014⁶.
- “Citizens’ Band (CB) radio – Authorising Amplitude Modulation (AM) modes of operation. Permitting AM double and single side band CB radio in the UK” (the ‘CB Consultation’) published on 7 October 2013⁷.
- “Citizens’ Band (CB) radio – Authorising Amplitude Modulation (AM) modes of operation. Permitting AM double and single side band CB radio in the UK Statement” (the ‘CB Statement’) published on 10 December 2013⁸.

The citizen and/or consumer interest

1.11 Our principal duty under section 3 of the 2003 Act is to further the interests of citizens in relation to communications matters; and of consumers in relevant markets, where appropriate by promoting competition. We take account of the impact of our decisions upon both citizen and consumer interests in the markets we regulate. We must, in particular, secure the optimal use for wireless telegraphy of spectrum and have regard to the principle under which all regulatory activities should be targeted only at cases in which action is needed. In deciding to make the changes to the existing regulations we have considered the wider impact beyond immediate stakeholders in the radiocommunications community. We believe that our decision will be of benefit to consumers for the following reasons:

- i) these measures concern the use of radio equipment on a licence-exempt basis, which reduces the regulatory and administrative burden on our stakeholders and helps to secure the optimal use of spectrum;
- ii) the new licence exemptions and amendments to existing licence exemptions support the introduction of new and innovative technologies that will be of benefit to consumers and citizens in general, such as Machine to Machine (M2M)

³ http://stakeholders.ofcom.org.uk/binaries/consultations/short-range-devices/summary/872_915_MHz.pdf

⁴ <http://stakeholders.ofcom.org.uk/binaries/consultations/short-range-devices/statement/statement.pdf>

⁵ <http://stakeholders.ofcom.org.uk/binaries/consultations/earth-stations-mobile-platforms/summary/earth-stations.pdf>

⁶ <http://stakeholders.ofcom.org.uk/binaries/consultations/earth-stations-mobile-platforms/statement/Statement.pdf>

⁷ <http://stakeholders.ofcom.org.uk/binaries/consultations/citizens-band-radio/summary/citizen-band-radio.pdf>

⁸ <http://stakeholders.ofcom.org.uk/binaries/consultations/citizens-band-radio/statement/statement.pdf>

devices, Low Power Active Medical Implants (LP-AMI), Smart Meters and ESOMPs which will enable the provision of broadband connectivity to passengers on moving vehicles including ships, aircraft and trains;

- iii) the AM transmission CB radio licence exemption removes restrictions on UK CB users which are no longer necessary; and
- iv) licence exemption is proposed only in areas where use of equipment is unlikely to have an impact on technical quality of service and cause undue interference to other spectrum users.

Equality Impact Assessment

- 1.12 Ofcom is required by statute to assess the potential impact of all our functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation— an Equality Impact Assessment (EIA) is our way of fulfilling these obligations.
- 1.13 Following an initial assessment of our policy decisions we considered that it was reasonable to assume that any impacts on consumers and citizens arising from the Regulations in most cases would not differ significantly between groups or classes of UK consumers and citizens, all of whom would have access to these services, potentially at end-user prices reflective of all general input costs, including opportunity costs of spectrum used. We have not identified any particular impact in relation to the identified equality groups and we do not envisage that the Regulations are likely to be to the detriment of any group in society. Nor have we seen the need to carry out separate EIAs in relation to the additional equality groups in Northern Ireland: political opinion and dependants. This is because we anticipate that our decision will not have a differential impact in Northern Ireland compared to consumers in general.
- 1.14 However, the SRD family of technologies that could be implemented in the 915 to 921 MHz band includes Assistive Listening Devices (ALDs), which are used by citizens who are hard of hearing or partially deaf. ALDs enable citizens who are hard of hearing or partially deaf to hear speech and music. ALDs work by taking the speech or music, amplifying it by placing a microphone near the sound source and using wireless to transmit the sound to the listener. ALDs are used by both groups and individuals. Devices aimed at group use broadcast the sound to more than one person; examples include induction loop, infrared and frequency modulation (FM) systems. Devices designed for personal use are generally configured to work with a single speaker; examples include wireless personal FM systems and wireless headphones.
- 1.15 Our decision to licence-exempt these devices in the 870 to 876 MHz and 915 to 921 MHz frequency bands is likely to bring increased access to ALD services and increase the choice of technologies and devices available to the hard of hearing or partially deaf because we are adding a further 2 x 6 MHz of spectrum to supplement what has already been made available for licence-exempt services. We do not consider that there is evidence to suggest that costs for ALD users would differ significantly relative to consumers in general. However, the band will be available to all compliant SRDs and exempting SRDs from licensing means that there is no limit to the numbers of compliant devices that can be operated.

Ofcom's policy objective

- 1.16 We seek wherever possible, to reduce the regulatory burden upon our stakeholders, in this instance users of the radio spectrum. One way in which we can do this is to remove the need for spectrum users to apply for individual licences to authorise the use of radio equipment. Exemption is realised by describing the details of equipment and the parameters under which it may be used in a Statutory Instrument (secondary legislation called Regulations) that exempts users of such equipment from the need to hold a licence provided they comply with the terms of the regulations.
- 1.17 We are also required by law to implement EU legislation relating to radio spectrum and from time to time this requires licence exemption arrangements to be changed.

Options considered

- 1.18 Having made the relevant policy decisions (see the documents referred to in paragraph 1.10 above), the principal options open to us were:
- v) to make regulations (the Regulations) that introduce the ability for some devices to operate on a licence-exempt basis; or
 - vi) to do nothing, which means that these devices would need to be authorised via a WT Act licence.

