



Notice of proposal to make
the Wireless Telegraphy (Automotive
Short Range Radar) (Exemption)
Regulations 2013

Statutory Notice

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Section 1

Executive Summary

- 1.1 This document outlines Ofcom's proposal to make the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013 (the "Proposed Regulations"). The Proposed Regulations will revoke and replace the current licence exemption arrangements for the establishment, installation and use of Automotive Short Range Radar (SRR) equipment in the 24 GHz (21.65 to 26.65 GHz) radio spectrum band.
- 1.2 On 11 August 2005, the European Commission (EC) published its decision on harmonising spectrum for use by SRR equipment by making the "Decision on the harmonisation of the 24 GHz range radio spectrum band (21.65 to 26.65 GHz) for the time-limited use by automotive short-range radar equipment in the Community (2005/50/EC)" ("2005 Decision")¹. The 2005 Decision required that SRR equipment operating at the 24 GHz band between 21.65 and 26.65 GHz, be made available until the closure date of 30 June 2013.
- 1.3 The EC on 29 July 2011 amended the 2005 Decision by making the "The amending Decision on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short range radar equipment in the Community (2011/485/EU)" (the "Amending Decision")². This extends the period in which SRR equipment operating in the 24.25 to 26.65 GHz part of the 24 GHz band, can be used in motor vehicles.
- 1.4 The Amending Decision extends the availability in part of the 24 GHz band (24.25 to 26.65 GHz) for SRR until 1 January 2018. Equipment already installed in vehicles (and equipment replacing equipment so installed) can continue to be used and the changes only affect new installations.
- 1.5 In addition, the Amending Decision also allows SRR equipment, mounted on motor vehicles for which a type-approval³ application has been submitted and has been granted before 1 January 2018, to be extended by an additional 4 years in accordance with Article 6(6) of Directive 2007/46/EC⁴.
- 1.6 Ofcom is responsible for authorising civil use of the radio spectrum and achieves 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 equipment to transmit without holding a licence granted by us, unless the use of such equipment is exempted.
- 1.7 In order to meet the requirements of the Amending Decision, we propose to make the Proposed Regulations. These will revoke and replace the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No. 2) Regulations 2005 (Statutory

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:021:0015:0020:EN:PDF>

² A copy of the Amending Decision is available at Annex 7 of this document.

³ Vehicle Type Approval is the confirmation that production samples of a design will meet specified performance standards- see <http://www.dft.gov.uk/vca/vehicletype/index.asp>

⁴ "Establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)"- see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:263:0001:01:EN:PDF>

Instrument (S.I) 2005/1585)⁵ (the “SRR Exemption Regulations”), as amended by The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No. 2) (Amendment) Regulations 2008 (S.I. 2008/237)⁶ and The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No. 2) (Amendment) Regulations 2010 (S.I. 2010/1484)⁷.

1.8 The Proposed Regulations will:

- revoke the use of part of the 24 GHz band between 21.65 and 24.25 GHz for automotive SRR equipment from 30 June 2013 except for automotive SRR equipment that was installed, or that is replacing equipment so installed, in a vehicle that was registered, placed on the market or put into service between 1 July 2005 and 30 June 2013 which will be permitted to continue to use this part of the band on a licence-exempt basis (subject to complying with various terms, provisions and limitations); and
- permit SRR equipment that was installed, or that is replacing equipment so installed, in a vehicle that was registered, placed on the market or put into service after 30 June 2013 to operate in part of the 24 GHz band between 24.25 and 26.65 GHz on a licence-exempt basis (subject to complying with various terms, provisions and limitations).

1.9 In accordance with the requirements of section 122(4) of the WT Act, this document enables stakeholders to comment on the drafting of the Proposed Regulations. We do not consider it appropriate to first conduct a policy consultation as implementing the Amending Decision is mandatory. The Proposed Regulations will ensure that we comply with the Amending Decision to authorise the use of SRR equipment at 24 GHz.

1.10 An impact assessment for the Proposed Regulations is available at Annex 5 to this document. A draft version of the Proposed Regulations is included in this document at Annex 6. Further copies may be obtained from www.ofcom.org.uk or from Ofcom at Riverside House, 2a Southwark Bridge Road, London SE1 9HA. Comments on the Proposed Regulations are invited by 5pm on **27 May 2013**. Subject to consideration of responses we intend to bring the new regulations into force by **30 June 2013**.

