
Regulatory Impact Assessment

The Wireless Telegraphy (Licence Charges) Regulations
2020

1. Regulatory Impact Assessment

- 1.1 Ofcom acts in accordance with Government practice that, where a statutory regulation is made, a Regulatory Impact Assessment (RIA) must be undertaken. We also comply with our duty under section 7 of the Communications Act 2003 (the 2003 Act) to undertake impact assessments.
- 1.2 The analysis in this document is a regulatory impact assessment relating to the Wireless Telegraphy (Licence Charges) Regulations 2020 (the Regulations). It is consistent with the Government practice on RIAs and Ofcom's duty under the 2003 Act.
- 1.3 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policymaking. This is reflected in section 7 of the 2003 Act, which imposes a duty on Ofcom to carry out impact assessments where our decisions would be likely to have a significant effect on businesses or the general public, or when there is a major change in our activities. As a matter of policy, we are committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, *Better policy-making: Ofcom's approach to impact assessment*, which are on our website: http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf
- 1.4 On 25 June 2020, we published a consultation document entitled *Notice of proposals to make the Wireless Telegraphy (Licence Charges) Regulations 2020* (the Notice)¹ and invited comments from stakeholders by 31 July 2020. Ofcom received two responses to the consultation, one being confidential and the other from EchoStar Mobile Limited (EML).² Where relevant, Ofcom has incorporated comments on the Notice into this RIA.

Background

- 1.5 This RIA relates to our decision to consolidate and update the regulations that prescribe charges for wireless telegraphy licences. We have made Regulations that revoke and replace the Wireless Telegraphy (Licence Charges) Regulations 2011 (the 2011 Regulations) and instruments made by Ofcom to amend those regulations since 2011.
- 1.6 The Regulations maintain the charges prescribed by the 2011 Regulations (as amended), but also include three new charges. The 2011 Regulations and subsequent amendments have been assessed for their regulatory impact at the time of consultation and making.³ The regulatory impact of the policy supporting the new licence fees has been previously assessed.⁴

¹ [Notice of proposals to make the Wireless Telegraphy \(Licence Charges\) Regulations 2020](#)

² [EML submission](#)

³ As explained in the [RIA on the 2011 Regulations](#) (Annex 1 of the Statement: *Decision to make the Wireless Telegraphy (Licence Charges) Regulations 2011*)

⁴ See further paragraph 1.8

1.7 Under section 12 of the Wireless Telegraphy Act 2006 (the WT Act), Ofcom may prescribe in regulations the sums payable in respect of wireless telegraphy licences other than those awarded by auction. This power enables us to recover the cost of administering and managing WT Act licences. Section 13 of the WT Act permits us to recover sums greater than those we incur in performing our spectrum management functions to reflect a range of spectrum management objectives, in particular, in order to provide incentives for licensees to use their spectrum more efficiently (this is termed Administrative Incentive Pricing (AIP)). This goes to discharging our duties under section 3 of the WT Act.

Our Decision

1.8 In the following documents, we have consulted and made decisions on the policy behind the new licence fees included in the Regulations (full impact assessments have been undertaken where relevant and appropriate):

- a) Our consultation: Enabling opportunities for innovation (December 2018)⁵
- b) Our statement: Enabling wireless innovation through local licensing (July 2019)⁶
- c) Our consultation: Authorisation of terrestrial mobile networks complementary to 2 GHz Mobile Satellite Service (MSS) (February 2016)⁷
- d) Our statement: Authorisation of terrestrial mobile networks complementary to 2 GHz Mobile Satellite Service (MSS) (November 2017)⁸.