Analysis of the different options

- 1.19 The following section assesses the impact of options open to Ofcom by reference to the principal changes that were made by the Regulations.

To make the regulations

Impact of the Regulations

- 1.20 When considering the authorisation of devices Ofcom can either licence them or make regulations to exempt them from licensing. Section 8(4) of the WT Act requires that if Ofcom is satisfied that the criteria set out in section 8(5) of the WT Act are met, Ofcom must make regulations to licence-exempt the equipment. If the equipment does not meet all of the requirements of section 8(5) this does not prevent us still going ahead with exemption but any decision would need to consider the impacts versus the benefits of any such decision.
- 1.21 Generally, licence exemption presents the lowest barrier to entry compared with other forms of authorisation, such as individual licences. Our analysis takes this proposition as a starting point and then assesses concerns over harmful interference or congestion to existing users (if any) or potential new users of the band. Harmful interference or congestion could negate the benefits of any reductions in the regulatory burden gained from exemption.
- 1.22 Most of the measures that the Regulations introduce could assist the development of a harmonised market across Europe for certain devices. This would bring with it many benefits from the free circulation and use of devices. Manufacturers benefit from economies of scale which drive down prices for consumers. Citizens are able to benefit from continued access to devices when travelling to other European countries.

- 1.23 EU harmonisation decisions are binding on all Member States and we are therefore legally required to implement them. Harmonisation recommendations or decisions of the European Conference of Postal and Telecommunications Administrations (CEPT) are not legally binding on members but, we see benefits in harmonisation for the relevant cases set out in this document.
- 1.24 Based on the responses to our 870/915 Consultation, we consider that the potential value from spectrum used to deliver the Internet of Things (IoT) to the wider economy could be significant. The release of these bands will give UK businesses the chance to help lead the way in the new markets for smart energy, remote health monitoring and smart cities as the UK will be one of the first countries in Europe to make this spectrum available for Machine to Machine (M2M) uses. Releasing the 870 to 876 MHz and 915 to 921 MHz bands for use of those devices could also assist with realising some of the benefit highlighted the Government's new spectrum strategy that aims to double the economic benefits of spectrum to £100 billion by 2025⁹.
- 1.25 Citizens and consumers may benefit from a number of the wide range of applications that the Regulations permit. These include radio tags that can be attached to anything that needs to be tracked or monitored, including farm animals and our pets, and home automation products that will allow consumers to control, monitor and access their homes. The next generation of gas and electricity meters (Smart Meters) will be able to tell consumers how much energy they are using through an in-home display and allow them to alter their usage accordingly.
- 1.26 Additional benefits may be realised through the deployment of Low Power Active Medical Implants (LP-AMI). These enable medical patients to be monitored and treated via wireless sensors without requiring them to be wired to devices. In the long term this technology may enable patients to live longer in the community, rather than be hospitalised. This could provide significant savings relating to the provision of health services in the UK.
- 1.27 There is more spectrum for wireless alarms that support the elderly and vulnerable in society and ALDs, which improve hearing ability for people in a variety of situations. It should increase the choice of technologies and devices available to the hard of hearing or partially deaf because we are adding a further 12 MHz of spectrum to these type of devices to supplement what has already been made available for licence-exempt services.
- 1.28 Overall we believe that costs to business are likely to be lower under a licence-exempt approach than the requirement for users to obtain individual licences. Licence exemption represents the least cost regulatory approach to authorisations for the use of spectrum. For example if use of spectrum is authorised through a licence, businesses face administrative costs associated with applying for the licence and the cost of the licence itself.
- 1.29 We consider that implementing the Regulations is likely to generate a net benefit for UK businesses, citizens and consumers and at worst would have a neutral outcome (to the extent that benefits may depend on the uptake of the new opportunities afforded by each proposal). We consider that each measure is unlikely to impose costs on other users. Therefore the effect of implementing the measures is likely to be positive overall.

⁹ <https://www.gov.uk/government/news/pm-at-cebit-uk-and-germany-can-lead-technological-revolution>

- 1.30 There are one-off administrative costs associated with making Statutory Instruments. We consider the implementation costs to be low, both in absolute terms and in comparison to licensing alternatives that might require an auction or the maintenance of a licensing scheme. Moreover, the costs such as they should also be offset by the benefits to businesses and consumers outlined above. There may also be a slight reduction in spectrum management costs in certain areas through licence exemption.

Not to make the regulations

- 1.31 The alternative to making the Regulations would be to do nothing. By doing nothing, we mean not making the regulations and therefore not enabling the use of this equipment on a licence-exempt basis.

Impact of proposed regulations

- 1.32 Citizens and consumers would not be able to benefit from the opportunities that these new devices could provide. The only way for citizens and consumers to use such devices would be under a licensing regime. This would impose additional administrative and financial costs to consumers.
- 1.33 Authorising these devices via a licensing regime may have restricted the development of new and innovative services due to the additional administrative burden this process would impose on businesses and consumers.
- 1.34 By not making regulations there would be no additional cost imposed on Ofcom relating to making a Statutory Instruments. However, these are slight compared with the internal costs associated with the development of the policy proposals or the additional costs associated with setting up and administering a licensing regime for these devices.
- 1.35 More importantly, if we did not implement an EU decision, the European Commission and others could begin legal proceedings against the UK, the costs of which we deem to be potentially very high both quantitatively and qualitatively, outweighing any costs we consider to be associated with correct implementation.

The preferred option

- 1.36 For the reasons set out above, our preferred option is to make the Regulations. We consider this is consistent with European law and the policy decisions taken by Ofcom. We have therefore decided to make the Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2014.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

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