

03 October 2002

Our Ref: S628

Geoff Chapman Esq.
Floor 11
Radiocommunications Agency
Wyndham House
189 Marsh Wall
London E14 9SX



**The Institution of
Electrical Engineers**

Savoy Place
London WC2R 0BL
United Kingdom
Tel: +44 (0)20 7240 1871
<http://www.iee.org.uk/>

Dear Mr Chapman,

IEE is pleased to have this opportunity to comment on the Radiocommunications Agency consultative document – “Implementing Spectrum Trading”. IEE’s 130,000 members are drawn from a broad range of engineering disciplines, including those directly concerned with the use of telecommunications and the radio spectrum; being involved in everything from technology innovations to the most senior levels of the industries in the scope of the subject matter of the Consultation.

In preparing its submission IEE have requested input from its Members.

IEE’s submission is in the form of an Annex, comprising a re-statement of the questions, and responses thereto. Responses have been given to questions where IEE feels able to add to the consultation process. The Annex question numbering corresponds with that in the Consultation document.

If you require further information or amplification of any aspect of this submission, please do not hesitate to contact me.

Yours sincerely,

Nicholas Moiseiwitsch
Head of Engineering Policy
Tel: 020 7344 5438
Email: nmoiseiwitsch@iee.org.uk

A response by the Institution of Electrical Engineers to the specific questions posed by Radiocommunications Agency in their Consultation Document “Implementing Spectrum Trading”

Q1 Do you have any comments on the proposed modes of trade? Are there others that should be considered?

A1 *The proposal that change of use should not be dependent upon a trade is welcomed, however, before change of use is permitted consideration needs to be given to third parties affected by the change i.e. other than the vendor and buyer, in particular any existing substantial body of service customers associated with the spectrum at issue, must not be disadvantaged by the change of use without appropriate concurrent service compensation. As part of the gradual introduction of Spectrum Trading consideration should be given to introducing change of use in the medium term e.g. in the period 2006 – 2008.*

Q5 Licence classes from the following sectors are proposed for a first wave of the introduction of spectrum trading: public wireless networks; broadband fixed wireless access, private business systems and terrestrial fixed links. Additionally for the first wave the simplest mode of trading (change of ownership only) is proposed for all other licence sectors and licence classes (with a few exceptions).

Q5 a) What is your view of these proposals?

A5 a) *Each sector should be considered on its merits and take into account the potential effect on third parties. In particular, any existing substantial body of service users associated with the band should not be disadvantaged without appropriate concurrent service compensation.*

Q5 b) What is your view on the appropriate timing of the introduction of trading for particular licence classes within sectors, and in particular for Third Generation Mobile (3G) licences?

A5 b) *There should be a mechanism by which the Government buys back any underused licences for resale, provided any existing substantial body of existing service users are not thereby disadvantaged without concurrent equivalent service provision.*

Provided all existing 3G licensees agree then trade of 3G spectrum should be permitted without any provision of service waiting period, thereby ensuring a level playing field for all parties interested in providing 3G services. In the short term (see A1 above) no change of use trade should be permitted in the 3G spectrum.

Q6 Licence classes from the following sectors are proposed for a second wave of spectrum trading: sound broadcasting (analogue and digital), television broadcasting (analogue and digital), programme making and special events, and aeronautical and maritime. What is your view of these proposals?

A6 *Approval of Ofcom should be necessary before any broadcast spectrum trade is permitted. This is proposed to ensure that broadcast editorial and technical standards are maintained.*

It is a surprise that aeronautical and maritime spectrum trades have been delayed until the second wave as previously these had been cited as sectors that were most likely to provide benefit to vendors, buyers and end users through spectrum trading.

It is unclear whether the bundling of equipment and service into spectrum trades will increase competition.

Q10 For the proposed licence sectors from which licence classes will be selected for the first wave of the introduction of spectrum trading with more complex trading modes (i.e. for the sectors: public wireless networks, broadband fixed wireless access, private business systems and terrestrial fixed links) do you have any views on how extensively change of use or reconfiguration should be permitted?

A10 *Each sector should be considered on its merits and take into account the potential effect on third parties. In particular, any existing substantial body of service users associated with the band should not be disadvantaged without appropriate concurrent service compensation.*

Q11 For the proposed licence sectors from which licence classes will be selected for the second wave of spectrum trading, do you have any views on how extensively change of use or reconfiguration should be permitted?