⁵ <http://legislation.data.gov.uk/uksi/2005/1585/made/data.pdf>

⁶ <http://legislation.data.gov.uk/uksi/2008/237/made/data.pdf>

⁷ http://www.legislation.gov.uk/uksi/2010/1484/pdfs/uksi_20101484_en.pdf

Section 2

Notice

Introduction

- 2.1 We are 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.
- 2.2 Under section 8(1) of the WT Act, it is an offence to install or use equipment to transmit without holding a licence granted by us unless the use of such equipment is exempted. We can exempt the installation or use of wireless telegraphy equipment by making Regulations under section 8(3) of the WT Act.
- 2.3 Under section 8(4) of the WT Act, we have to make regulations to exempt equipment 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.
- 2.4 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.
- 2.5 Before making any regulations we are required by section 122(4) of the WT Act to give notice of our proposal to do so. Under section 122(5), the notice must state that Ofcom proposes to make the regulations in question, set out their general effects, specify an address from which a copy of the proposed regulations or order may be obtained, and specify a time of at least one month before which any representations with respect to the proposal must be made to Ofcom.

Background on the proposals

- 2.6 As part of its e-safety initiative to improve road safety in Europe, the European Commission (EC) identified the use of Automotive Short Range Radar (SRR) equipment as a means of providing motor vehicles with radar functions and technologies which help in road traffic safety and collisions mitigation.
- 2.7 In January 2005, the EC adopted the “Decision (2005/50/EC) on the harmonisation of the use of the automotive SRR equipment in the 24 GHz range radio spectrum band (21.65 to 26.65 GHz) on a temporary basis in the Community” (the “2005 Decision”)⁸.
- 2.8 The 2005 Decision required Member States to permit the use of SRR equipment in the 24 GHz band (21.65 to 26.65) until 30 June 2013. Ofcom implemented the 2005 Decision by making the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) Regulations 2005 (the “SRR Exemption Regulations”)⁹. The SRR Exemption Regulations permitted any SRR equipment installed or used in a motor vehicle to be exempt from the requirement to be licensed in accordance with section 8(1) of the WT Act.
- 2.9 Since 2005, there have been a number of amendments to the SRR Exemption Regulations as required by the 2005 Decision. Regulation 4(7) of the SRR Exemption Regulations was amended by the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2008 (the “2008 Amendment Regulations”)¹⁰. The 2008 Amendment Regulations was made in accordance with Article 6(3) of the 2005 Decision¹¹ which required that equipment operating in the frequency band 22.21 GHz to 24.00 GHz must be automatically or manually deactivated within exclusion zones which surround radio astronomy sites. The Article limited the time period in which equipment that relied on manual deactivation could be put into service when operating in the 24 GHz band. It set out the cut off date of 30 June 2007.
- 2.10 In 2010, as required by Article 4, paragraph 3 of the 2005 Decision, the SRR Exemption Regulations were amended by the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2010 (the “2010 Amendment Regulations”)¹². The 2010 Amendment Regulations altered the licence exemption parameters for emissions within the 23.6 to 24.0 GHz band that appear 30° or greater above the horizontal plane, from the requirement to be attenuated by at least 25 dB to at least 30 dB.
- 2.11 In July 2011, the EC amended its 2005 Decision through the “amending Decision on the harmonisation of the 24 GHz range radio spectrum band (21.65 to 26.65 GHz) for the time-limited use by automotive short range radar equipment in the Community (2011/485/EU)”, (the “Amending Decision”)¹³. The Amending Decision extends the period of time for the use of automotive SRR equipment in part of the 24 GHz band (24.25 to 26.65 GHz) for up to nine years. This followed technical studies undertaken by the European Conference of Postal and Telecommunications Administrations (CEPT).

⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:021:0015:0020:EN:PDF>

⁹ SI 2005/1585, <http://legislation.data.gov.uk/ukxi/2005/1585/made/data.pdf>

¹⁰ SI 2008/237, <http://legislation.data.gov.uk/ukxi/2008/237/made/data.pdf>

¹¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:021:0015:0020:EN:PDF>

¹² SI 2010/1484, http://www.legislation.gov.uk/ukxi/2010/1484/pdfs/ukxi_20101484_en.pdf

