



Wireless Telegraphy Licence Exemption

Proposal to amend the Wireless Telegraphy
(Exemption) Regulations 2003

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Section 1

Executive Summary

Introduction

- 1.1 This document gives notice of our intention to amend the Wireless Telegraphy (Exemption) Regulations 2003¹. We intend to make minor changes to these Regulations in order to allow the use of Digital PMR446 equipment on a licence-exempt basis and to update them in order to be compliant with the Commission Decision 2005/928/EC (the “Decision”) on harmonisation of the 169.4 – 169.8125 MHz frequency band in the Community².

Digital PMR 446

- 1.2 Public Mobile Radio (“PMR446”) is the name given to “Walkie Talkies” operating in frequencies around 446 MHz. These devices provide short range, voice only, communication offering a basic, radio service for business and non business users. The current versions of these radios do not need a wireless telegraphy (“WT”) licence.
- 1.3 Current PMR446 equipment uses analogue technology. Digital technology offers a number of potential advantages over analogue by providing better quality communication and enhanced functionality. Since 2004 we have been working with colleagues in Europe to explore if additional spectrum could be identified to support a digital version of this service. The outcome of these discussions was that the frequency band 446.1 – 446.2 MHz has been identified as a suitable allocation for Digital PMR446 equipment.
- 1.4 It is our intention to allow the use of digital PMR 446 equipment operating in the 446.1 – 446.2 MHz band on a licence-exempt basis.

Commission Decision 2005/928/EC

- 1.5 The Decision distinguishes between two parts of the 169.4 – 169.8125 MHz band. Ofcom’s proposals in relation to 169.6125 - 169.8125 MHz are addressed as part of a separate consultation published on 10 October 2007 and closing on 5 December 2007³.
- 1.6 In December 2006 we made the Wireless Telegraphy (Exemption) (Amendment) Regulations 2006 (the “2006 Amending Regulations”)⁴ which made a series of amendments to the original Wireless Telegraphy (Exemption) Regulations 2003 (the “Exemption Regulations”). One of those changes was to implement the part of the Decision relating to 169.4 – 169.6 MHz band to allow the use of Meter Reading, Asset Tracking, Social Alarms and Hearing Aids on a licence-exempt basis. More recently we issued a consultation on 18 September 2007 closing on 27 November 2007 (the “General Consultation”) proposing a number of further changes to the Exemption Regulations as part of our annual review of all the equipment covered by

¹ S.I. 2003/74, available at www.opsi.gov.uk.

² A copy of the Decision is included at Annex 4 and it is available at http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_344/l_34420051227en00470051.pdf.

³ Available at <http://www.ofcom.org.uk/consult/condocs/169mhz/169mhz.pdf>

⁴ Available at <http://www.opsi.gov.uk/si/si2006/20062994.htm>.

these Regulations⁵. That consultation included a policy proposal to make some minor changes to the equipment specifications for Asset Tracking and Meter Reading devices, specifically to increase the maximum permitted radiated power for these devices from 10 mW to 500 mW.

- 1.7 Shortly after the General Consultation was published, the Radio Spectrum Committee issued guidance to Member States on how to interpret the Decision⁶. After reviewing the 2006 Amending Regulations, in light of the Commission's guidance, we need to make a minor amendment to our Exemption Regulations in order to ensure that we comply with the Decision in the way that has been indicated by the Commission in its recent guidance.

Implementation

- 1.8 We plan to implement both of these changes by making the Wireless Telegraphy (Exemption) (Amendment) Regulations 2007 (the "Proposed Regulations"), which will amend the Exemption Regulations. A draft version of the Proposed Regulations can be found in Annex 2.

Responding to this consultation

- 1.9 In accordance with the requirements of section 122(4) of the Wireless Telegraphy Act 2006 (the "WT Act") this document enables stakeholders to comment on the drafting of the Proposed Regulations.
- 1.10 This consultation document provides an opportunity to make representations about the Proposed Regulations rather than seeking views on the policy to licence exempt Digital PMR446 or underlying the Decision. The policy issues associated with Digital PMR 446 were subject to a previous consultation in July 2006⁷ and the issues relating to the Decision are about the consistent implementation of a Decision that binds Member States.
- 1.11 Responses should be sent to us in accordance with the instructions set out in Annex 6 and should reach us no later than **5pm on 7 January 2008**.

Next steps

- 1.12 Following the closure of this one month and one day consultation and having considered responses, we plan to issue a statement including the final Regulations that should, allowing for issues raised in response to this consultation, implement the proposals outlined in this document. Subject to responses to the consultation we will seek to bring the Regulations into force by early 2008.

⁵ Available at <http://www.ofcom.org.uk/consult/condocs/wtle/wtle.pdf>

⁶ A copy is attached in Annex 5 and the document is available at http://ec.europa.eu/information_society/policy/radio_spectrum/docs/ref_docs/rsc21_public_docs/rscom07_67_20_05_928_interpr.pdf

⁷ Wireless Telegraphy Licence Exemption consultation published 14 July 2006. Available at <http://www.ofcom.org.uk/consult/condocs/wtexemption>.

Section 2

Introduction

Background

2.1 This document discusses the draft Proposed Regulations to amend the Exemption Regulations in order to enable the use of Digital PMR446 radio equipment without the need to obtain a WT licence and to implement the Decision as it relates to the 169.4 – 169.6 MHz frequency band.

