
Notice of proposal to make the Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2018

Implementing the Commission Decision on Short Range Devices and Ofcom's Decision on mobile phone repeaters

CONSULTATION:

Publication Date: 23 November 2017

Closing Date for Responses: 24 December 2017

About this document

This consultation document concerns Ofcom's proposal to make new regulations by statutory instrument. These regulations would amend the existing Wireless Telegraphy licence exemption criteria for short range devices (SRDs) and certain low powered mobile phone repeaters.

Every day, most of us use an SRD, these range from car key-fobs and baby monitors to garage door openers and Wi-Fi systems. These regulations intend to implement a decision by the European Commission that harmonises the frequencies and technical parameters for these devices across Europe. The regulations will also implement the recent decision by Ofcom to allow the use of certain mobile phone repeaters for static indoor and for low gain in-vehicle use.

The deadline to submit responses for this consultation is 5pm on 24 December 2017.

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1. Notice

Notice of proposals

- 1.1 This notice is given in accordance with section 122(4) and (5) of the Wireless Telegraphy Act 2006 (the "2006 Act") and covers a proposal to make a statutory instrument.
- 1.2 This proposed statutory instrument sets out how we are minded to amend the Wireless Telegraphy (Exemption) Regulations 2003 (the "2003 Exemption Regulations") and the Wireless Telegraphy (Exemption and Amendment) Regulations 2010 (the "2010 Exemption Regulations"). The statutory instrument would also revoke the (Radio Frequency Identification Equipment) (Exemption) Regulations 2005 (the "RFID Regulations").

Proposed Regulations

- 1.3 Ofcom is responsible for authorising use of the radio spectrum. We permit the use of the radio spectrum either by granting wireless telegraphy licences under the 2006 Act or by making statutory regulations exempting users of particular equipment from the requirement to hold such a licence. It is unlawful and an offence to install or use wireless telegraphy apparatus without holding a licence granted by Ofcom, unless the use of such equipment is exempted.
- 1.4 We are proposing to make the Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulation 2018 (the "Proposed Regulations"). The Proposed Regulations would implement the following changes:
 - The Commission Implementing Decision of 8 August 2017 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices and repealing Decision 2006/804/EC (the "2017 SRD Amendment Decision")¹; and
 - Authorise the use of certain mobile phone repeaters for static indoor use and for low gain in-vehicle use as set out in Ofcom's decision of 24 October 2017 (the "Repeater Decision")².

Comments and representations

- 1.5 In accordance with the requirements of section 122(4) and (5) of the 2006 Act, this document gives statutory notice of our proposal to make the Proposed Regulations (as set out in Annex 1).
- 1.6 Comments on the Proposed Regulations are invited by 5pm on 24 December 2017. We are inviting comments on whether the Proposed Regulations correctly implement the 2017 SRD Amendment Decision and the Repeater Decision. We are not inviting comments on

¹ (EU) 2017/1483 <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D1483&from=en>

² https://www.ofcom.org.uk/data/assets/pdf_file/0019/107254/Repeaters-Statement-2017.pdf

the substance of Ofcom's Repeater Decision (which was the subject of previous consultation as set out on our website).³ Subject to our consideration of responses, we intend to bring the new Regulations into force in February 2018. A regulatory impact assessment for the Proposed Regulations is available at Annex 2 to this document.

³ See https://www.ofcom.org.uk/_data/assets/pdf_file/0017/100277/Mobile-phone-repeaters.pdf and https://www.ofcom.org.uk/_data/assets/pdf_file/0019/107254/Repeaters-Statement-2017.pdf

