



Notice of Ofcom's proposal to
make (1) spectrum trading
regulations and (2) register
regulations in connection with the
award of 800 MHz and 2.6 GHz

Consultation

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Section 1

Notice

- 1.1 Ofcom will award wireless telegraphy licences for equipment operating within the following spectrum bands ("**the Bands**"): 791-821 MHz, 832-862 MHz and 2500-2690 MHz. The process and rules for the award of licences to operate within the Bands are set out in the Wireless Telegraphy (Licence Award) Regulations 2012¹ ("**the Award Regulations**"), which were made on 9 November 2012 and came into force on 23 November 2012. Ofcom has also made an order limiting the number of licences to be awarded in relation to the Bands for the purpose of securing efficient use of the electro-magnetic spectrum and efficient use in particular of the Bands².
- 1.2 In its July 2012 statement 'Assessment of future mobile competition and award of 800 MHz and 2.6 GHz' (the "**July Statement**"), Ofcom set out its policy decisions on the trading of the licences to be granted under the Award Regulations³. That decision and the reasons for it are set out in full in the July Statement⁴, but in summary Ofcom's policy is that all legal forms of trading of these licences are to be permitted subject to Ofcom's consent, with the exception of rights and obligations relating to low-power 2.6 GHz usage for which only total outright transfers will be permitted (subject to Ofcom's consent). Accordingly, under section 30 of the Wireless Telegraphy Act 2006, Ofcom proposes to make the Wireless Telegraphy (Mobile Spectrum Trading) Regulations.
- 1.3 A draft of the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations is set out at Annex 4. The general effect of these regulations is set out at Section 2 of this document.
- 1.4 Ofcom also proposes to make regulations under section 31 of the Wireless Telegraphy Act 2006 to amend the Wireless Telegraphy (Register) Regulations 2012 so that licences granted under the Award Regulations can be included in the published register of licences.
- 1.5 A draft of the proposed Wireless Telegraphy (Register)(Amendment) Regulations is set out at Annex 5. The general effect of these regulations is set out at section 3 of this document.
- 1.6 Subject to this consultation, Ofcom intends to make the Wireless Telegraphy (Mobile Spectrum Trading) Regulations and the Wireless Telegraphy (Register)(Amendment) Regulations so that they come into force before (or very shortly after) the conclusion of the process for the award of licences under the Award Regulations.
- 1.7 Paper copies of the proposed regulations may be obtained from Robert Emson, Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

¹ S.I. 2012/2817 amended by S.I. 2012/2970.

² The Wireless Telegraphy (Limitation of Number of Licences) Order 2012, S.I. 2012/3138.

³ <http://stakeholders.ofcom.org.uk/binaries/consultations/award-800mhz/statement/statement.pdf>

⁴ See in particular paragraphs 9.18 to 9.28 of the July Statement.

Section 2

General effect of the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations

The legislative framework

- 2.1 Under section 30 of the Wireless Telegraphy Act 2006 Ofcom may by regulations authorise the transfer to another person by the holder of a wireless telegraphy licence, or the holder of a grant of recognised spectrum access, of rights and obligations arising by virtue of such a licence or grant. Under section 30(4) and (5) transfers that fail to comply with these regulations (or with certain conditions in licences) will be void.
- 2.2 Ofcom proposes to make regulations under sections 30(1) and (3) and 122(7) of the Wireless Telegraphy Act 2006. The regulations relate only to rights and obligations arising under licences granted under the Award Process, but where appropriate the drafting is based on relevant provisions in the Wireless Telegraphy (Mobile Spectrum Trading) Regulations 2011⁵.

Total and partial transfers under the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations

- 2.3 A draft of the proposed regulations is set out at Annex 4.
- 2.4 Under regulation 3 the provisions of the proposed regulations apply only to licences within the spectrum access class on frequencies within the frequency bands specified.
- 2.5 Regulations 4, 5, 6 and 7 describe the types of trade which are permitted under these regulations for these licences. With the exception of 2600 MHz low power usage rights and obligations (which are considered separately below), the following types of trade are permitted:
 - 2.5.1 outright total transfers, i.e. all of the rights and obligations arising under a licence are transferred in entirety from one party to another (regulation 4);
 - 2.5.2 concurrent total transfers, i.e. all of the rights and obligations arising under a licence are transferred to a third party resulting in a concurrent holding of those rights and obligations by the transferor and the transferee(s) (regulation 5);
 - 2.5.3 outright partial transfers, i.e. some of the rights and obligations arising under a licence are transferred in entirety from one party to another (regulation 6);
 - 2.5.4 concurrent partial transfers, i.e. some of the rights and obligations arising under a licence are transferred to a third party resulting in a concurrent

⁵ S.I. 2011/1507, which relates to spectrum trading of rights and obligations arising by virtue of licences in the Public Wireless Network class on frequency bands specified in those regulations.

holding of those rights and obligations by the transferor and the transferee(s) (regulation 7).