Digital PMR446

2.2 Work led by the Electronic Communications Committee (ECC) identified the frequency band 446.1 to 446.2 MHz as suitable for licence-exempt Digital PMR446 applications. The resulting ECC Decision⁸ effectively mirrored the arrangements in place for analogue PMR446 for the digital variant of this technology.

2.3 Noting the success of analogue PMR446 and the potential benefits of digital-based PMR, we propose to make spectrum available for Digital PMR446 devices in the frequency range 446.1 – 446.2 MHz on a licence-exempt basis.

2.4 We initially proposed to exempt the use of Digital PMR446 radios from licensing in the consultation we published in July 2006⁹. On 5 October 2006 we published a statement that announced our decision to make this equipment licence exempt and at the same time published a consultation on draft regulations in the Notice¹⁰. These consultations proposed exemptions for a range of consumer equipment in addition to Digital PMR446. However, shortly after publishing our proposals we received a detailed opinion from the European Commission (“the Commission”) on the Interface Requirements (“IRs”) relating to Digital PMR446.

2.5 It is a requirement under the Technical Standards Directive¹¹ and the Radio and Telecommunications Terminal Equipment Directive¹² (“R&TTE”) for EU Member States to notify draft IRs to the Commission. The Commission considers notifications over a three-month period during which it may deliver a detailed opinion that the IR in question may create obstacles to the free movement of goods within the internal market. In these circumstances, the IR may not be adopted for a further three months to allow the Commission sufficient time in which to propose amendments in order to remove or reduce those obstacles.

2.6 As a consequence of the Commission’s detailed opinion, we were unable to finalise and publish the IR relating to Digital PMR446 as planned. IRs are an integral element of the overall legislative package since the Regulations refer to them, thus a delay to the IRs would have also delayed the Regulations themselves. In order to avoid this delay extending to the other equipment proposed for licence-exemption in the 2006

⁸ ECC Decision (05)12 “ECC Decision of 28 October 2005 on harmonised frequencies, technical characteristics, exemption from individual licensing and free carriage and use of digital PMR 446 applications operating in the frequency band 446.1 – 446.2MHz.”

⁹ Available at <http://www.ofcom.org.uk/consult/condocs/wtexemption/exemption.pdf>.

¹⁰ Available at <http://www.ofcom.org.uk/consult/condocs/exemption/exemption.pdf>.

¹¹ Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations.

¹² Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity.

Amending Regulations, we removed Digital PMR446 from the scope of those Regulations.

- 2.7 We have now amended the UK Interface Requirement IR 2009 “Private Mobile Radio operating in the licence exempt analogue PMR446 and Digital PMR446 frequency bands.”¹³ taking into consideration the comments we received from the Commission. An extract of IR2009 showing the technical interface requirements for Digital PMR446 radios can be found in Annex 3.
- 2.8 In common with other licence-exempt use, users of Digital PMR446 will not be offered protection from undue interference caused by legitimate WT use.
- 2.9 As with all new exemptions the equipment must comply with the R&TTE Directive. The European Telecommunications Standards Institute has produced two European harmonised standards for PMR 446 - EN 300 113-2 (12.5 kHz bandwidth) and EN 301 166-2 (6.25 kHz bandwidth).

Implementing the Decision as it relates to the 169.4 – 169.8125 MHz frequency band

- 2.10 In 1990 the 169.4-169.8125 MHz band was designated within the EU, through a Directive, for the introduction of the “pan-European land-based public radio paging service” known as “ERMES”. Since then, use of this band for ERMES in EU Member States has significantly decreased or ceased.
- 2.11 The Decision in December 2005 allowed Member States to license the band for different uses and allowed a number of devices to share the band. The Decision splits the band into two parts separated by a 12.5 kHz guard band, 169.4000 - 169.6000 MHz (the “lower part”) and 169.6125 - 168.8125 MHz (the “upper part”). It treats the lower part and the upper part in different ways specifying where low or high power applications should operate. This document only considers the implementation of the Decision as it relates to the lower part of the band.

Lower Part

- 2.12 To implement the Articles of the Decision relating to the low power part of the band in the UK we made the 2006 Amendment Regulations which authorised the use in the lower part of the band for four devices Social Alarms, Hearing Aids, Meter Reading & Asset Tracking but with a maximum power limitation of 10 mW.
- 2.13 In our General Consultation we proposed to increase the power from 10 mW to 500 mW for Meter Reading and Asset Tracking devices only.
- 2.14 However, since the publication of that consultation, at a meeting of the Radio Spectrum Committee (“RSC”) on 4-5 October 2007 in Brussels, the Commission highlighted inconsistencies in the ways in which Member States had implemented the Decision. In order to clarify the technical requirements, the Commission published guidance¹⁴ on 21 September 2007 to Member States on how to implement the Decision.

¹³ The full version of IR 2009 is available at http://www.ofcom.org.uk/radiocomms/ifi/tech/interface_req/draft_ir/draftir2009.pdf.

¹⁴ Interpretation of Commission Decision 2005/928/EC available at http://ec.europa.eu/information_society/policy/radio_spectrum/docs/ref_docs/rsc21_public_docs/rscom07_67_2005_928_interpr.pdf.