2. Background

The legislative framework

- 2.1 Under section 8(1) of the 2006 Act, it is unlawful to establish or use a wireless telegraphy station or install or use wireless telegraphy apparatus except under and in accordance with a wireless telegraphy licence granted under the 2006 Act.
- 2.2 Under section 8(3) of the 2006 Act, Ofcom may make regulations exempting from the licensing requirements under section 8(1) the establishment, installation or use of wireless telegraphy stations or wireless telegraphy apparatus of such classes or description as may be specified in the regulations, either absolutely or subject to such terms, provisions and limitations as may be specified.
- 2.3 Under section 8(4) of the 2006 Act, we must make regulations to exempt equipment if its installation or use is not likely to:
- a) involve undue interference with wireless telegraphy;
 - b) have an adverse effect on technical quality of service;
 - c) lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
 - d) endanger safety of life;
 - e) prejudice the promotion of social, regional or territorial cohesion; or
 - f) prejudice the promotion of cultural and linguistic diversity and media pluralism.
- 2.4 In accordance with the requirements of section 8(3B) of the 2006 Act, the terms, provisions and limitations specified in the regulations must be:
- a) objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus to which they relate;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what they are intended to achieve; and
 - d) transparent in relation to what they are intended to achieve.
- 2.5 We make exemption regulations by means of a statutory instrument. Before making any such regulations, we are required by section 122(4) of the 2006 Act to give statutory notice of our proposal to do so. Under section 122(5), such notice must state that we propose 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 period of at least one month during which any representations with respect to the proposal must be made to us.

2017 SRD Amendment Decision

- 2.6 The Commission Decision 2006/771/EC (the "SRD Decision") harmonises the technical conditions for use of spectrum for a wide variety of short-range devices (SRDs), including applications such as alarms, door openers, medical implants and intelligent transport

systems. SRDs are typically mass-market and/or portable products which can easily be taken and used across borders; differences in spectrum access conditions therefore prevent their free movement, increase their production costs and create risks of harmful interference with other radio applications and services. For this reason, the European Commission put in place a regulatory framework for short-range devices to support innovation.

- 2.7 On 5 July 2006, the European Commission issued a permanent mandate to the European Conference of Postal and Telecommunications Administrations (CEPT), pursuant to Article 4(2) of Decision No 676/2002/EC, to update the Annex to Decision 2006/771/EC in response to technological and market developments in the area of SRDs.
- 2.8 Commission Decisions 2008/432/EC, 2009/381/EC and 2010/368/EU and Commission Implementing Decisions 2011/829/EU and 2013/752/EU have already amended the conditions for SRDs laid down in the SRD Decision.
- 2.9 In July 2016, as part of its mandate, CEPT submitted Report 59⁴ to the European Commission outlining changes that it recommends to the current SRD Decision. The report was used as the basis for the SRD Amendment Decision.
- 2.10 In addition, in July 2014 the Commission asked CEPT whether the technical requirements for Radio Frequency Identification devices (RFID), subject to a separate Commission Decision, could be merged with the SRD Decision. The report presented by CEPT showed that these could be included in the SRD Decision. Therefore, the 2017 SRD Amendment Decision also repeals the separate Commission Decision on RFIDs 2006/804/EC.
- 2.11 The 2017 SRD Amendment Decision introduces the following changes to the SRD Decision:
- a) 40.66 to 40.7 MHz a new allocation for Non-specific SRDs.
 - b) 173.965 to 216 MHz a new allocation for Assistive Listening Devices (ALD).
 - c) 446.0 to 446.2 MHz PMR446 now included in the SRD Decision.
 - d) 863 to 865 MHz a new allocation Non-specific SRDs.
 - e) 863 to 868 MHz a new allocation for Wideband data transmission devices. The usage conditions are only available for wideband SRDs in data networks.
 - f) 865 to 868 MHz Radio Frequency Identification (RFID) devices are now included in the SRD Decision. The EC Decision 2006/804/EC has been repealed.
 - g) 865 to 868 MHz a new allocation for Non-specific SRDs at 500 mW e.r.p. Transmissions only permitted within the bands 865.6 to 865.8 MHz, 866.2 to 866.4 MHz, 866.8 to 867.0 MHz and 867.4 to 867.6 MHz. This is only available for data networks.

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<http://www.ecodocdb.dk/doks/filedownload.aspx?fileid=4337&fileurl=http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP059.PDF>

- h) 2483.5 to 2500 MHz a new allocation for Medical data acquisition at 1 mW e.i.r.p. This is only available for medical body area network system (MBANS) for indoor use within healthcare facilities.
- i) 24835.5 to 2500 MHz a new allocation for Medical data acquisition at 10 mW e.i.r.p. This is only available for MBANS for indoor use within the patient's home.
- j) 5795 to 5815 MHz a change to the Transport and Traffic Telematics (TTT) devices allocations for 2 W e.i.r.p. This is only available to road tolling applications.
- k) 76 to 77 GHz a new allocation for TTT devices with a 30 dBm peak e.i.r.p. and 3 dBm/MHz average power spectral density. The usage conditions are only available to obstacle detection systems for rotorcraft use.
- l) 122 to 122.25 GHz and new allocation for Non-specific SRDs operating at 10 dBm e.i.r.p./250 MHz and – 48 dBm/MHz at 30° elevation.
- m) 122.25 to 123 GHz Non-specific SRDs at 100 mW e.i.r.p.