1.9 Therefore, this document should be read in conjunction with the above documents.

1.10 Our decision to make the Regulations means we have:

- Included in the Regulations, fees for the following licences:
 - the Shared Access licence, which gives licensees access to four spectrum bands which support mobile technology (in the 1800 MHz, 2300 MHz, 3.8-4.2 GHz and 24.25-26.5 GHz frequency bands);
 - the Local Access licence, which provides a way for licensees to access spectrum which has already been licensed to the UK's Mobile Network Operators (MNOs), in locations where an MNO is not using that spectrum or does not have any immediate plans to deploy in the area; and
 - the Network 2 GHz licence, which is a wireless telegraphy licence for Complementary Ground Components (CGCs) used in the provision of mobile satellite services (MSS). The fee is a charge per individual base station, dependent on the population density at the location of the base station.
- Revoked and replaced the 2011 Regulations and amendments, also changing:

⁵ [Consultation: Enabling opportunities for innovation](#)

⁶ [Statement: Enabling wireless innovation through local licensing](#)

⁷ [Consultation: Authorisation of terrestrial mobile networks complementary to 2 GHz Mobile Satellite Service \(MSS\)](#)

⁸ [Statement: Authorisation of terrestrial mobile networks complementary to 2 GHz Mobile Satellite Service \(MSS\)](#)

- the names of the licences formerly known as non-operational temporary use and non-operational development licences to Demonstration and Trial and Innovation and Research respectively (but making no change to the fees);⁹
 - the meaning of “charity” as part of the arrangements for concessionary licence charging so it reflects legislation in Jersey and the Isle of Man; and
 - the meaning of “designated website” to reflect that certain facilities are now being managed through Ofcom’s website rather than by former agents of Ofcom.
- Made other minor editorial amendments including removing the fees for Fixed Link licences in the 65 GHz band (which are no longer needed following their licence exemption in 2018), updating references to the Wireless Telegraphy (Spectrum Trading) Regulations 2004,¹⁰ which have been revoked and replaced by the Wireless Telegraphy (Spectrum Trading) Regulations 2012,¹¹ as well as updating references to the International Telecommunication Union’s 2008 Radio Regulations, which have been replaced by the 2020 Radio Regulations.¹²

The citizen and/or consumer interest

- 1.11 Our principal duty under section 3 of the 2003 Act is to further the interests of citizens in relation to communications matters; and to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 1.12 We take account of the impact of our decisions upon both citizen and consumer interests in the markets we regulate. We must, in particular, secure the optimal use for wireless telegraphy of spectrum and have regard to the principle under which all regulatory activities should be targeted only at cases in which action is needed. In deciding to make changes we have considered the wider impact beyond immediate stakeholders in the radiocommunications community.
- 1.13 The Regulations prescribe fees for WT Act licences. These licences help citizens and consumers to benefit from advances in technology and new kinds of services obtaining access to spectrum. In particular, Ofcom considers that the Regulations benefit citizens and consumers because the consolidation and update of older fees regulations, inclusion of new licence classes and removal of licence classes no longer available makes it easier for citizens and consumers, including licensees, to find the appropriate licence charge for WT Act licences issued by Ofcom and reduces the associated administrative burden.

Analysis of options

- 1.14 Having made the relevant policy decisions in the documents referred to in paragraph 1.8 above, the principal options open to us were:

⁹ [Innovation and Trial licensing: Guidance notes for applicants](#)

¹⁰ [S.I. 2004/3154](#)

¹¹ [S.I. 2012/2187](#)

¹² [The Radio Regulations, Edition of 2020](#)

- i) to make the Regulations that prescribe fees for certain new licence classes and consolidate and update older fees regulations; or
- ii) not to make the Regulations, thus maintaining the 2011 Regulations (as amended) and continuing to levy fees for the new licence classes under Regulation 6 of the 2011 Regulations.¹³

1.15 An analysis of the options considered in connection with the Regulations is detailed below.

Make the Regulations

Local Access and Shared Access licences

- 1.16 Ofcom has adopted a flexible approach to the Local Access licences and Shared Access licences in order to support innovation and an efficient use of spectrum.
- 1.17 In July 2019 we announced our policy on cost-based licence fees for the Local Access licences and the Shared Access licences. Cost-based fees are designed to recover Ofcom's cost of managing the licensing process and are suitable where spectrum demand does not outstrip supply. Local Access licences cost £950 as a single one-off fee. Shared Access licences cost between £80 and £800 per annum depending on which, and how much, spectrum is used.
- 1.18 Our assessment is that:
- a) Prescribing the fee arrangements in the Regulations is an appropriate way to set out the charges for these licence products. While we have already issued some licences and levied fees under Regulation 6 of the 2011 Regulations,¹⁴ we consider that the inclusion of the licence products and their visibility in the Regulations would provide administrative savings to stakeholders and reduce the time taken to apply for and process the licences.
 - b) Ofcom has incurred the one-off administrative costs associated with making the Regulations as well as the costs of creating and maintaining the new licence products. However, the costs of new products are likely to be less than those associated with creating bespoke one-off licences. Further, including the Shared Access and Local Access licence fees in the Regulations incurs little additional cost. We consider the implementation costs to be low and offset by the benefits.