¹³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011D0485:EN:PDF>

- 2.12 CEPT recognised that the 79 GHz radio spectrum band is considered to be the most suitable band in terms of long term operating frequency for SRR equipment. The EC originally expected that, by 1 July 2013, the technology for the systems in the 79 GHz band would be ready for mass market distribution and the use of the 24 GHz band would be phased out.
- 2.13 However, CEPT accepted that many car manufacturers will not be able to produce motor vehicles immediately available on a cost-effective basis in the 79 GHz band in time for the originally stated June 2013 deadline set out in the 2005 Decision.
- 2.14 The CEPT report also considered the impact on other users of the 24 GHz band (such as radio astronomy stations, earth exploration satellites and other satellite services), and concluded that the original reference dated of 30 June 2013 was still valid and should not be moved forward. In addition, the CEPT report reiterated that the 7% threshold (for the total number of vehicles in circulation in each Member State) imposed by the 2005 Decision should be maintained.
- 2.15 CEPT concluded that it was essential to continue to use SRR equipment only in part of the 24 GHz band (24.25 to 26.65 GHz), in existing and future production of cars in order to maintain traffic safety between 1 July 2013 and 1 January 2018 to allow enough time for the SRR equipment operating at 79 GHz to be fully developed and accessible.
- 2.16 Consequently, the EC decided that, since there has been a significant delay in the development of technology of SRR equipment in the 79 GHz band, the solution was to extend the use of part of the 24 GHz band (24.25 to 26.65 GHz) for SRR equipment from the 30 June 2013 to 1 January 2018. The Amending Decision also adds an extension of an additional four years to the time allowed for mounting the 24 GHz SRR equipment in motor vehicles where a type approval has been submitted pursuant to Article 6(6) of Directive 2007/46/EC of the European Parliament and of the Council¹⁴ and has been granted before 1 January 2018.

Implementation of the Amending Decision

- 2.17 This document gives notice of our intention to make the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013 (the “Proposed Regulations”). In line with the Amending Decision, the Proposed Regulations will revoke and replace the existing SRR Exemption Regulations as amended. Through the Proposed Regulations we propose to:
- revoke the use of part of the 24 GHz band between 21.65 and 24.25 GHz for automotive SRR equipment from 30 June 2013 except for automotive SRR equipment that was installed, or that is replacing equipment so installed, in a vehicle that was registered, placed on the market or put into service between 1 July 2005 and 30 June 2013 which will be permitted to continue to use this part of the band on a licence-exempt basis (subject to complying with various terms, provisions and limitations); and
 - permit SRR equipment that was installed, or that is replacing equipment so installed, in a vehicle that was registered, placed on the market or put into service after 30 June 2013 to operate in part of the 24 GHz band between 24.25 and 26.65 GHz on a licence-exempt basis (subject to complying with various terms, provisions and limitations).

¹⁴ OJ L263, 9.10.2007, p.1.

- 2.18 Section 3 sets out the general effects of the Proposed Regulations.
- 2.19 A Regulatory Impact Assessment (RIA) for the Proposed Regulations is available in Annex 5. The RIA sets out the risks, costs and benefits of the proposals and the effects that the Proposed Regulations would have.
- 2.20 A copy of the Proposed Regulations is available in Annex 6.

Next steps

- 2.21 We did not consider it appropriate to first conduct a policy consultation prior to drafting the Proposed Regulations, as implementing the Amending Decision is a mandatory requirement for all Member States. Following the publication of this consultation document, stakeholders are welcome to provide their feedback. The deadline to submit responses to us is 5pm, 27 May 2013. We expect to release a statement on this consultation in June 2013, having taken into account the stakeholder responses to our proposals and to make, and bring into force, the Proposed Regulations by 30 June 2013.

Section 3

General effects of the draft Wireless Telegraphy (Automotive Short Range Radar)(Exemption)Regulations 2013

- 3.1 Under section 8(1) of the WT Act it is an offence to install or use equipment to transmit without holding a licence granted by Ofcom, unless the installation or use of such equipment is exempted. Ofcom can exempt the establishment, installation and use of wireless telegraphy equipment by making regulations under section 8(3) of the WT Act.

Extent of application

- 3.2 The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) Regulations 2005 (“SRR Exemption Regulations”) apply in the United Kingdom, the Channel Islands and Isle of Man, and we anticipate the Proposed Regulations will also apply subject to formal agreement of the Island Authorities.