2.12 In the UK we have already implemented a number of these changes. These were introduced in 2015 when the CEPT Recommendation 70-03⁵ was previously updated. We would therefore be only implementing the changes that are not currently covered by the existing licence exemption regulations, these are set out in Table 1 below.

Table 1: Current implementation status of SRDs contained in 2017 SRD Amendment Decision

Device	UK status
40.66 to 40.7 MHz for Non-specific SRDs.	Already exempt from licensing.
173.965 to 216 MHz for ALD	Not currently exempt from licensing.
446.0 to 446.2 MHz for PMR446	Current exemption needs to be amended.
863 to 865 MHz for Non-specific SRDs	Already exempt from licensing.
863 to 868 MHz for Wideband data transmission devices	Not currently exempt from licensing.
865 to 868 MHz for RFID devices	Current exemption needs to be amended.
865 to 868 MHz for Non-specific SRDs	Not currently exempt from licensing.
2483.5 to 2500 MHz for Medical data acquisition for MBANS for indoor use within healthcare facilities	Not currently exempt from licensing.
24835.5 to 2500 MHz for Medical data acquisition for MBANS for indoor use within the patient's home	Not currently exempt from licensing.

⁵ <http://www.erodocdb.dk/Docs/doc98/official/pdf/REC7003E.PDF>

Device	UK status
5795 to 5815 MHz for TTT devices for road tolling applications	Already exempt from licensing.
76 to 77 GHz for TTT devices for obstacle detection systems for rotorcraft use	Already exempt from licensing.
122 to 122.25 GHz for Non-specific SRDs	Already exempt from licensing.
122.25 to 123 GHz for Non-specific SRDs	Already exempt from licensing.
40.66 to 40.7 MHz for Non-specific SRDs	Already exempt from licensing.

2.13 To implement the 2017 SRD Amendment Decision, we intend to update IR2030⁶ to include the provisions not yet implemented in the UK. The proposed amendments to IR2030 can be found on our website⁷. As the 2017 SRD Amendment Decision now incorporates PMR446 and RFID devices, we propose revoking the existing regulations contained in the 2003 Exemption Regulations and RFID Regulations and reflecting the technical provisions for PMR446 and RFID devices in IR2030. This will mean that we will therefore no longer require IR 2009⁸ and this will be withdrawn.

Low power mobile phone repeaters

2.14 Accessing the mobile network within their own home can be troublesome for some consumers, particularly where they live towards the edge of mobile network coverage. The same can be said of accessing the network from within a vehicle. In both cases, the penetration loss involved can mean that, where the mobile phone signal is weak outdoors, it falls below a usable level once inside. One potential solution to this problem is to use a device called a mobile phone repeater (sometimes also referred to as signal boosters or signal enhancers).

2.15 In our April 2017 consultation, “Mobile Phone Repeaters Indoor and in-vehicle” (the “Repeater Consultation”)⁹ we consulted on a set of technical requirements for mobile phone repeaters that would allow them to be used on a licence-exempt basis. These proposed technical requirements followed discussions with the mobile network operators and equipment manufacturers on what requirements and conditions were necessary for mobile phone repeaters which could be self-installed by consumers. The goal of setting these technical requirements was to ensure that undue interference or other adverse impacts on technical quality of service was unlikely; thus, in turn, avoiding the risk of harm to other consumers.

⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0028/84970/ir-2030-july-2017.pdf

⁷ https://www.ofcom.org.uk/data/assets/pdf_file/0020/107930/Draft-IR2030-EU-SRD.pdf

⁸ https://www.ofcom.org.uk/data/assets/pdf_file/0032/84677/IR_2009.pdf

⁹ https://www.ofcom.org.uk/data/assets/pdf_file/0017/100277/Mobile-phone-repeaters.pdf

2.16 In the Repeater Consultation, we considered the technical requirements that will allow consumers to operate two categories of mobile phone repeaters on a licence-exempt basis. These were:

- a) static mobile phone repeaters for indoor use; and
- b) low gain mobile phone repeaters for in-vehicle (in-car) use.