A11 *Each sector should be considered on its own merits and take into account the potential effect on third parties, in particular, any existing substantial body of existing service users should not be disadvantaged without concurrent equivalent service compensation.*

Further, broadcast spectrum trades should be subject to approval by Ofcom so as to ensure that broadcast editorial and technical standards are maintained. Broadcast audiences should be protected (via Ofcom) from wholesale ‘dumbing down’ of quality.

Q13 In what circumstances do you consider it would be appropriate for Ofcom to (a) require prior clearance or consent (ex ante) for competition purposes for a proposed trade and (b) withhold consent for a trade on competition grounds?

A13 *(a) Broadcast licence ownership regulation satisfaction, and for maintenance of editorial and technical standards. (b) In the circumstances that end-users’ interests are impaired.*

Q19 What are your views on continuation of annual licence fees for traded licences?

A19 *Following a trade, the requisite annual licence fee obligation should transfer to the new spectrum occupier, or at least remain payable by the vendor, so that the Taxpayer does not lose the benefit of the income. By this means there is also avoided any anomaly with the ‘first licensee’ situation.*

Q20 a) Ofcom could provide only a minimum level of information for spectrum trading (identification and some description of licensed spectrum, and ability to send a message to the

licensee) and leave further information provision to the market, or Ofcom could provide higher levels of information. What is your view on the optimum level for spectrum trading of information by Ofcom?

A20 a) *Except as noted elsewhere in this submission, the Ofcom involvement in spectrum trading should be minimal commensurate with a policy of preventing harmful interference and compliance with international obligations. This ethos should equally apply to the provision of information. This supports the proposition that Ofcom radio spectrum trading involvement will be mainly ex post checks, and not ex ante checks.*

Q21 Should Ofcom publish details of potential trades before they take place?

A21 *To ensure fair dealing, licence restrictions and charges payable to Ofcom by new licensees should be publicly available prior to spectrum trading.*

Q22 Are there topics other than those listed in Table two paragraph 17.1 that will need to be considered before Trading Regulations are finalised and trading is introduced for particular licence sectors and classes?

A22 *Existing service users should not be excluded from the Consultation process regarding Spectrum Trading Regulations.*

Q24 What steps, if any, should the Government take to recoup capital gains realised as a consequence of the introduction of spectrum trading?

A24 *Spectrum pricing should continue for tradable licenses so as to limit 'windfall' gains as spectrum transfers from being a public asset to being a private business asset.*

Q25 a) What steps, if any, should Ofcom take to facilitate the start of spectrum trading markets?

A25 a) *Spectrum trading is envisaged to be the precursor to maximum revenue generating use of the spectrum. This scenario does not necessarily take into account the end users' interests, since spectrum trading may result in spectrum hoarding (better price tomorrow) despite not being used by the incumbent. Thus, as stated in **A5 (b)**, there should be a mechanism by which the Government buys back any underused licences for resale, provided any existing substantial body of existing service users are not thereby disadvantaged without concurrent equivalent service provision.*

Q25 c) Do you consider that intermediaries are likely to emerge through the market if there is demand, or will Ofcom need to assist, and if so how?

A25 c) *Whilst the concept of spectrum trading intermediaries (market-makers) may appear logical to stimulate trade these will ultimately increase the costs to end-users.*

Q26 Do you agree with the analysis in the draft Regulatory Impact Assessment?

A26 *Appendix to draft RIA Table 1: Benefits of Spectrum Trading appears to be created on the premise that the estimated value of spectrum trades equates to the (fiscal) benefits of spectrum trading.*

It is suggested that the true (fiscal) benefit of spectrum trading is the total costing difference in Ofcom/taxpayer surplus (excesses over costs) with spectrum trading, compared to the surplus without spectrum trading. It is suspected that this will be less than the estimated value of spectrum trades used in the RIA. Over all, spectrum trading will increase regulation (costs) not decrease regulation.

***A1-4.2** It is the buyers and sellers of spectrum that expect to benefit from spectrum trading. Manufacturers and end-users are less likely to benefit from spectrum trading since normal market forces have already made established market uses of spectrum financially competitive. As a rule, increases in infra-structure costs are paid by the biggest mass of stakeholders i.e. the end-user.*

***A1-7.1** A reduction in regulatory barriers will not of necessity, increase competition, since spectrum trading may well see a majority of spectrum ultimately being accumulated, for a given service sector, by those who are prepared to pay most for it viz. the normal rules of an auction style process will apply. The costs of acquisition ultimately will be paid by the biggest mass of stakeholders i.e. the end-users.*