- 2.15 Although we are currently consulting on the policy proposal to increase power for Meter Reading & Asset Tracking devices, the clarification by the Commission of the Decision on how Member States should be implementing its requirements means that our flexibility in how we implement the decision is somewhat reduced. As a result we have decided, in light of the Commission's guidance, to implement these particular changes before the General Consultation closes. The consultation will remain open for comment on the other issues stated in the document.
- 2.16 After reviewing the guidance given by the Commission we are making the following changes to the radio interface document IR2030:
- Table 3.2 category viii and ix for Telemetry and Telecommand – radiated power will be increased from 10 mW e.r.p to 500 mW e.r.p;
 - Table 3.15 for frequency bands 169.4750 – 169.4875 MHz and 169.5875 – 169.600 MHz for Social Alarms - radiated power will be increased from 10 mW e.r.p to 500 mW e.r.p. and reference to the duty cycle $\leq 0.1\%$ will be removed; and
 - Table 3.22 category ii and iii for Hearing Aids - radiated power will be increased from 10 mW e.r.p to 500 mW e.r.p and channel bandwidth will be clarified to read ≤ 50 kHz instead of 50 kHz.
- 2.17 IR 2030 is published in full on our website¹⁵ but extracts showing the above revised technical interface requirements for these devices can be found at Annex 3. Note that IR2030 is a detailed technical specification which covers a range of short range devices in addition to the four applications covered by the low power part of the Decision. Separate Commission Decisions apply to various devices included in IR2030.

Upper Part

- 2.18 The elements of the Decision which relate to the upper part of the band (169.6125 - 168.8125 MHz) are currently being consulted by us in a separate publication "The future use of the 169 MHz Ex-ERMES band"¹⁶ published on 10 October 2007 and closing on 5 December 2007.

Document Structure

- 2.19 The remainder of the document is structured as follows:
- a) Section 3 describes the proposal relating to the amendment of the existing Regulations;
 - b) The Regulatory Impact Assessment can be found in Annex 1;
 - c) A draft copy of the Proposed Regulations is contained in Annex 2;
 - d) Technical details of the changes to the specifications in the two IRs are contained in Annex 3;

¹⁵ IR2030 available at http://www.ofcom.org.uk/radiocomms/ifi/tech/interface_req/uk2030.pdf.

¹⁶ Available at <http://www.ofcom.org.uk/consult/condocs/169mhz/169mhz.pdf>.

- e) A copy of Commission Decision 2005/928/EC on harmonisation of the 169.4 – 169.8125 MHz frequency band in the Community can be found in Annex 4;
- f) A copy of the Radio Spectrum Committee's interpretation of Commission Decision 2005/928/EC is contained in Annex 5; and
- g) Information on responding to this consultation and our consultation principles are set out in Annexes 6, 7 and 8.

Section 3

General effect of the draft Wireless Telegraphy (Exemption) (Amendment) Regulations 2007

- 3.1 Under section 8(1) of the WT Act it is an offence to install or use equipment to transmit without holding a licence granted by Ofcom, unless the installation or use of such equipment is exempted. Ofcom can exempt the establishment, installation and use of wireless telegraphy equipment by making regulations under section 8(3) of the WT Act.
- 3.2 A draft copy of the Proposed Regulations is set out at Annex 2 of this document.

Extent of application

- 3.3 The Exemption Regulations apply in the United Kingdom, the Channel Islands and Isle of Man, and we anticipate the Proposed Regulations will also apply subject to formal agreement of the Island Authorities.

Proposal details

- 3.4 The Proposed Regulations would make two minor amendments to the Exemption Regulations to include reference to the recently revised interface requirements for Short Range Devices and Digital PMR446 equipment:
- a) The first proposed amendment amends the reference in Part III (interface requirement) of Schedule 6 (Short Range Devices) to incorporate reference to the latest IR 2030 published by Ofcom in November 2007.
 - b) The second proposed amendment updates the reference in Part III (interface requirement) of Schedule 7 (PMR) to incorporate reference to the latest IR 2009 published by Ofcom in November 2007.

Annex 1

Regulatory Impact Assessment

Introduction

- A1.1 In accordance with Government practice, where a statutory regulation is proposed, a Regulatory Impact Assessment (“RIA”) must be undertaken. The analysis presented here, when read in conjunction with the rest of this document, represents an RIA as defined by section 7 of the Communications Act 2003 (“the Communications Act”) for the Wireless Telegraphy (Exemption) (Amendment) Regulations 2007 (the “Proposed Regulations”).
- A1.2 You should send us any comments on this RIA by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- A1.3 RIAs provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making and are commonly used by other regulators. This is reflected in section 7 of the Communications Act, which means that we will generally carry out impact assessments where proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in our activities. However, as a matter of policy we are committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. In accordance with section 7 of the Communications Act, in producing this RIA, we have had regard to such general guidance as we consider appropriate including related Cabinet Office guidance. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom’s approach to impact assessment¹⁷.

Background

- A1.4 In the UK, we are responsible for the authorising of civil use of the radio spectrum and achieve this by granting wireless telegraphy licences under the Wireless Telegraphy Act 2006 (the “WT Act”) and by making Regulations exempting users of particular equipment from the requirement to hold such a licence. Under section 8(1) of the WT Act, it is an offence to install or use equipment to transmit without holding a licence granted by us, unless the use of such equipment is exempted. Section 8(3) enables Ofcom to make regulations exempting equipment from the requirement to hold a licence subject to specified terms, provisions and limitations and under Section 8(4) of the WT Act we must make regulations to exempt equipment if it is unlikely to cause undue interference.

Proposal

- A1.5 This RIA relates to the proposal to make new regulations in order to update the current statutory instrument governing the use of wireless telegraphy on a licence-exempt basis, “The Wireless Telegraphy (Exemption) Regulations 2003 No. 74 (the “Exemption Regulations”). This update will be achieved through an amendment to the existing Exemption Regulations.

¹⁷ Available at http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf.