2.17 On 24 October 2017, we published our Repeater Decision - to make regulations to allow the use of these types of mobile phone repeater on a licence-exempt basis¹⁰. The general effect of the Proposed Regulations would be to implement this decision. Equipment must meet the minimum parameters as set out in IR 2102¹¹ to qualify for exemption under the 2006 Act. The specific substantive requirements for, and detailed effects of, the exemption are set out in the Repeater Decision.

¹⁰ https://www.ofcom.org.uk/data/assets/pdf_file/0019/107254/Repeaters-Statement-2017.pdf

¹¹ https://www.ofcom.org.uk/data/assets/pdf_file/0018/107253/DRAFT-IR_mobile-repeaters.pdf Draft IR 2102 is currently in the notification process with the European Union. It comprises IR 2102.1 for static mobile phone repeaters for indoor use and IR 2102.2 for in-car use.

3. General effect

- 3.1 We have summarised in Section 2 of this document the legal framework that is relevant to the Proposed Regulations, including our role in exempting the use of wireless telegraphy apparatus by Ofcom making regulations under section 8(3) of the 2006 Act.
- 3.2 In this section, we set out the general effects of the Proposed Regulations as required by section 122(5) of the 2006 Act. We are proposing to make the Proposed Regulations as set out in Annex 1 to this document and seek comments on whether they would correctly implement the decisions as referenced in this document.

Extent of application

- 3.3 The Proposed Regulations would apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal agreement of the Crown Dependencies.

Proposed Regulations

Overall general effect

- 3.4 The overall general effect of the Proposed Regulations would be to implement the 2017 SRD Amendment Decision and Ofcom's decision to allow certain mobile phone repeaters for static indoor use and for low gain in-vehicle use.
- 3.5 Regulation 3(1) would revoke Schedule 7 of the 2003 Exemption Regulations relating to PMR446 equipment and the RFID Regulations (including a 2007 amendment to the RFID Regulations).
- 3.6 Regulation 3(2) would update the reference date to IR 2030 outlined in regulation 5 of the 2010 Exemption Regulations to the latest version that includes the changes introduced by the 2017 SRD Amendment Decision.
- 3.7 Regulation 3(3) would make an administrative change to the 2003 Exemption Regulations to renumber the schedules to take account of the changes made by Regulation 3(4) of the Proposed Regulations.
- 3.8 Regulation 3(4) would amend the 2003 Exemption Regulations to add a new schedule that would implement the provisions for the licence exemption of mobile phone repeaters. This would include the requirements to comply with IR 2102 and the restriction that, for static repeaters, the use of downlink frequencies must be indoors.

Entry into force of the Proposed Regulations

- 3.9 The Proposed Regulations would come into force as soon as practical after making the final regulations taking into consideration any comments received.

Do you have any comments on the drafting of the Proposed Regulations?

A1. Proposed Regulations

2018 No. 0000

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2018

Made - - - - [xxxx]

Coming into force - - [xxxx]

The Office of Communications (“OFCOM”), in exercise of the powers conferred by section 8(3) and section 122(7) of the Wireless Telegraphy Act 2006 ⁽¹⁾ and in exercise of those sections of the Act ⁽²⁾ as extended to the Bailiwick of Guernsey, to the Bailiwick of Jersey and to the Isle of Man, make the following Regulations.

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.—These Regulations may be cited as the Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2018 and shall come into force on [xxx].

Interpretation

2. —In these Regulations—

- (a) “the 2003 Regulations” means The Wireless Telegraphy (Exemption) Regulations 2003⁽³⁾; and
- (b) “the 2010 Regulations” means The Wireless Telegraphy (Amendment and Exemption) Regulations 2010⁽⁴⁾.

¹ 2006 c. 36.

² Section 8(3) and section 122(7) were extended to the Bailiwick of Guernsey by article 2 of the Wireless Telegraphy (Guernsey) Order 2006 (S.I. 2006/3325); to the Bailiwick of Jersey by article 2 of the Wireless Telegraphy (Jersey) Order 2006 (S.I. 2006/3324); and to the Isle of Man by article 2 of the Wireless Telegraphy (Isle of Man) Order 2007 (S.I. 2007/278).

³ S.I. 2003/74 as amended by S.I. 2003/2155, S.I. 2005/3481, S.I. 2006/2994, S.I. 2008/236, S.I. 2008/2426, S.I. 2010/2512, S.I. 2011/2950, S.I. 2013/1254, S.I. 2016/486, and S.I. 2016/1075.