- 2.6 Under an outright transfer, the rights and obligations being traded are transferred in their entirety from one party to another. Thus the licensee that traded the spectrum no longer has any rights to use the traded spectrum.
- 2.7 Concurrent transfers, on the other hand, enable licensees to share rights to use spectrum as they see fit over a period of time without the need to undertake further transfers between themselves to effect that sharing.
- 2.8 For 2600 MHz low power usage rights and obligations, defined in regulation 2(a), not all of the types of trade set out above are permitted under the regulations.
 - 2.8.1 2600 MHz low power usage rights and obligations can be the subject of an outright transfer of all of the rights and obligations arising under a licence (regulation 4).
 - 2.8.2 They can also be the subject of a partial outright transfer, but only if all of the 2600 MHz low power usage rights and obligations arising by virtue of the licence in question are included in the transfer (regulation 6(4)). In other words, if a licence contains 2600 MHz low power usage rights and obligations, it is not permitted to transfer only some of those rights and obligations.
 - 2.8.3 These rights and obligations cannot be the subject of a concurrent transfer, whether total or partial (regulation 5(3) and regulation 7(4)).

Circumstances where transfers are not authorised under the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations

- 2.9 Regulations 4, 5, 6 and 7 of the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations are all subject to regulation 8. Regulation 8 sets out particular circumstances in which transfers are not authorised. These are:
 - 2.9.1 where the licence holder, or any of the concurrent holders, or the transferee has not consented to the transfer;
 - 2.9.2 where licence fees are outstanding or where the licence holder has opted to pay Ofcom its licence fee by instalments⁶;
 - 2.9.3 where Ofcom has served notice under paragraph 7(1) of Schedule 1 to the Wireless Telegraphy Act 2006 of a proposal to revoke or vary the licence but that revocation or variation has not yet been made;
 - 2.9.4 where the holder of the licence has requested Ofcom to revoke or vary the licence (or consented to a revocation or variation proposed by Ofcom) but that revocation or variation has not yet been made;
 - 2.9.5 where Ofcom have not given their consent to the transfer under regulation 10.

⁶ Holders of these licences will not be liable to pay licence fees under section 12 of the Wireless Telegraphy Act 2006 until after the end of the initial term (see further <http://stakeholders.ofcom.org.uk/binaries/consultations/award-800mhz/statement/IM.pdf>).

Notification of a trade under the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations

- 2.10 Once a transfer has been agreed by the transferor and transferee, the licence holder or concurrent holders must notify Ofcom of certain information about the proposed trade (regulation 9(1)). Once all the information is provided, Ofcom will check the documentation in order to ensure that the mandatory information requirements have been met and that the proposed transfer is consistent with the information held by Ofcom. Ofcom will then publish a notice stating the names of the transferor and the transferee and setting out basic information about the licence (regulation 9(2)).

Ofcom's consent to a trade under the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations

- 2.11 After publishing a notice under regulation 9(2), Ofcom must decide whether it consents to the transfer under regulation 10 and whether to give any directions under regulation 11.
- 2.12 When considering whether to consent to a transfer, Ofcom must consider the matters set out in regulation 10(a) to (f). These are:
- 2.12.1 whether the holder or concurrent holders of the licence is or are in breach of the licence terms;
 - 2.12.2 whether the transferee (and the transferor in the case of a partial transfer) is able to meet the terms of the licence;
 - 2.12.3 whether the transferee is able to meet any criteria relating to the persons to whom a wireless telegraphy licence of the class to be transferred may be granted;
 - 2.12.4 whether competition is likely to be distorted as a result of the transfer;
 - 2.12.5 whether it is requisite or expedient for Ofcom to refuse consent:
 - in the interests of national security;
 - to comply with European Union or international obligations of the UK; or
 - to comply with a direction by the Secretary of State under the Communications Act 2003 or the Wireless Telegraphy Act 2006.
 - 2.12.6 Under regulation 11 Ofcom may consent to a transfer but give a direction to the parties to the trade that the transfer will only be put into effect after compliance with conditions which may relate to any matter mentioned in regulation 10.

Effecting the transfer under the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations

- 2.13 Once Ofcom has decided whether to consent to the transfer and whether to issue directions it must notify the parties (regulation 9(4)).

