

MOBILE SERVICES COMMITTEE

- 15 MAY 2003

COMMUNICATIONS BILL - CHANGES TO
ENFORCEMENT POWERS

COLIN RICHARDS -
ENFORCEMENT AND INTERFERENCE
POLICY

REASONS FOR CHANGE

- FIRST OPPORTUNITY SINCE 1990 BROADCASTING ACT
 - EXPERIENCE SHOWS NEED TO STRENGTHEN IN SOME AREAS, RELAX IN OTHERS
- IMPLEMENT NEW EU DIRECTIVES



MODE OF TRIAL AND PENALTIES

- REVERT LESSER OFFENCES UNDER SECTION 1(1) AND 1A OF 1949 ACT TO SUMMARY (MAGISTRATES) ONLY
- STILL ALLOWS MAXIMUM 6 MONTHS/ £5,000 FINE PLUS FORFEITURE
- KEEP MORE SERIOUS OFFENCES EITHER WAY (MAGISTRATES OR CROWN COURT). MAXIMUM 2 YEARS/UNLIMITED FINE PLUS FORFEITURE
- SERIOUS OFFENCES:
 - PIRATE BROADCASTING (S1(1), 1A, 1B, 1C)
 - HOAX CALLS
 - DELIBERATE INTERFERENCE



POWER OF ARREST

- ONLY FOR EITHER WAY OFFENCES:
 - PIRATE BROADCASTING
 - HOAX CALLS
 - DELIBERATE INTERFERENCE
- POLICE POWER OF ARREST DURING RA/OFCOM INVESTIGATIONS



CONTRAVENTION NOTICES

- DIRECTIVE REQUIREMENT
- NOTICE TO BE GIVEN SETTING OUT CONTRAVENTION OF LICENCE OR EXEMPTION CONDITIONS
- ALLOWS ONE MONTH FOR REMEDIAL ACTION OR REPRESENTATIONS TO BE MADE
- CAN BE LONGER IF OFCOM DECIDE
- CAN BE SHORTER IF BOTH PARTIES AGREE OR IF A REPEATED CONTRAVENTION



CONTRAVENTION NOTICES

- REPEATED CONTRAVENTION
 - SAME CONTRAVENTION OR ANOTHER CONTRAVENTION OF SAME LICENCE OR EXEMPTION
 - WHERE FIRST CONTRAVENTION WAS REMEDIED AND SECOND NOTICE IS NO MORE THAN 12 MONTHS AFTER FIRST
 - OR WHERE PERSON HAS BEEN CONVICTED OF AN OFFENCE AND SECOND NOTICE IS GIVEN WITHIN 12 MONTHS OF FIRST NOTICE THAT LED TO CONVICTION



PROSECUTION FOR CONTRAVENTION OF LICENCE OR EXEMPTION

- CANNOT BE BROUGHT UNLESS A NOTICE HAS BEEN GIVEN FIRST;
- AND REMEDIAL ACTION TAKEN OR OFCOM HAS CONSIDERED REPRESENTATIONS
- PROSECUTION WITHOUT NOTICE CAN BE BROUGHT WHERE SERIOUS THREAT TO SAFETY/SECURITY OR SERIOUS ECONOMIC/OPERATIONAL PROBLEMS FOR OTHER RADIO USERS



FIXED PENALTIES

- FOR SUMMARY OFFENCES
- AMOUNT FOR OFFENCE FIXED BY REGULATIONS MADE BY SECRETARY OF STATE
- MUST BE NO MORE THAN 25% OF MAXIMUM FINE (E.G. £1,250 FOR SECTION 1(1) OFFENCE OF LICENCE CONTRAVENTION OR NOT HAVING A LICENCE)
- PAYING FIXED PENALTY DISCHARGES LIABILITY TO CONVICTION OR PERSON CAN OPT FOR TRIAL (LIKE PARKING TICKETS)



MISCELLANEOUS

- CHANGE TO “UNDUE INTERFERENCE” DEFINITION RE. “HARMFUL INTERFERENCE” (DIRECTIVE REQUIREMENT) - INTERFERENCE CANNOT BE UNDUE UNLESS IT IS ALSO HARMFUL
- CONDEMNATION PROCEDURE FOR RESTRICTED APPARATUS (ILLEGAL CB, CT, VIDEOSENDERS)
- POLICE OFFICERS ABLE TO OBTAIN WTA SEARCH WARRANTS