⁴ S.I. 2010/2512 as amended by S.I. 2011/3035, S.I. 2013/1253, S.I. 2014/1484, and S.I. 2017/746.

Revocations and amendments

3.—(1) The Regulations specified in Schedule 1 are revoked to the extent specified.

(2) The 2010 Regulations are amended as follows—

(a) in Regulation 5 (short range devices), for ““IR 2030—UK Interface Requirements 2030 Licence Exempt Short Range Devices”, published by OFCOM in July 2017”, substitute ““IR 2030—UK Interface Requirements 2030 Licence Exempt Short Range Devices”, published by OFCOM in [XXX]”.

(3) The 2003 Regulations are amended as follows—

(a) in Regulation 3 (interpretation), for ““relevant apparatus” means the prescribed apparatus as defined in Schedules 3 to 9 hereto;”, substitute ““relevant apparatus” means the prescribed apparatus as defined in Schedules 3 to 12 hereto;”.

(4) Following Schedule 11 to the 2003 Regulations add the following Schedule—

“SCHEDULE 12

MOBILE PHONE REPEATERS

Regulation 3(1)

Part I Interpretation

In this Schedule-

“downlink frequencies” means the downlink frequency bands referred to in section 3 of IR2102.1;

“IR2102.1” means IR2102.1-Static Mobile Phone Repeaters, for Indoor Use published by Ofcom in October 2017;

“IR2102.2” means IR2102.2-Low Gain Mobile Phone Repeaters for In-Vehicle Use published by Ofcom in October 2017;

“prescribed apparatus” means apparatus described in the Interface Requirements referred to in Part III of this Schedule; and

“uplink frequencies” means the uplink frequency bands referred to in section 3 of IR2102.1.

Part II Additional Terms, Provisions and Limitations

1. The prescribed apparatus shall be subject to and comply with the appropriate Interface Requirement referred to in Part III of this Schedule.
2. The prescribed apparatus to which IR2102.1 applies shall only be established, installed and used where the transmissions using downlink frequencies are made indoors, although the transmissions using uplink frequencies may be made indoors or outdoors.
3. The prescribed apparatus to which IR2102.2 applies shall only be established, installed and used in a vehicle.

Part III
Interface Requirement

IR2102.1

IR2102.2

SCHEDULE 1

Regulation 3(1)

REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Wireless Telegraphy (Radio Frequency Identification Equipment) (Exemption) Regulations 2005	S.I. 2005/3471	The whole Regulations
The Wireless Telegraphy (Radio Frequency Identification Equipment) (Exemption) (Amendment) Regulations 2007	S.I. 2007/1282	The whole Regulations
The Wireless Telegraphy (Exemption) Regulations 2003	S.I. 2003/74	Schedule 7 (PMR 446)

A2. Regulatory Impact Assessment

Introduction

- A2.1 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.
- A2.2 The analysis in this document is a regulatory impact assessment relating to the Wireless Telegraphy (Exemption and Amendment) (Amendment) Regulations 2018 (the “Proposed Regulations”). It is consistent with the Government practice on RIAs and Ofcom’s duty under the 2003 Act.
- A2.3 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 policy-making. 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.
- A2.4 As a matter of policy, we are committed to carrying out and publishing impact assessments in relation to the vast 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.
- A2.5 This RIA relates to our proposals with regards to Short Range Devices (SRDs) and certain mobile phone repeaters for static indoor use and for low gain in-vehicle use.

Legislative background

- A2.6 In the UK, Ofcom is responsible for authorising use of the radio spectrum. We permit the use of the radio spectrum either by granting wireless telegraphy licences under the Wireless Telegraphy Act (the “2006 Act”) or by making regulations exempting users of particular equipment from the requirement to hold such a licence.
- A2.7 Under section 8(1) of the 2006 Act, it is unlawful to establish or use a wireless telegraphy station or install or use wireless telegraphy apparatus without holding a licence granted by us, unless the installation or use of such equipment is exempted. We can exempt the installation or use of wireless telegraphy apparatus by making statutory regulations under section 8(3) of the 2006 Act. Such exemption may be absolute or subject to such terms, provisions and limitations as may be so specified.
- A2.8 However, under section 8(4) of the 2006 Act, we have to make regulations to exempt equipment if its installation or use is not likely to:

- a) involve undue interference with wireless telegraphy;
- b) have an adverse effect on technical quality of service;
- c) lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
- d) endanger safety of life;
- e) prejudice the promotion of social, regional or territorial cohesion; or
- f) prejudice the promotion of cultural and linguistic diversity and media pluralism.