The citizen and/or consumer interest

A1.6 We take account of the impact of our decisions have upon both citizen and consumer interests in the markets we regulate. 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:

- i) 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;
- ii) Licence-exemption is proposed only in areas where use of equipment is unlikely to cause harmful interference to other spectrum use;
- iii) They support the introduction of new and innovative technologies which will be of benefit to consumers in general.

Our policy objective

A1.7 In accordance with the WT Act, we must exempt from licensing the use of specified equipment where it is not likely that such use will cause interference to other legitimate users of the radio spectrum or is contrary to an international obligation.

Digital PMR446

Options considered

A1.8 The options open to us in relation to the management of radio spectrum equipment use generally fall into the following categories:

- Not to authorise use in the UK e.g. for national spectrum management reasons;
- To authorise use through the issue of a Wireless Telegraphy (“WT”) licence;
- To authorise use through exemption from the need to hold an individual WT licence.

Analysis of options

Allocation decision

A1.9 In relation to the proposals outlined in this document, the first of these options has been discounted because in the case of the exemption proposal, failure to authorise use in the UK would mean that we would be in breach of our statutory obligation to authorise radio spectrum use where such use is not deemed to cause interference. Failure to provide an authorisation regime in the area proposed for exemption would also stifle the development of innovative radio spectrum applications with the subsequent loss of benefits to UK citizens and the UK economy.

Licence or Licence-exempt

A1.10 The licensing option has also been discounted since the authorisation of use of equipment through individual licensing is either disproportionate or impracticable.

A1.11 Licence-exemption is therefore proposed because the analysis of the equipment proposed for exemption shows that there is minimal risk of interference to other users of the radio spectrum; this approach is in line with our regulatory duties and meets the demands of EC requirements providing the following benefits:

- Reduction of the regulatory burden;
- Introduction of innovative applications and new technologies.

The benefits and costs of authorising use through licence-exemption versus licensing are considered below on the basis that the potential for interference is very small.

Costs to business

A1.12 Licence-exemption represents the least cost regulatory approach to the authorisation of spectrum use. If use of spectrum is authorised through a WT licence, businesses will face a direct cost in terms of the cost of acquiring a licence. This could be equal to the businesses own administrative costs associated with applying for the licence and compliance with the terms and conditions of that licence.

A1.13 To enable comparison of a licence-exempt against a licensing regime, it is necessary to make assumptions about the licensing regime where this is adopted as the alternative to licence-exemption. We have based our assumption on the fact that the types of services which are typically made licence-exempt would, under a licensing regime, be issued with an “off the shelf licence”. This type of licence generally requires no specific assignment coordination and attracts a relatively low fee of around £50 over a five year period.

A1.14 If a licence was required for operating Digital PMR446 radio then it is likely that businesses would need to make multiple applications, one for each radio or site depending on the licensing regime. This would impose administration and management costs to business.

A1.15 Clearly, this burden will be avoided if use of spectrum is made exempt from licensing. In estimating the costs associated with applying for a licence we have assumed the same cost as indicated above in terms of the cost to us of processing a licence application.

A1.16 One cost to business that is not included as a benefit of the licence-exempt regime is the direct cost of any licence application fee. This is because we seek to identify below the benefits associated with reduced administrative costs to us. If we also included savings to business in not having to pay our admin fees then this would double count the benefit. Nevertheless, the licence fee may be relevant for the assessment of service take-up if it represents a large proportion of the overall value of the service in question

Costs to Ofcom

A1.17 There are one-off administrative costs associated with making a statutory instrument. We consider the implementation costs to be low and more than offset by the benefits of licence-exemption. There may be a slight reduction in spectrum management costs in certain areas. Licence-exemption would reduce the cost incurred by us in operating a licensing regime. This would include issuing licences, collecting licence fees and enforcing terms and conditions of licences.

Costs to consumers

A1.18 The costs to consumers of licensing versus exemption would mainly arise from the potential disincentive effects on take up of services and hence a loss of the consumer surplus that licensing costs may impose.

Preferred option

A1.19 In our opinion licence-exemption is the preferred option to authorise the use of digital PMR 446 equipment in the UK.

Evaluation

A1.20 We do not intend to actively monitor this area but we may review the regulations as they apply to digital PMR 446 equipment if there is cause for concern to other spectrum users.

Implementing the Commission Decision 2005/928/EC on harmonisation of the 169.4 – 169.8125 MHz frequency band in the Community

Proposal

A1.21 This section of the RIA relates to the proposal to make an amendment to regulations in order to comply with the part of the Decision relating to the lower part (169.4 -169.6 MHz) of the band.

Ofcom's policy objective

A1.22 As a Member State, the UK is bound by the terms of the Decision and the requirement to implement them.

Options considered

A1.23 The options open to Ofcom in relation to the implementation of the Decision are as follows:

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

Analysis of options

Make new regulations

A1.24 The most efficient route to mandatory compliance is to make the Proposed Regulations that are consistent with the Decision as closely as possible.

Do nothing

A1.25 By doing nothing, we would be in breach of the Decision and could be open to infraction proceedings initiated by the European Commission.

The preferred option

A1.26 The preferred option therefore is to make the Proposed Regulations as indicated in order to comply with the Decision. The benefits of this option are that the UK remains compliant with European Community law.

Evaluation

A1.27 Article 5 of the Decision requires that that the continued availability of this spectrum for the listed devices be kept under active scrutiny to ensure that the main premise of the opening this band to such systems remains valid.

A1.28 We will assist the Commission in carrying out these reviews as required.