- 2.14 In order to effect a transfer, the transferor's licence will need to be surrendered. Ofcom will then grant a new licence to the transferee, and in the case of a concurrent or partial transfer, to the transferor(s) (regulation 9(5)).
- 2.15 After the transfer has been effected, Ofcom will update its public notice to indicate that the transfer was completed (regulation 9(6)).

Section 3

General effect of the proposed Wireless Telegraphy (Register)(Amendment) Regulations

The legislative framework and the existing regulations

- 3.1 Under section 31(1) of the Wireless Telegraphy Act 2006 Ofcom may, by regulations, make provision for the establishment and maintenance of a wireless telegraphy register. Under section 31(2) of that Act Ofcom may only include relevant information in the register if it is information of a description prescribed by regulations. The Wireless Telegraphy (Register) Regulations 2012⁷ provide for the establishment and maintenance of such a register and prescribe “relevant information” for these purposes.
- 3.2 The register provides basic information about licensees such as names, contact details, class of licence, the band(s) of frequencies and, where appropriate, the geographical area of operation.
- 3.3 Ofcom proposes to amend the Wireless Telegraphy (Register) Regulations 2012 in order to add the licences that are to be granted under the Award Process to the wireless telegraphy register as members of the spectrum access class of licences.
- 3.4 A draft of the proposed Wireless Telegraphy (Register)(Amendment) Regulations is set out at Annex 5.
- 3.5 The Wireless Telegraphy (Register) Regulations 2012 are available on the website www.legislation.gov.uk

The proposed amendments to the Wireless Telegraphy (Register) Regulations 2012

- 3.6 The proposed Wireless Telegraphy (Register)(Amendment) Regulations would amend the Wireless Telegraphy (Register) Regulations 2012 by adding into the class of spectrum access licences listed in Part 2 of Schedule 2 the frequencies for which licences will be granted under the Award Process.

⁷ S.I. 2012/2186.

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 25 February 2013.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/spectrum-trading-regs-jan2013/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 2), 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 spectrumawards@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.
- Robert Emson
Ofcom
- 3rd Floor
- Riverside House
- 2a Southwark Bridge Road
London SE1 9HA
- A1.5 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.
- A1.6 It would be helpful if your response could include a direct answer to the question asked in this document, which is highlighted at Annex 3. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Robert Emson on 020 7783 4375.

Confidentiality

- A1.8 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. 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.
- A1.9 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.
- A1.10 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

- A1.11 Following the end of the consultation period, Ofcom intends to make the Wireless Telegraphy (Mobile Spectrum Trading) Regulations and the Wireless Telegraphy (Register)(Amendment) Regulations as soon as possible.
- A1.12 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

- A1.13 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

Consultation response cover sheet

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 3

Consultation questions

- 1. Do you have any comments on the proposed Wireless Telegraphy (Mobile Spectrum Trading) Regulations?*
- 2. Do you have any comments on the proposed Wireless Telegraphy (Register)(Amendment) Regulations?*

Annex 4

Draft Wireless Telegraphy (Mobile Spectrum Trading) Regulations

STATUTORY INSTRUMENTS

20 No.**

ELECTRONIC COMMUNICATIONS

Wireless Telegraphy (Mobile Spectrum Trading) Regulations 20**

Made - - - - - ***

Coming into force - - - - - ***

The Office of Communications (“OFCOM”), in exercise of the powers conferred by section 30(1) and (3) and section 122(7) of the Wireless Telegraphy Act 2006⁽⁸⁾ (the “Act”), make the following Regulations.

Before making the 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, commencement and extent

1.—(1) These Regulations may be cited as the Wireless Telegraphy (Mobile Spectrum Trading) Regulations 20** and shall come into force on **[date]**.

(1) These Regulations shall not extend to the Bailiwick of Guernsey.

Interpretation

2.In these Regulations—

- (a) “2600 MHz low power usage rights and obligations” means rights and obligations to operate a wireless telegraphy station or wireless telegraphy apparatus on frequencies in the frequency band 2500-2690 MHz where such operation is restricted under the terms of the licence to low power usage;
- (b) “concurrent holders” means persons who concurrently hold the rights and obligations under a wireless telegraphy licence by virtue of a transfer authorised by these Regulations which has that effect; and
- (c) the “Act” means the Wireless Telegraphy Act 2006.

⁽⁸⁾ 2006 c.36.

Application to wireless telegraphy licences

3. These Regulations apply to wireless telegraphy licences within the spectrum access licence class which authorise the operation of a wireless telegraphy station or wireless telegraphy apparatus on frequencies within the following frequency bands—

- (a) 791-821 MHz;
- (b) 832-862 MHz;
- (c) 2500-2690 MHz.

