

CONFIDENTIAL



19 June 2017

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Home Office
5th Floor, Peel Building,
2 Marsham Street,
London, SW1P 4DF

Dear S40

Amendment to Wireless Telegraphy Act legislation relating to COMUGs

I am writing to inform you that Ofcom will shortly be taking a final decision concerning the authorisation of commercial multi user gateway devices (COMUGs). As you may remember from your time at Ofcom the authorisation of these devices has been a long running issue.

On 16 December 2016, we published a consultation to review the current regulatory regime for COMUGs. Specifically, we sought views on whether it would be appropriate to make regulations exempting the use of COMUGs from the licensing requirement under section 8(1) of the Wireless Telegraphy Act 2006 ("the Act"), and on what terms, by reference to the conditions set out in section 8(5) of the Act.

As part of the consultation we had discussions with S40 in the Investigatory Powers Unit (IPU) of the National Security Directorate regarding the Home Office's position on the use of COMUGs, and the IPU subsequently provided a response to our consultation. We understand that the response to us was informed by discussions between the IPU and the Home Secretary.

The response we received set out concerns that the use of COMUGs in certain scenarios could endanger the safety of life, one of the conditions set out in section 8(5) of the Act. Having carefully considered that response, we do not consider that there are any direct consequences on safety of life that operation of the apparatus would cause. Moreover, whilst the Home Office's response points to situations in which communications data may be used by emergency services, it does not set out any evidence as to why COMUGs present a risk which is any greater or more direct than other lawful means of communications. We do not therefore consider that the evidence contained in the response of the Home Office provides a basis for Ofcom to refuse to exempt the use of COMUGs from a licensing requirement.

We do not consider that any of the other conditions set out in section 8(5) of the Act are met and we therefore currently intend to licence exempt the use of COMUGs. We are aiming to publish a statement in the first week of July which will include notice of our intention to amend the current Wireless Telegraphy (Exemption) Regulations to give effect to our decision.

Given the Home Office's interest in the consultation, I thought it appropriate to bring this to your attention to enable you to consider your position. Should you decide to undertake any further action in this regard, I should be grateful if you would inform the policy team in Ofcom at your earliest opportunity.

Yours sincerely

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