Annex 2

Draft Regulations

2007 No. []

ELECTRONIC COMMUNICATIONS

**The Wireless Telegraphy (Exemption)
(Amendment) Regulations 2007**

Made - - - - []
Coming into force - - []

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

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

Citation and commencement

1. These Regulations may be cited as The Wireless Telegraphy (Exemption) (Amendment) Regulations 2007 and shall come into force on [date].

Amendment of the Wireless Telegraphy (Exemption) Regulations 2003

2.—(1) The Wireless Telegraphy (Exemption) Regulations 2003(b) are amended in accordance with the following provisions of this regulation.

(2) In Schedule 6 (Short Range Devices), in Part III (interface requirement) for the entry relating to IR 2030 substitute the following entry—

“IR 2030 – UK Radio Interface Requirement for Short Range Radio Devices, published by OFCOM in November 2007.”.

(3) In Schedule 7 (PMR 446), in Part III (interface requirement) for the entry relating to IR 2009 substitute the following entry—

“IR 2009 – UK Radio Interface Requirement for Private mobile radio operating in the licence exempt analogue PMR446 and Digital PMR446 bands, published by OFCOM in November 2007.”.

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

(a) 2006 c.36
(b) S.I. 2003/74, amended by S.I. 2003/2155, S.I. 2005/3481 and S.I. 2006/2994

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Wireless Telegraphy (Exemption) Regulations (the “Principal Regulations”).

Both the Principal Regulations and these Regulations do not specify the detailed technical requirements directly, but instead refer to published interface requirements where those technical requirements are fully set out.

Regulation 2 makes minor amendments to two of the Schedules in the Principal Regulations which contain details of particular licence-exempt equipment.

The first amendment is to Part III (interface requirement) of Schedule 6 (Short Range Devices) to include reference to the updated IR 2030 published by OFCOM in November 2007, which makes provision for Short Range Devices. The updated IR 2030 has been revised as a result of guidance issued by the Radio Spectrum Committee to Member States on the implementation of Commission Decision 2005/928/EC on harmonisation of the 169.4 – 169.8125 MHz frequency band in the Community.

The second amendment is to Part III (interface requirement) of Schedule 7 (PMR) to include reference to the updated IR 2009 published by OFCOM in November 2007, which makes provision for PMR “walkie talkie” equipment using both analogue and digital technology operating in frequencies around 446 megahertz.

Copies of the Interface Requirement IR 2009 referred to in these Regulations may be obtained from OFCOM at Riverside House, 2a Southwark Bridge Road, London SE1 9HA and available on the OFCOM website at <http://www.ofcom.org.uk>.

A full regulatory impact assessment and report of the effect that these Regulations will have on the costs to business is available to the public from the OFCOM Library at Riverside House, 2a Southwark Bridge Road, London SE1 9HA (Tel: 020 7981 3000) or on the OFCOM internet website at <http://www.ofcom.org.uk>. Copies of the regulatory impact assessment have also been placed in the libraries of both Houses of Parliament.

Annex 3**Technical Detail extracts****IR 2009 extract**

A3.1 Table 3.2 is an extract from IR2009 relating to the specifications for Digital PMR446.

(2) Table 3.2: Minimum requirements for the use of: - Private Mobile Radio (PMR) systems in the Digital PMR446 frequency band		
Mandatory (1-9)		
1	Frequency band	446.1 MHz to 446.2 MHz
2	Radio service	Mobile
3	Application	Private Mobile Radio
4	Channelling / modulation	Channel spacing:- 12.5 kHz or 6.25 kHz ITU class of emission:- F1W
5	Maximum transmit power limit	-3 dBW (500 mW) ERP. Maximum transmitter time-out time ≤180 seconds
6	Channel occupation rules	Speech and /or data
7	Duplex type/separation	Single-frequency simplex
8	Licensing Regime	Licence exempt
9	Additional essential requirements	Not applicable
Informative (10-13)		
10	Frequency planning assumptions	
11	Reference	EN 301 166
12	Remarks	
13	EU Notification Number	2006/423/UK

IR2030 extract

The tables below are extracts from IR2030 relating to the revisions made to specifications for Meter Reading, Asset Tracking, Social Alarms and Hearing Aids.

Table 3.2: Minimum requirements for the use of: - Industrial / Commercial Telemetry and Telecommand

Wireless telegraphy apparatus designed or adapted for Telemetry and Telecommand, so as to be capable of use on one or more of the frequencies or within one of the frequency bands, and at a radiated level not exceeding the maximum for such Frequency / Bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs:

- (a) In category i, channel numbers 1, 3 to 11; are available with a channel centre frequency of $173.2 \text{ MHz} + (\text{Channel B/width} \times \text{channel number})$.
- (b) In category ii, channel numbers 1 to 5 are available with a channel centre frequency of $173.2 \text{ MHz} + (\text{Channel B/width} \times \text{channel number})$.
- (c) In category iv, channel numbers 1 to 25, 28 to 31 and 33 to 35 are available with a channel centre frequency of $458.5 \text{ MHz} + (\text{Channel B/width} \times \text{channel number})$.
- (d) In category v, channel numbers 1 to 12, 14 to 15 and 17 are available with a channel centre frequency of $458.5 \text{ MHz} + (\text{Channel B/width} \times \text{channel number})$.
- (e) In category vi, consecutive channels may be combined where a larger bandwidth is required, due to the modulation of the signal, up to the maximum sub-band frequency allocation. The total signal bandwidth, including frequency error and drift, must be contained within the allocated sub-band under all conditions. Where a duty cycle limit is applied, that duty cycle limit remains in force where channels are combined.
- (f) In category viii the use is limited to remote meter reading and in category ix the use is limited to Asset Tracking and Tracing
- (g) For categories i, ii, iii, iv, v & vii, Music and Speech is permitted when using a digitised signal