The Proposed Regulations

- 3.3 A draft of the Proposed Regulations is set out in Annex 6.
- 3.4 Regulation 1 sets the date when the Proposed Regulations would come into force.
- 3.5 Regulation 2 revokes the previous SRR Exemption Regulations, as amended.
- 3.6 Regulation 3 provides interpretation of the terms used in the Proposed Regulations.
- 3.7 Regulation 4 sets out that automotive SRR equipment may be used without the need to hold a licence. The exemption from the requirement for a licence is subject to the terms, provisions and limitations set out in Regulations 5 and 6.
- 3.8 Regulation 5 sets out the terms, provisions and limitations relating to the establishment, installation or replacement of SRR equipment registered, placed on the market or put into service in vehicles from 1 July 2005 to 30 June 2013.
- 3.8.1 Regulation 5(2) sets out that SRR equipment must only operate when the vehicle in which it is installed is active; only operate in the frequency band between 21.65 GHz and 26.65 GHz; and not cause undue interference to other users.
- 3.8.2 Regulations 5(3) and (4) set out technical requirements for automotive SRR equipment. Transmissions from any ultra wide band part of the equipment must have a mean power density no greater than -41.3 dBm/MHz eirp and a peak power density no greater than 0 dBm in any 50 MHz. at frequencies between 22.00 GHz and 26.65 GHz and a mean power density no greater than -61.3 dBm/MHz eirp and a peak power density no greater than 0 dBm in any 50 MHz. at frequencies between 21.65 GHz and 22.00 GHz. Any narrow band component of the equipment must only operate in the frequency band 24.05 GHz to 24.25 GHz and transmit with a peak power

no greater than 20 dBm eirp; and where transmitting with a peak power greater than -10 dBm eirp have a duty cycle which does not exceed 10%.

- 3.8.3 Regulation 5(5) sets emission limits within the 23.6 to 24.0 GHz band for emissions that appear 30° or greater above the horizontal plane at least 25 dB for equipment placed on the market before 1st January 2010; or at least 30 dB for automotive SRR equipment placed on the market between 1 January 2010 and 30 June 2013.
- 3.8.4 Regulation 5(6) sets out that there is no exemption permitted within the exclusion zones (locations set out in the schedule), for the use of automotive SRR equipment operating in the Radio Astronomy band 22.21 to 24.00 GHz under the Proposed Regulations.
- 3.8.5 Regulation 5(7) requires equipment in the frequency band between 22.21 GHz and 24.00 GHz either to automatically or manually deactivate when the vehicle is within an exclusion zone around the radio astronomy sites (as set out in the schedule of the Proposed Regulations) where the equipment has been established or installed in a vehicle put into service in the Community before 27 February 2008. However, Regulation 5(8) specifies that equipment put into service in the Community on or after this date will only be permitted if it automatically deactivates when the vehicle is within an exclusion zone around the radio astronomy sites.
- 3.9 Regulation 6 sets out the terms, provisions and limitations relating to the establishment, installation or replacement of SRR equipment registered, placed on the market or put into service in vehicles after 30 June 2013. It sets out how it must only operate when the vehicle in which it is established or installed is active; must operate in the frequency between 24.25 and 26.65 GHz and not cause undue interference to other users. Transmissions from any ultra wide band part of the equipment at frequencies between 24.25 GHz and 26.65 GHz must have a mean power density no greater than -41.3 dBm/MHz eirp and a peak power density no greater than 0 dBm in any 50 MHz.

Do you agree that the drafting of the Proposed Regulations correctly gives effect to the European Commission's Amending Decision referred to in this document and to the other intentions set out in this document?

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 27 May 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/assr-exemption/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email Eniola.Odusina@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Eniola Odusina
Spectrum Policy Group
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.5 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.6 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Eniola Odusina on 020 783 4650.

Confidentiality

- A1.7 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.8 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.9 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.10 Following the end of the consultation period, Ofcom intends to publish a statement in June 2013.
- A1.11 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.12 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.13 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.14 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation question

Introduction

A4.1 As required by Section 122 of the Wireless Telegraphy Act 2006, we must give notice of proposals that we intend to make and consider any representations that we receive. This document gives notice of our proposal to make the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013.

1) Do you agree that the drafting of the Proposed Regulations correctly gives effect to the European Commission's Amending Decision referred to in this document and to the other intentions set out in this document?

Annex 5

Regulatory Impact Assessment

Introduction

- A5.1 In accordance with Government practice, where a statutory regulation is made, a Regulatory Impact Assessment (RIA) must be undertaken. The analysis presented in this annex represents an impact assessment, as defined in section 7 of the Communications Act 2003 (the “2003 Act”)¹⁵, for the Wireless Telegraphy (Exemption) Regulations 2013 (the “Proposed Regulations”).
- A5.2 RIAs 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. 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. In accordance with section 7 of the 2003 Act, in producing this RIA, we have had regard to such general guidance as we consider appropriate including related Cabinet Office guidance. 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/policymaking/guidelines.pdf>.