Outright transfer of all of the rights and obligations arising by virtue of a wireless telegraphy licence

4.—(1) A transfer by the holder of a wireless telegraphy licence to which these Regulations apply of all of the rights and obligations arising by virtue of that licence is authorised if it satisfies the condition set out in paragraph (2), subject to regulation 8.

(1) The condition is that the rights and obligations of the person making the transfer become rights and obligations of the transferee to the exclusion of the person making the transfer.

Concurrent transfer of all of the rights and obligations arising by virtue of a wireless telegraphy licence

5.—(1) A transfer by the holder of a wireless telegraphy licence to which these Regulations apply of all of the rights and obligations arising by virtue of that licence is authorised if it satisfies the condition set out in paragraph (2), subject to paragraph (3) and regulation 8.

(1) The condition is that the transferred rights and obligations become rights and obligations of the transferee while continuing, concurrently, to be rights and obligations of the person making the transfer.

(2) A transfer of 2600 MHz low power usage rights and obligations is not authorised under this regulation.

Outright transfer of some of the rights and obligations arising by virtue of a wireless telegraphy licence

6.—(1) A transfer by the holder of a wireless telegraphy licence to which these Regulations apply of some of the rights and obligations arising by virtue of that licence is authorised if it satisfies the first condition and the second condition, subject to paragraph (4) and regulation 8.

(1) The first condition is that the transferred rights and obligations become rights and obligations of the transferee to the exclusion of the person making the transfer.

(2) The second condition is that the transfer is of—

- (a) all of the rights arising by virtue of the licence which relate to—
 - (i) a part of the range of frequencies for which the holder of the licence is authorised under the licence to establish, install and use radio transmitting and receiving stations or apparatus;
 - (ii) a geographical area, being part of the total geographical area in which the holder of the licence is authorised under the licence to establish, install and use radio transmitting and receiving stations or apparatus; or
 - (iii) both of the situations set out in paragraphs (i) and (ii); and
- (b) the corresponding part of each of the obligations under the licence.

(3) A transfer of 2600 MHz low power usage rights and obligations is not authorised under this regulation unless the transfer is of all of the 2600 MHz low power usage rights and obligations arising by virtue of the licence.

Concurrent transfer of some of the rights and obligations arising by virtue of a wireless telegraphy licence

7.—(1) A transfer by the holder of a wireless telegraphy licence to which these Regulations apply of some of the rights and obligations arising by virtue of that wireless telegraphy licence is authorised if it satisfies the first condition and the second condition, subject to paragraph (4) and regulation 8.

(1) The first condition is that the transferred rights and obligations become rights and obligations of the transferee while continuing, concurrently, to be rights and obligations of the person making the transfer.

(2) The second condition is that the transfer is of—

(a) all of the rights arising by virtue of a wireless telegraphy licence which relate to—

(i) a part of the range of frequencies for which the holder of the licence is authorised under the licence to establish, install and use radio transmitting and receiving stations or apparatus;

(ii) a geographical area, being part of the total geographical area in which the holder of the licence is authorised under the licence to establish, install and use radio transmitting and receiving stations or apparatus; or

(iii) both of the situations set out in paragraphs (i) and (ii); and

(b) the corresponding part of each of the obligations under the licence.

(3) A transfer of 2600 MHz low power usage rights and obligations is not authorised under this regulation.

Circumstances in which a transfer is not authorised

8. A transfer of rights and obligations arising under a wireless telegraphy licence is not authorised where—

(a) the holder of the licence or, if there are concurrent holders, any of the concurrent holders has not consented to the transfer;

(b) the transferee has not consented to the transfer;

(c) any sum payable under regulations made under section 12 of the Act in respect of the licence is owing to OFCOM because it has not been paid by the time it became due;

(d) any instalment payment is to be paid to OFCOM under regulations made under that section in respect of the licence;

(e) OFCOM have served notice under paragraph 7(1) of Schedule 1 to the Act on the holder of the licence, or the concurrent holders of the licence, of a proposal to revoke or vary the licence but that revocation or variation has not yet been made;

(f) the holder of the licence has, or all of the concurrent holders have, requested OFCOM to revoke or vary the licence or have consented to a revocation or variation proposed by OFCOM but that revocation or variation has not yet been made; or

(g) OFCOM have not given their consent under regulation 10 to the transfer being made.