category	Frequency / Band	Radiated Level	Channel B/width	Music / Speech	Duty cycle	Reference Standard *
i	173.2 - 173.35 MHz	10 mW e.r.p.	12.5 kHz	Yes	-	EN 300 220
ii	173.2 - 173.35 MHz	10 mW e.r.p.	25 kHz	Yes	-	
iii	173.2 - 173.35 MHz	10 mW e.r.p.	-	Yes	-	
iv	458.5 - 458.95 MHz	500 mW e.r.p.	12.5 kHz	Yes	-	
v	458.5 - 458.95 MHz	500 mW e.r.p.	25 kHz	Yes	-	
vi	869.40 to 869.65 MHz	500 mW e.r.p.	≤25 kHz	Yes	≤10%	
vii	2445 - 2455 MHz	100 mW e.i.r.p.	-	Yes	-	EN 300 440
viii	169.4 – 169.475 MHz	500mW e.r.p.	50kHz	Yes	<10%	EN 300 220
ix	169.4 – 169.475 MHz	500mW e.r.p.	50kHz	Yes	<1%	EN 300 220

Table 3.15: Minimum requirements for the use of: - Social Alarms for the Elderly and Infirm

Wireless telegraphy apparatus designed or adapted;- (a) to generate or indicate an alarm condition; or (b) to arm or disarm the alarm system; so as to be capable of use on one or more of the frequencies, and at a radiated level not exceeding the maximum for such frequencies as specified in the table below:-						
category	Frequency / Band	Radiated Level	Channel B/width	Music / Speech	Duty cycle	Reference Standard *
-	27.450, 34.925, 34.950, 34.975 MHz	500 μ W e.r.p.	12.5 kHz	-	-	EN 300 220
-	869.2 - 869.25 MHz	10 mW e.r.p.	\leq 25 kHz	-	\leq 0.1%	
-	169.4750 – 169.4875 MHz	500 mW e.r.p.	12.5 kHz	-	-	
-	169.5875 – 169.600 MHz	500 mW e.r.p.	12.5 kHz	-	-	

Table 3.22: Minimum requirements for the use of: - Radio Hearing Aids

Wireless telegraphy apparatus designed or adapted for Telephony, for the purpose of hearing aids for the handicapped, so as to be capable of use on one or more of the frequencies within the frequency bands, and at a radiated level not exceeding the maximum for such Frequency / Bands, for each category of apparatus, specified in the table below and subject to the following sub-paragraphs:- (a) In category i channel numbers 1 to 5 and 7 to 9 are the preferred channels, channels 10 to 35 may be used as an alternative but are shared with other applications including radio microphones. The channel centre frequency is equal to 173.3 MHz + (Channel B/width x channel number).						
category	Frequency / Band	Radiated Level	Channel B/width	Music / Speech	Duty cycle	Reference Standard *
i	173.325 to 175.075 MHz	2 mW e.r.p.	50 kHz	Yes	-	EN 300 422
ii	169.4000 - 169.4750 MHz	500 mW e.r.p.	\leq 50 kHz	Yes	-	EN 300 220
iii	169.4875 - 169.5875 MHz	500 mW e.r.p.	\leq 50 kHz	Yes	-	EN 300 220

Annex 4

Commission Decision 2005/928/EC

COMMISSION DECISION

of 20 December 2005

on the harmonisation of the 169,4-169,8125 MHz frequency band in the Community

(notified under document number C(2005) 5003)

(Text with EEA relevance)

(2005/928/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Council Directive 90/544/EEC of 9 October 1990 on the frequency bands designated for the coordinated introduction of pan-European land-based public radio paging in the Community (the ERMES Directive) ⁽²⁾ was repealed on 27 December 2005 by Directive 2005/82/EC of the European Parliament and of the Council ⁽³⁾. That Directive required Member States to designate in the 169,4 to 169,8 MHz radio spectrum band four channels for the pan-European land-based public radio paging service (hereinafter referred to as 'ERMES') and to ensure that ERMES services occupy, as quickly as possible, the whole of the 169,4 to 169,8 MHz radio spectrum band according to commercial demand.
- (2) The use of the 169,4 to 169,8 MHz radio spectrum band for ERMES in the Community has decreased dramatically or even ceased altogether, with the result that this radio spectrum band is not being efficiently utilised by ERMES and could therefore be better used to fulfil other Community policy needs.
- (3) Pursuant to Article 4(2) of the Radio Spectrum Decision, the Commission issued on 7 July 2003 a mandate to the European Conference of Postal and Telecommunications Administrations (hereinafter referred to as 'CEPT') to collect

information on the current and future possible applications of the 169,4 to 169,8 MHz band, to identify a list of alternative options for the use of the radio spectrum band and in particular those which are not related only to traditional electronic communications. The CEPT was asked to evaluate, for each possible application, co-existence between various applications and the possibility of using alternative radio spectrum bands, in line with the principles of the Framework Directive. The radio spectrum band, which is already partially harmonised, is appropriate for certain applications related to the establishment and functioning of the internal market in a number of Community policy areas, among which some are likely to benefit disabled people or assist justice and home affairs collaboration in the European Union.