A2.9 In accordance with the requirements of section 8(3B) of the 2006 Act, the terms, provisions and limitations specified in the regulations must be:

- a) objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus to which they relate;
- b) not such as to discriminate unduly against particular persons or against a particular description of persons;
- c) proportionate to what they are intended to achieve; and
- d) transparent in relation to what they are intended to achieve.

Proposal

A2.10 It is our intention to implement the requirements of the European Commission (“EC”) Implementing Decision of 8 August 2017 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices and repealing Decision 2006/804/EC (the “2017 SRD Amendment Decision”)¹⁶. The decision harmonises the technical conditions for short-range devices (SRDs) in the European Union (“EU”).

A2.11 To implement the 2017 SRD Amendment Decision, we propose to make the Proposed Regulations. These would amend Wireless Telegraphy (Exemption) Regulations 2003 (the “2003 Exemption Regulations”) and the Wireless Telegraphy (Exemption and Amendment) Regulations 2010 (the “2010 Exemption Regulations”). The Proposed Regulations would also revoke the (Radio Frequency Identification Equipment) (Exemption) Regulations 2005 (the “RFID Regulations”).

A2.12 The 2017 SRD Amendment Decision introduces a number of changes to the arrangements for SRDs in the UK. As an EU Member State, the UK is bound by the terms of the 2017 SRD Amendment Decision and the requirement to implement them.

A2.13 We also intend to make regulations to allow the use of certain mobile phone repeaters for static indoor use and for low gain in-vehicle use. There is a clear consumer demand for mobile phone repeater products. Some consumers have purchased unauthorised devices.

¹⁶ (EU) 2017/1483 <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D1483&from=en>

These have the potential to cause harm to the mobile networks and to reduce the capacity for other consumers to access these networks.

A2.14 In summary, in order to meet the requirements of the 2017 SRD Amendment Decision and to implement Ofcom's decision to licence-exempt certain low powered mobile repeaters, we propose to make the Proposed Regulations. They would:

- i) amend the 2003 and 2010 Exemption Regulations;
- ii) revoke a schedule of the 2003 Exemption Regulations that relates to PMR446 equipment (these will now be included in the 2010 Exemption Regulations); and
- iii) revoke the RFID Regulations and subsequent 2007 amendment (these will now be included in the 2010 Exemption Regulations).

The citizen and/or consumer interest

A2.15 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.

A2.16 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.

A2.17 In proposing changes to the existing regulations, we have considered the wider impact beyond immediate stakeholders in the radiocommunications community. We believe that the proposals will be of benefit to consumers for the following reasons:

- a) the measures proposed 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;
- b) the new provisions permitting the use of certain low powered repeaters may help citizens and consumers that have mobile reception problems by improving coverage in their homes and cars;
- c) the proposed amendments to existing licence exemptions support the introduction of new and innovative technologies that will be of benefit to consumers and citizens in general; and
- d) licence exemption is proposed only in areas where use of equipment is unlikely to have an adverse impact on technical quality of service and cause undue interference to other spectrum users.

Our policy objective

3.10 We seek wherever possible, to reduce the regulatory burden upon our stakeholders, in this instance users of the radio spectrum. One way in which we can do this is to remove the

need for spectrum users to apply for individual licences to authorise the use of radio equipment. Exemption is realised by describing the details of equipment and the parameters under which it may be used in a Statutory Instrument (secondary legislation called Regulations) that exempts users of such equipment from the need to hold a licence provided they comply with the terms of the regulations.

- 3.11 As far as the 2017 SRD Amendment Decision is concerned, as a Member State the UK is bound by the terms of that Decision and the requirement to implement it. Our policy objective is to meet that requirement.
- 3.12 In relation to the relevant mobile phone repeaters, our regulatory policy objective is to facilitate the ability of consumers to improve their mobile coverage within the home and in vehicles, without giving rise to the risk of the kinds of deleterious effects described in our consultation document “Mobile Phone Repeater Indoor and in-vehicle” (the “Repeater Consultation”)¹⁷. We seek to facilitate the provision of a service to a consumer in the home or vehicle that is equivalent to that available outdoors at the same location. This is just one of a number of different initiatives Ofcom is undertaking to support improved coverage in general.
- 3.13 Ofcom conducts market surveillance of radiocommunications products placed on the market. We would consider this policy proposal a success if we see a reduction in the sale and use of unlawful apparatus in the UK and of the numbers of complaints to Ofcom about interference and other adverse effects caused by repeaters.