Background

- A5.3 In the UK, we are 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 equipment to transmit without holding a licence granted by us, unless the use of such equipment is exempted. However, under section 8(4) of the WT Act, we have to make regulations to exempt equipment 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.

¹⁵ www.opsi.gov.uk/acts/acts2003/pdf/ukpga_20030021_en.pdf

- A5.4 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.

Proposal

- A5.5 This RIA relates to the proposal to make the Proposed Regulations by revoking and replacing the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No. 2) Regulations 2005 (the “SRR Exemption Regulations”)¹⁶ as amended. The Proposed Regulations will comply with the European Commission (EC) decision of 29 July 2011 “amending Decision on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community (2011/485/EU)” (The Amending Decision)¹⁷.
- A5.6 The Proposed Regulations will replace the SRR Exemption Regulations in order to comply with the Amending Decision by revoking the exemption for SRR equipment operating in the 21.65 to 24.25 GHz except for automotive SRR equipment that was installed, or that is replacing equipment so installed, in a vehicle that was registered, placed on the market or put into service between 1 July 2005 and 30 June 2013 which will be permitted to continue to use this part of the band on a licence-exempt basis (subject to complying with various terms, provisions and limitations).
- A5.7 SRR equipment that was installed, or that is replacing equipment so installed, in a vehicle that was registered, placed on the market or put into service after 30 June 2013 will be permitted to operate between 24.25 and 26.65 GHz on a licence-exempt basis (subject to complying with various terms, provisions and limitations)..

The citizen and/or consumer interest

- A5.8 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, have regard to securing the optimal use for wireless telegraphy of spectrum and have regard to the principle under which all regulatory activities should be proportionate, consistent and targeted only at cases in which action is needed. In implementing the decision to replace the existing regulations we have considered the wider impact beyond immediate stakeholders in the radiocommunications community. We believe that this decision will be of benefit to consumers for the following reasons:

¹⁶ SI 2005/1585, <http://www.opsi.gov.uk/si/si2005/20051585.htm>

¹⁷ See Annex 7 of this document

- i) The measures all 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 exemptions support the introduction of new and innovative technologies that will be of benefit to consumers by improving road safety; and
- iii) The extension of the exemption beyond the original 30 June 2013 date will permit ongoing use of SRR equipment in part of the 24 GHz band for existing and future production of cars in order to maintain road safety until the point at which SRR equipment operating at 79 GHz has fully developed and become accessible.

A5.9 We take account of the impact of our decisions upon both citizen and consumer interests in the markets we regulate.

Ofcom's policy objective

A5.10 As a Member State, the UK is bound by the terms of the Amending Decision and the requirement to implement them.

Options considered

A5.11 The options open to Ofcom in relation to the implementation of the Amending Decision are as follows:

- to make the Proposed Regulations that are compliant with the Amending Decision; or
- to do nothing.

Analysis of the different options

Make new regulations

A5.12 The most efficient route to mandatory compliance is to make the Proposed Regulations that are consistent with the Amending Decision as closely as possible.

Do nothing

A5.13 By doing nothing, we would be in breach of the Amending Decision and could be open to infraction proceedings initiated by the EC.

The preferred option

A5.14 The preferred option therefore is to make the Proposed Regulations as indicated in order to comply with the Amending Decision. The benefits of this option are that the UK remains compliant with European Community law. Furthermore, it will ensure that users of SRR equipment will continue to benefit from licence exempt use of the 24 GHz band for a further period and consumers will continue to benefit from technologies that improve road safety until such point as SRR equipment operating at 79 GHz has been fully developed and becomes accessible.

Annex 6

Draft Wireless Telegraphy (Automotive Short Range Radar)(Exemption) Regulations 2013

D R A F T S T A T U T O R Y I N S T R U M E N T S

2013 No. []

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013

Made - - - - - ***

Coming into force - - - - - ***

The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred by sections 8(3) of the Wireless Telegraphy Act 2006⁽¹⁸⁾ (“the Act”).

Before making these Regulations, OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the Act and have considered the representations made to them before the time specified in the notice in accordance with section 122(4)(c) of the Act.

Citation and commencement

1.—(1) These Regulations may be cited as The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013 and shall come into force on [30 June] 2013.