Transfer procedure

9.—(1) The holder, or concurrent holders, of a wireless telegraphy licence who wishes, or wish, to make a transfer authorised by regulation 4, 5, 6 or 7 must provide to OFCOM—

(a) the reference number of the wireless telegraphy licence under which rights and obligations are to be transferred;

(b) the name and address of the holder or concurrent holders of the wireless telegraphy licence;

(c) the name and address of the proposed transferee;

(d) a description of which type of transfer authorised by regulation 4, 5, 6 or 7 is proposed;

(e) a document signed by or on behalf of the holder, or each concurrent holder, of the licence and signed by or on behalf of the transferee, under which each of those persons warrants to OFCOM that he has consented to the proposed transfer;

- (f) all information necessary for OFCOM to determine whether or not they shall consent to the transfer; and
 - (g) in the case of a transfer authorised by regulation 6 or 7, a description of which rights and obligations under the licence are to be transferred.
- (2) OFCOM shall, after determining that the requirements of paragraph (1) have been met, publish a notice stating—
- (a) the name of the wireless telegraphy licence holder or concurrent holders and the name of the proposed transferee;
 - (b) the date on which OFCOM determined that the requirements of paragraph (1) were met;
 - (c) the licence class and the reference number of the wireless telegraphy licence under which rights and obligations are to be transferred; and
 - (d) in the case of a transfer authorised by regulation 6 or 7, a description of which rights under the licence are proposed to be transferred.
- (3) After publishing a notice under paragraph (2) OFCOM shall decide—
- (a) if they consent to the transfer in accordance with regulation 10; and
 - (b) if they shall give any directions under regulation 11.
- (4) OFCOM shall notify the parties to the proposed transfer of their decisions under paragraph (3).
- (5) A transfer shall be effected by the holder or concurrent holders of the wireless telegraphy licence under which rights and obligations are to be transferred surrendering that licence and by OFCOM granting a new licence—
- (a) to the transferee; and
 - (b) in the case of a transfer authorised under regulation 5, 6 or 7, to the holder or concurrent holders who made the transfer.
- (6) OFCOM shall publish the information specified in paragraph (2) in relation to transfers that have been effected pursuant to paragraph (5).

Consent by OFCOM

10. In determining whether or not to consent to a proposed transfer OFCOM shall take into account whether—

- (a) the holder is, or the concurrent holders are, in breach of the terms of the wireless telegraphy licence under which the rights and obligations are to be transferred;
- (b) the transferee is able to meet the terms, provisions and limitations of the wireless telegraphy licence which is to be granted [to the transferee] as a result of the transfer;
- (c) in the case of a transfer authorised by regulation 6 or 7, the transferor is able to meet the terms, provisions and limitations of the wireless telegraphy licence which is to be granted to the transferor as a result of the transfer;
- (d) the transferee is able to meet any criteria relating to the persons to whom a wireless telegraphy licence of the class under which rights and obligations are to be transferred may be granted;
- (e) competition is likely to be distorted as a result of the transfer; and
- (f) it is requisite or expedient to refuse consent to the transfer—
 - (i) in the interests of national security;
 - (ii) for the purposes of complying with a Community obligation of the United Kingdom or with any international agreement or arrangements to which the United Kingdom is party; or
 - (iii) for the purposes of complying with a direction by the Secretary of State given to OFCOM under section 5 of the Communications Act 2003⁹ or section 5 of the Act.

⁹ 2003 c.21.

Directions by OFCOM

11.—(1) If OFCOM consent to a transfer they may also direct that a transfer shall only be effected in accordance with regulation 9(5) after compliance with conditions which may relate to any matter mentioned in regulation 10.

(1) A transfer may not be effected in accordance with regulation 9(5) until after compliance with the conditions set out in any such direction.

Date

Name
Title
For and by authority of the Office of Communications

Annex 5

Draft Wireless Telegraphy (Register)(Amendment) Regulations

STATUTORY INSTRUMENTS

20 No. ******

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Register) (Amendment) Regulations 20**

Made - - - - - [***]

Coming into force - - - - - [***]

The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred by section 31(1) and (2) and section 122(7) of the Wireless Telegraphy Act 2006⁽¹⁰⁾ (“the Act”).

Before making the Regulations OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notified 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. These Regulations may be cited as the Wireless Telegraphy (Register) (Amendment) Regulations 20** and shall come into force on **[insert date]**.

Amendment of the Wireless Telegraphy (Register) Regulations 2012

2. Part 2 of Schedule 2 to the Wireless Telegraphy (Register) Regulations 2012⁽¹¹⁾ is amended by—

(a) inserting in Column 2 after “758-766 MHz”—

“791-821 MHz

832-862 MHz”;

(b) inserting in Column 2 after “1785-1805 MHz”—

“2500-2690 MHz”.

[Signature]

[Date]

⁽¹⁰⁾ 2006 c. 36.

⁽¹¹⁾ S.I. 2012/2186.