In accordance with the 2006 Act, we must exempt from licensing the use of specified equipment that meet the requirements of sections 8(4) and 8(5) of the 2006 Act. We are also required by law to implement EU legislation relating to radio spectrum and from time to time this requires licence exemption arrangements to be changed.

Options considered

- A2.18 The options open to us in relation to compliance with the 2017 SRD Amendment Decision are as follows:
- i) to make the Proposed Regulations that are in line with the 2017 SRD Amendment Decision; or
 - ii) to do nothing.
- A2.19 In relation to the implementation of our decision on authorising certain mobile phone repeaters for static indoor use and for low gain in-vehicle use, the options available to us are:
- i) to make the Proposed Regulations that are in line with the decision we consulted on and made; or
 - ii) to do nothing and not implement this decision.

¹⁷ https://www.ofcom.org.uk/_data/assets/pdf_file/0017/100277/Mobile-phone-repeaters.pdf

Analysis of options

Make new regulations

- A2.20 EU harmonisation decisions are binding on all Member States and we are therefore legally required to implement them.
- A2.21 When considering the authorisation of devices Ofcom can either licence them or make regulations to exempt them from licensing. Section 8(4) of the WT Act requires that if Ofcom is satisfied that the criteria set out in section 8(5) of the WT Act are met, Ofcom must make regulations to licence-exempt the equipment. If the equipment does not meet all of the requirements of section 8(5) this does not prevent us still going ahead with exemption, but any decision would need to consider the impacts versus the benefits of any such decision.
- A2.22 Generally, licence exemption presents the lowest barrier to entry compared with other forms of authorisation, such as individual licences. Our analysis takes this proposition as a starting point and then assesses concerns over harmful interference or congestion to existing users (if any) or potential new users of the band. Harmful interference or congestion could negate the benefits of any reductions in the regulatory burden gained from exemption.
- A2.23 Overall, we believe that costs to business are likely to be lower under a licence-exempt approach than the requirement for users to obtain individual licences. Licence exemption represents the least cost regulatory approach to authorisations on the use of spectrum. For example, if use of spectrum is authorised through a licence, businesses face administrative costs associated with applying for the licence and the cost of the licence itself.
- A2.24 The measures set out in the Proposed Regulations would enable the development of a harmonised market across Europe for SRDs. This brings with it many benefits from the free circulation and use of devices. Manufacturers benefit from economies of scale which drive down prices for consumers. Citizens are able to benefit from continued access to devices when travelling to other European countries.
- A2.25 The Proposed Regulations are also likely to encourage the development of a retail market for lawful consumer-installed mobile phone repeaters. This will provide coverage solutions for consumers who need them, including those in rural areas (where mobile coverage is often less), without causing harmful effects on other spectrum users. It will help reduce the likelihood that consumers purchase unauthorised (and unlawful) repeaters which do cause such harm, and so reduce the market for such devices. This would minimise the risk of interference, reduce the impact on the mobile networks in terms of interference that denies their customers a service and help secure optimal use of the spectrum. In addition, it should help to reduce the costs on the network operators in investigating and dealing with problems to their network caused by the use of illegal repeaters.
- A2.26 On these bases, our provisional view is that implementing the Proposed Regulations is likely to generate a net benefit for UK businesses, citizens and consumers and at worst

would have a neutral outcome (to the extent that benefits may depend on the uptake of the new opportunities afforded by the proposal). We consider it is unlikely to impose costs on other users. Therefore, the effect of implementing the Proposed Regulations would be likely to be positive overall.

- A2.27 There are one-off administrative costs associated with making Statutory Instruments. We consider the implementation costs to be low, both in absolute terms and in comparison, to licensing alternatives that might require an auction or the maintenance of a licence scheme. Moreover, the costs such as they are will also be offset by the benefits to businesses and consumers outlined above.