- (4) Article 8(4) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for the electronic communications networks and services (Framework Directive) ⁽⁴⁾ requires Member States to promote the interests of European Union citizens by inter alia addressing the needs of specific social groups, in particular hearing impaired persons and persons requiring urgent assistance.
- (5) Based on technical investigations and on collection of information, the CEPT confirmed that despite the adoption of Directive 90/544/EEC, the use of this radio spectrum band for ERMES has remained very limited and that the need for radio messaging or paging systems has changed in Europe as the functions thereof have been replaced by other technologies such as short messaging systems (SMS) over GSM.
- (6) The designation of parts of the 169,4 to 169,8 MHz radio spectrum band for ERMES should therefore be modified in the Community in order to ensure more efficient use of this radio spectrum band, while preserving its harmonised character.

⁽¹⁾ OJ L 108, 24.4.2002, p. 1.

⁽²⁾ OJ L 310, 9.11.1990, p. 28.

⁽³⁾ OJ L 344, 27.12.2005, p. 38.

⁽⁴⁾ OJ L 108, 24.4.2002, p. 33.

- (7) As mandated, the CEPT has produced a new frequency plan and channel arrangement allowing six types of preferred applications to share the radio spectrum band from 169,4 up to 169,8125 MHz, in order to meet several Community policy needs. These needs include assistance through the use of hearing aids to persons suffering from hearing disability, for whom a harmonised radio spectrum band in the Community would improve travelling conditions between Member States and reduce equipment prices through economies of scale; the development of the internal market for social alarms, which allow elderly or disabled people to send alarm messages for assistance, asset tracking or tracing devices, which would assist in tracking and recovering stolen goods across the Community, meter reading systems used by water and electricity utility companies; and existing paging systems such as ERMES as well as private mobile radio systems (PMR) when employed for temporary use, to assist in the coverage of special temporary events for a period of a few days up to a few months.
- (8) The results of the mandate to the CEPT, which the Commission regards as satisfactory, should be made applicable in the Community and implemented by the Member States. The remaining ERMES and/or PMR authorisations which are not in conformity with the new frequency plan and channel arrangement should be allowed to remain unaffected until their expiry or until ERMES and/or PMR applications can be moved to the appropriate radio spectrum bands without excessive burden.
- (9) When allowing access to radio spectrum the least onerous authorisation system should be used, in accordance with Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) ⁽¹⁾, including absence of individual rights of use.
- (10) Without prejudice to the fact that spectrum requirements of specific policies may require exclusive frequency designations, it is generally appropriate to propose as generic allocations as possible for radio spectrum bands so as to steer their usage only by defining specific usage constraints such as duty cycle or power levels, and to ensure through harmonised standards recognised under the Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity ⁽²⁾ that equipment operating in the allocated radio spectrum minimises use of the radio spectrum in a way to avoid harmful interference.
- (11) Coordination of channels in the high power part of the 169,4 – 169,8125 MHz band between neighbouring countries will be ensured by bi- or multilateral agreements.
- (12) In order to ensure effective use of the 169,4 to 169,8125 MHz band also in the longer term administrations should continue with studies that may increase efficiency, in particular the utilisation of the identified guard band.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee.

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

The subject matter of this Decision is the harmonisation of the conditions for the availability and efficient use of the 169,4 – 169,8125 MHz radio spectrum band in the Community.

Article 2

Definitions

For the purposes of this Decision,

- (a) 'hearing aid' means a radio communications system which usually includes one or more radio transmitters and one or more radio receivers allowing persons suffering from hearing disability to increase their listening capability;
- (b) 'social alarm' means a reliable radio communications system and network including portable equipment which allows a person in distress in a limited area to initiate a call for assistance by a simple manipulation;
- (c) 'meter reading system' means a system which allows remote status monitoring, measuring and service commands using radio communication devices;
- (d) 'tracing and asset tracking system' means a system which allows the tracing and tracking of goods, leading to their recovery, consisting in general of a radio transmitter placed on the item to be protected and a receiver and may also include an alarm;
- (e) 'paging system' means a system allowing one-way radio communications between the sender and the receiver using a base station with the mobile as a receiver;

⁽¹⁾ OJ L 108, 24.4.2002, p. 21.

⁽²⁾ OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

(f) 'private mobile radio communications (PMR)' means a land mobile communications service using simplex, half duplex and possibly full duplex modes at the terminal level to provide closed user group communications.

Article 3

Harmonised applications

1. The 169,4 – 169,8125 MHz band shall be divided into a low power part and a high power part. Its frequency plan and the channelling arrangements shall be laid down in the Annex to this Decision.

2. The low power part of the 169,4 – 169,8125 MHz radio spectrum band shall accommodate the following preferred applications:

- (a) exclusive use for hearing aids;
- (b) exclusive use for social alarms;
- (c) non-exclusive use for meter reading systems;
- (d) non-exclusive use for low power transmitters for tracking and asset tracing systems.

3. The high power part of the 169,4 – 169,8125 MHz band shall accommodate the following preferred applications:

- (a) high power transmitters for tracing and asset tracking systems;
- (b) existing paging systems or paging systems relocating from other channels in the radio spectrum band.

4. Alternative applications for the 169,4 – 169,8125 MHz radio spectrum band may be implemented provided that they do not constrain the harmonised implementation of the preferred applications. These alternative applications shall be:

- (a) hearing aids, for the non-exclusive, low power part of the radio spectrum band;

(b) tracing, paging, temporary use or private mobile radio communications on a national basis in the high power part of the band.