Revocation

2. The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) Regulations 2005⁽¹⁹⁾, The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2008⁽²⁰⁾ and The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2010⁽²¹⁾ are hereby revoked.

⁽¹⁸⁾ 2006 c.36
⁽¹⁹⁾ S.I. 2005/1585
⁽²⁰⁾ S.I. 2008/237
⁽²¹⁾ S.I. 2010/1484

Interpretation

3. In these Regulations —

- (a) “equipment” means equipment providing vehicle radar functions for collision mitigation and traffic safety applications;
- (b) “dBm” means decibel milliWatt;
- (c) “dBm/MHz” means decibel milliWatt per megahertz;
- (d) “duty cycle” means the ratio of time during any one hour period when equipment is actively transmitting;
- (e) “eirp” means effective isotropically radiated power;
- (f) “exclusion zone”, in relation to each of the radio astronomy stations specified in Column 1 of the Schedule, means the zone within the circle whose centre is the location (expressed by longitude and latitude coordinates) of the radio astronomy station, as specified in Column 2 of the Schedule, and whose radius is the distance specified in Column 3 of the Schedule; and
- (g) “vehicle” has the meaning given by Article 2 of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽²²⁾, as amended⁽²³⁾.

Exemption

4. The establishment or installation of equipment in a vehicle and the use of equipment so established or installed is hereby exempt from the provisions of section 8(1) of the Act where the terms, provisions and limitations in either regulation [5] or regulation [6] are met.

Terms, provisions and limitations

5.—(1) Where the establishment or installation is in a vehicle which was registered, placed on the market or put into service in the Community between 1st July 2005 and 30th June 2013, or is in a vehicle in which equipment was so established or installed in order to replace that equipment, it must comply with the terms, provisions and limitations set out in this regulation 5.

(2) Equipment must —

- (a) only operate when the vehicle in which it is established or installed is active;
- (b) only operate in the frequency band between 21.65 gigahertz and 26.65 gigahertz; and
- (c) not cause undue interference to other users of the frequency band between 21.65 gigahertz and 26.65 gigahertz.

(3) Transmissions from any ultra wide band part of the equipment must —

- (a) at frequencies between 22.00 gigahertz and 26.65 gigahertz have a mean power density no greater than -41.3 dBm/MHz eirp and a peak power density no greater than 0 dBm in any 50 megahertz; and
- (b) at frequencies between 21.65 gigahertz and 22.00 gigahertz have a mean power density no greater than -61.3 dBm/MHz eirp and a peak power density no greater than 0 dBm in any 50 megahertz.

(4) Any narrow band component of the equipment must —

- (a) only operate in the frequency band 24.05 gigahertz to 24.25 gigahertz;
- (b) transmit with a peak power no greater than 20 dBm eirp; and
- (c) where transmitting with a peak power greater than -10 dBm eirp have a duty cycle which does not exceed 10%.

⁽²²⁾ OJ No. L 42, 23.02.70, p. 1.

⁽²³⁾ Article 2 was amended by Council Directive No 92/53/EEC amending Directive 70/156 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers, OJ No. L225, 10.8.92, p. 1. There are other amendments to Article 2 and to other parts of Council Directive 70/156/EEC not relevant to these Regulations.

(5) Any part of equipment which operates in the frequency band between 23.60 gigahertz and 24.00 gigahertz shall attenuate power emissions that appear 30 degrees or greater above the horizontal plane by—

- (a) at least 25 decibels for equipment placed on the market before 1st January 2010; or
- (b) at least 30 decibels for equipment placed on the market between 1st January 2010 and 30th June 2013.

(6) The exemption from the provisions of section 8(1) of the Act does not apply to use of equipment operating in the frequency band between 22.21 gigahertz and 24.00 gigahertz when the vehicle in which that equipment is established or installed is within an exclusion zone.

(7) Equipment operating in the frequency band between 22.21 gigahertz and 24.00 gigahertz must where the equipment has been established or installed in a vehicle put into service in the Community before 27th February 2008 —

- (a) automatically deactivate so that all emissions cease while the vehicle in which it is established or installed is within an exclusion zone; or
- (b) be capable of manual deactivation so that all emissions cease while the vehicle in which it is established or installed is within an exclusion zone.

(8) Equipment operating in the frequency band between 22.21 gigahertz and 24.00 gigahertz must where the equipment has been established or installed in a vehicle put into service in the Community on or after 27th February 2008 automatically deactivate so that all emissions cease while the vehicle in which it is established or installed is within an exclusion zone.