Do nothing

- A2.28 The alternative to making the Proposed Regulations would be to do nothing. By doing nothing, we mean not making the Proposed Regulations and not taking advantage of the technological and market developments in the area of SRDs and of the anticipated benefits of the development of a retail market for lawful consumer-installed mobile phone repeaters.
- A2.29 Citizens and consumers would not be able to benefit from the new opportunities that these devices could provide as a result of advances in technology. If the UK did not participate in this approach, it might be argued that UK businesses and consumers would be disadvantaged in not having access to these innovative technologies.
- A2.30 Our further provisional assessment is that the likely impact of taking this course would be continued limited coverage for some consumers and continued demand for and use of unauthorised repeater devices by them. They might themselves obtain better mobile coverage under these circumstances, but there would be continued negative effects on networks and other consumers overall.
- A2.31 In some circumstances, consumers using repeaters have denied mobile coverage to large numbers of other consumers nearby resulting in Ofcom having to investigate the source of the interference. Ofcom would continue to take enforcement action, but it is likely that the manufacture and sale of repeaters who use would be unlawful would also continue. In relation to this issue, our enforcement team has recorded over 5,600 hours of time in relation to the investigation of illegal mobile repeaters over the last 3 years. This has imposed an estimated cost to Ofcom of £550,000.
- A2.32 By not making regulations there would be no additional cost imposed on Ofcom relating to making a Statutory Instruments. However, these are slight compared with the internal costs associated with the ongoing enforcement action and the development of the policy proposals that the Proposed Regulations would have implemented. Taking this course would also mean that we would not be implementing policy changes that Ofcom had previously consulted and decided upon, impacting on the regulatory certainty for stakeholders.
- A2.33 Finally, if we did not implement an EU decision, the EC could begin legal proceedings against the UK, the costs of which we deem to be potentially very high both quantitatively

and qualitatively, outweighing any costs we consider to be associated with correct implementation.

The preferred option

A2.34 Our preferred option is to go ahead and make the Proposed Regulations. This would be consistent with European law and the policy decisions that Ofcom has taken.

Equality Impact Assessment

A2.35 Following an initial assessment of our policy proposals, we consider that it is reasonable to assume that any impacts on consumers and citizens arising from the Proposed Regulations would not differ significantly between groups or classes of UK consumers and citizens, all of whom would have access to these services, potentially at end-user prices reflective of all general input costs, including opportunity costs of spectrum used.

A2.36 We do not consider that there is evidence to suggest that the proposal to make the Proposed Regulations would have a significantly greater direct financial impact on groups including based on gender, race or disability or for consumers in Northern Ireland relative to consumers in general.

A2.37 We have not carried out a full Equality Impact Assessment in relation to race equality or equality schemes under the Northern Ireland and disability equality schemes at this stage. This is because we are not aware that the proposals being considered here are intended (or would, in practice) have a significant differential impact on different gender or racial groups, on consumers in Northern Ireland or on disabled consumers compared to consumers in general.

A3. Responding to this consultation

How to respond

- A3.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 24 December 2017.
- A3.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/regulations-short-range-devices-mobile-repeaters>.
- A3.3 You can return this by email or post to the address provided in the response form.
- A3.4 If your response is a large file, or has supporting charts, tables or other data, please email it to Eniola.Awoyale@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).
- A3.5 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Eniola Awoyale
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A3.6 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A3.7 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A3.8 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A3.9 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A3.10 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 6. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

A3.11 If you want to discuss the issues and questions raised in this consultation, please contact Paul Chapman on 020 7981 3069, or by email to Paul.Chapman@ofcom.org.uk.

Confidentiality

- A3.12 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.
- A3.13 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A3.14 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A3.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A3.16 Following this consultation period, Ofcom plans to publish a statement in February 2018.
- A3.17 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A3.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 4.
- A3.19 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A3.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A4. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A4.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. 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

- A4.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A4.3 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 for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A4.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A4.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A4.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A4.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A5. Consultation coversheet

BASIC DETAILS

Consultation title: organisation realise

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

Name/contact details/job title

Whole response

Organisation

Part of the response

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)

A6. Consultation questions

- A6.1 The Proposed Regulations have been drafted in order to implement the 2017 SRD Amendment Decision and Ofcom's policy decision to authorise the use of certain low-gain mobile repeaters. Stakeholders are asked to respond to the question below.

Do you have any comments on the drafting of the Proposed Regulations?