Network 2 GHz licence fees

1.19 The policy and fees for the Network 2 GHz licence were determined in November 2017¹⁵ and, up until now, the fees have been levied under Regulation 6 of the 2011 Regulations.

¹³ Regulation 6 of the 2011 Regulations allows Ofcom to charge such sums as we may determine in the particular case where those sums are not prescribed by regulations.

¹⁴ Regulation 6 of the 2011 Regulations allows Ofcom to charge such sums as we may determine in the particular case where those sums are not prescribed by regulations.

¹⁵ [Statement: Authorisation of terrestrial mobile networks complementary to 2 GHz Mobile Satellite Service \(MSS\)](#)

- 1.20 The fee for the Network 2 GHz licence is derived from the UK-wide fee applicable to the Spectrum Access 2 GHz licence (£554k per 2 x 1 MHz per annum). The UK-wide fee was determined using AIP to encourage more efficient use of the radio spectrum.¹⁶
- 1.21 The Network 2 GHz licence fee is charged per individual base station, dependent on the population density at the location of the base station. Therefore, where a licensee elects to obtain a Network 2 GHz licence instead of the UK-wide licence, the fee is levied for each individual CGC base station installed according to a location factor based on a high, medium or low population density. These population areas are identified by reference to grid squares of the Ordnance Survey National Grid system with the arrangement being intended to incentivise the 2 GHz MSS operators to locate their CGC base stations outside of highly populated areas.
- 1.22 Our assessment is that:
- a) The inclusion of fees for the Network 2 GHz licence in the Regulations gives visibility to the product. It reflects that licensees have the choice of either a Network 2 GHz licence or a Spectrum Access 2 GHz licence (based on a licensee's plans for using the spectrum). By providing clarity on the fees in one instrument, we consider that the Regulations would provide administrative savings to stakeholders and reduce the time taken to apply for and process licences.
 - b) Ofcom has incurred the one-off administrative costs associated with making the Regulations as well as some costs in creating and maintaining the Network 2 GHz licence, though these are low as there are only two licensees. Further, including the Network 2 GHz licence in the Regulations incurs little additional cost. We consider the implementation costs to be low and offset by the benefits.

Do Nothing

- 1.23 The key alternative to making the Regulations is to do nothing. By doing nothing, we mean not making the Regulations and maintaining the 2011 Regulations as amended. The fees for Local Access, Shared Access and Network 2 GHz licences would continue to be levied under Regulation 6 of the 2011 Regulations.
- 1.24 By not making the proposed Regulations Ofcom would avoid the implementation costs of making the Regulations. However, policy changes that Ofcom has previously consulted, decided upon and promoted in published statements, would not be given effect in regulations. In the case of the three new licence classes, stakeholders would not benefit from being able to consult the Regulations to see the fees for a relevant licence. Further, stakeholders would need to continue to consult a number of Statutory Instruments in order to understand the regulatory framework for WT Act licensing fees.

¹⁶ The UK-wide fee was determined in 2009 on an AIP basis meaning it was set to reflect the value of the spectrum in order to promote efficient use of the spectrum. The full Impact Assessment is in Annex 4 of the 2009 Authorisation [Statement](#). It was reviewed, without change, in 2016.

The preferred option

1.25 For the reasons identified in this RIA we consider the benefits of making the Regulations outweigh the costs and Ofcom has made the Regulations.

Declaration

I have read this regulatory impact assessment and I am satisfied that the benefits justify the costs.

[SIGNED]

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For and by the authority of the Office of Communications

Date: 30 September 2020

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