6.—(1) Where the establishment or installation is in a vehicle which was registered, placed on the market or put into service in the Community after 30 June 2013, or is in a vehicle in which equipment was so established or installed in order to replace that equipment, it must comply with the terms, provisions and limitations set out in this regulation 6.

(2) Equipment must—

- (a) only operate when the vehicle in which it is established or installed is active;
- (b) only operate in the frequency band between 24.25 gigahertz and 26.65 gigahertz; and
- (c) not cause undue interference to other users of the frequency band between 24.25 gigahertz and 26.65 gigahertz.

(3) Transmissions from any ultra wide band part of the equipment at frequencies between 24.25 gigahertz and 26.65 gigahertz must have a mean power density no greater than -41.3 dBm/MHz eirp and a peak power density no greater than 0 dBm in any 50 megahertz.

[30 June] 2013

[]
Chief Executive of the Office of Communications
For and by the authority of the Office of Communications

SCHEDULE

Regulation 2

EXCLUSION ZONES

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Radio Astronomy Station</i>	<i>Location</i>	<i>Distance</i>
Jodrell Bank	02° 18'26" W 53° 14'10" N	9 kilometres
Cambridge	00° 02'20" E 52° 09'59" N	9 kilometres
Darnhall	02° 32'03" W 53° 09'22" N	5 kilometres
Pickmere	02° 26'38" W 53° 17'18" N	5 kilometres
Knockin	02° 59'45" W 52° 47'24" N	5 kilometres

EXPLANATORY NOTE

(This note is not part of the Regulations)

[These Regulations revoke The Wireless Telegraphy (Automotive Short Range Radar)(Exemption) (No.2) Regulations 2005, The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2008 and The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2010.

These Regulations exempt the establishment or installation of automotive short range radar equipment in a vehicle and the use of automotive short range radar equipment so established or installed from the requirement to be licensed under section 8(1) of the Wireless Telegraphy Act 2006 (c. 36).

Where the establishment or installation is in a vehicle which was registered, placed on the market or put into service in the Community between 1 July 2005 and 30 June 2013, or is in a vehicle in which equipment was so established or installed in order to replace that equipment, it must comply with regulation 5 (regulation 5(1)). The equipment must only operate when the vehicle in which it is established or installed is active, only operate in the frequency band between 21.65 gigahertz and 26.65 gigahertz and not cause undue interference to other users of the frequency (regulation 5(2)). The equipment must also meet the technical requirements set out in the regulations 5(3) to 5(5). The exemption from section 8(1) of the Wireless Telegraphy Act 2006 does not apply to use of equipment operating in the frequency band between 22.21 gigahertz and 24.00 gigahertz when the vehicle in which it is established or installed is within an exclusion zone (regulation 5(6)). Such equipment must automatically deactivate so that emissions cease while the vehicle in which it established or installed is within an exclusion zone or must be capable of manual deactivation in accordance with regulations 5(7) to 5(8). The exclusion zones are the areas around radio astronomy stations listed in the Schedule.

Where the establishment or installation is in a vehicle which was registered, placed on the market or put into service in the Community after 30 June 2013, or is in a vehicle in which equipment was so established or installed in order to replace that equipment, it must comply with regulation 6 (regulation 6(1)). The equipment must only operate when the vehicle in which it is established or installed is active, only operate in the frequency band between 24.25 gigahertz and 26.65 gigahertz and not cause undue interference to other users of the frequency band (regulation 6(2)). The equipment must also meet the technical requirements set out in regulation 6(3).

These Regulations implement the Commission Decision 2005/50/EC on the harmonisation of 24 GHz radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community (OJ No. L 21, 25.1.05, p. 15) as amended by Commission Implementing Decision 2011/485/EU amending Decision 2005/50/EC on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community (OJ No. L 198/71, 30.7.2011, p. 71).]

Annex 7

Amending Commission Decision

30.7.2011

EN

Official Journal of the European Union

L 198/71

COMMISSION IMPLEMENTING DECISION

of 29 July 2011

amending Decision 2005/50/EC on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community

(notified under document C(2011) 5444)

(Text with EEA relevance)

(2011/485/EU)

THE EUROPEAN COMMISSION,

cars to allow for a mass market distribution will be feasible by 2018 or a few years before at the earliest.

Having regard to the Treaty on the Functioning of the European Union,

(4) Moreover, an additional period will be necessary in order to ensure the transition from the 24 GHz technology to the 79 GHz technology on car lines using 24 GHz technology which will exist when the new car lines equipped with the 79 GHz technology appear.

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)⁽¹⁾, and in particular Article 4(3) thereof,

(5) It is essential to ensure continuity of the existing and future production of cars equipped with 24 GHz radars, considering their importance for traffic safety and the need to encourage the development of such applications in as many of the existing vehicles as possible; therefore a discontinuity of usable spectrum for radars must be avoided and a temporary solution is needed in order to ensure the transition between 1 July 2013 and 1 January 2018. To allow for an additional transition period, the date of 1 January 2018 should be extended by 4 years for automotive short-range radar equipment mounted on motor vehicles for which a type-approval application has been granted before 1 January 2018.

Whereas:

(1) On 7 November 2008, the Commission issued a mandate to the European Conference of Postal and Telecommunications Administrations (CEPT) to undertake technical studies on automotive short-range radar systems in support of the fundamental review pursuant to Article 5(2) of Commission Decision 2005/50/EC⁽²⁾ and to undertake radio compatibility studies with regard to possible alternative approaches to the use of the 24 GHz range.

(6) Considering the international protection granted to radio astronomy, earth exploration satellite and space research passive services in the 23,60 GHz to 24 GHz band, and the exceptional character of the designation of that band for short-range radars by Decision 2005/50/EC, a prolongation of such designation is not a viable option. Moreover, the band 24 GHz to 24,25 GHz has been designated for industrial, scientific and medical purposes (ISM band).

(2) CEPT reports 36 and 37 delivered pursuant to this mandate and the fundamental review carried out pursuant to Decision 2005/50/EC on evolution regarding the 24 GHz and 79 GHz bands indicate that the reference date of 30 June 2013 provided in Article 2(5) of that Decision is still valid, and that considering the current absence of harmful impact on other users of the 24 GHz band, there is no need to move it forward.

(7) CEPT compatibility studies, including some military systems, indicate that the 24,25 GHz to 27,50 GHz band may be a technically feasible alternative solution. The band above 26,50 GHz has been identified by NATO as a planned military band for fixed and mobile systems.

(3) Development of automotive short-range radar technology in the 79 GHz range is progressing. However, there are strong indications that integration of the applications of that technology in car manufacturing will not be achieved by the deadline set for short-range technology in the 24 GHz range and that, considering the time still necessary for the development, integration and testing phases, it is likely that integration of 79 GHz radars in

(8) The threshold of a 7 % penetration rate imposed by Decision 2005/50/EC should be maintained, as there is no indication that such a limit would be exceeded before the switch-over to the 79 GHz band and to underline that the 24 GHz band remains a transitional solution.

⁽¹⁾ OJ L 108, 24.4.2002, p. 1.

⁽²⁾ OJ L 21, 25.1.2005, p. 15.

(9) The Commission, assisted by the Member States, should continue to monitor the application of this Decision, in particular regarding the threshold limit, and the absence of harmful interference to other users of the band or to neighbouring bands, whether or not the threshold of 7 % is exceeded.

(10) Decision 2005/50/EC should therefore be amended accordingly.

(11) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/50/EC is amended as follows:

1. in Article 2, point 5 is replaced by the following:

'5. "reference dates" means 30 June 2013 for the frequency between 21,65 and 24,25 GHz and 1 January 2018 for the frequency between 24,25 and 26,65 GHz';

2. Article 3 is amended as follows:

(a) in the second paragraph, the words 'reference date' are replaced by 'reference dates';

(b) in the third paragraph, the words 'that date' are replaced in two places by 'those dates';

(c) the following paragraph is added after the third paragraph:

However, the date of 1 January 2018 shall be extended by 4 years for automotive short-range radar equipment mounted on motor vehicles for which a type-approval application has been submitted pursuant to Article 6(6) of Directive 2007/46/EC of the European Parliament and of the Council (*) and has been granted before 1 January 2018.

(*) OJ L 263, 9.10.2007, p. 1.;

3. Article 5 is amended as follows:

(a) in point (d) of paragraph 1, the words 'the reference date' are replaced by 'the reference dates';

(b) paragraphs 2 and 3 are deleted;

(c) paragraph 4 is replaced by the following:

'4. The Member States shall assist the Commission to carry out the scrutiny referred to in paragraph 1 by ensuring that the necessary information is collected and provided to the Commission in a timely manner, in particular the information set out in the Annex.'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 29 July 2011.

For the Commission
Neelie KROES
Vice-President