5. The maximum radiated power in the low power part of the 169,4 – 169,8125 MHz radio spectrum band shall be limited to 0,5 Watt effective radiated power (e.r.p.). The maximum duty cycles for the meter reading systems and tracing and asset tracking system in the low power part of the 169,4 – 169,8125 MHz radio spectrum band shall be < 10 % and < 1 % respectively.

6. The use of the 169,4 – 169,8125 MHz radio spectrum band by paging systems and private mobile radio communications that is authorised at the date of notification of this Decision and which is not in conformity with Article 3 paragraphs 1 to 5, may continue for as long as the authorisations for such services, existing at the date of notification of this Decision, remain valid.

Article 4

Implementation of Article 3

Article 3 shall apply from 27 December 2005.

Article 5

Review

Member States shall keep the use of the 169,4 – 169,8125 MHz radio spectrum band under review to ensure the efficient use thereof and report their findings to the Commission.

Article 6

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 20 December 2005.

For the Commission

Viviane REDING

Member of the Commission

ANNEX

Frequency plan for the 169,4 - 169,8125 MHz radio spectrum band

Low power applications					High power applications																					
Specific low power applications			Hearing aids		Social alarms		Hearing aids		Social alarms		Guardband															
Hearing aids			Exclusive use		Exclusive use		Exclusive use		Exclusive use		These channels could be used on a national basis for high power applications such as paging, tracing, temporary use or PMR.															
12,5			50		12,5		12,5		12,5		12,5 ⁽¹⁾															
1a	1b	2a	2b	3a	3b	4a	4b+5+6a	6b+7+8a	8b	9a	9b	10a	10b	11a	11b	12a	12b	13a	13b	14a	14b	15a	15b	16a	16b	

Legend:

1st row: category application, i.e. low power applications or high power applications;

2nd row: preferred applications;

— Specific low power applications: see Article 3(2)(c) and (d).

— Social alarms: see Article 3(2)(b).

— Hearing aids: see Article 3(2)(a).

— Tracking and tracing system (high power part): see Article 3(3)(a)

— Paging system: see Article 3(3)(b)

3rd row: alternative applications: see Article 3(4);

4th and 5th rows: channel raster (in kHz) and channel number.

⁽¹⁾ Due to the possibility of using any high power channel for the temporary use application. However, to facilitate border coordination, systems using 25 kHz channels must respect the channel raster starting from the lower edge of the channel 9.

Channelling arrangement for the 169,4 – 169,8125 MHz band

12,5 kHz bandwidth		25 kHz bandwidth		50 kHz bandwidth	
Channel number	Centre frequency	Channel number	Centre frequency	Channel number	Centre frequency
1a	169,406250	1	169,412500	'0'	169,437500
1b	169,418750				
2a	169,431250	2	169,437500		
2b	169,443750				
3a	169,456250	3	169,462500		
3b	169,468750				
4a	169,481250	4	169,487500		
4b	169,493750				
5a	169,506250	5	169,512500	'1'	169,512500
5b	169,518750				
6a	169,531250	6	169,537500		
6b	169,543750				
7a	169,556250	7	169,562500	'2'	169,562500
7b	169,568750				
8a	169,581250	8	169,587500		
8b	169,593750				
12,5 kHz 'guard band'					
9a	169,618750	9	169,625000		
9b	169,631250				
10a	169,643750	10	169,650000		
10b	169,656250				
11a	169,668750	11	169,675000		
11b	169,681250				
12a	169,693750	12	169,700000		
12b	169,706250				
13a	169,718750	13	169,725000		
13b	169,731250				
14a	169,743750	14	169,750000		
14b	169,756250				
15a	169,768750	15	169,775000		
15b	169,781250				
16a	169,793750	16	169,800000		
16b	169,806250				

Annex 5

**RSC interpretation of Commission
Decision 2005/928/EC**



EUROPEAN COMMISSION
Information Society and Media Directorate-General
Electronic Communications Policy
Radio Spectrum Policy

Brussels, 21 September 2007
DG INFSO/B4/

RSCOM07-67

PUBLIC DOCUMENT

RADIO SPECTRUM COMMITTEE

Subject: Interpretation of Commission Decision 2005/928/EC

This is a Committee working document, which does not necessarily reflect the official position of the Commission. No inferences should be drawn from this document as to the precise form or content of future measures to be submitted by the Commission. The Commission accepts no responsibility or liability whatsoever with regard to any information or data referred to in this document.



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E-mail : info-rsc@ec.europa.eu

1. INTRODUCTION

Pursuant to Directive 98/34 laying down a procedure for the provision of information in the field of technical standards and regulations, several Member States have notified to the Commission draft national radio interfaces which, amongst others, intend to implement Commission Decision 2005/928/EC on harmonisation of the 169.4 – 169.8125 MHz frequency band in the Community. These interfaces seem to express diverging interpretations on three elements contained in the Decision.

The first element relates to the **maximum allowable radiated power in the 169.4 – 169.6 MHz band**, the second covers the **channelling arrangement in the 169.4 – 169.6 MHz band**, and the third concerns **duty cycle requirements for specific applications**. With this paper, the Commission services wish to ensure a common interpretation and implementation by all Member States of the Decision on these aspects.

2. MAXIMUM RADIATED POWER

Article 3.5 of the Decision specifies the maximum radiated power in the low power part¹ of the 169.4 – 169.8125 MHz band.

Article 3.5 states:

5. The maximum radiated power in the low power part of the 169,4 – 169,8125 MHz radio spectrum band shall be limited to 0,5 Watt effective radiated power (e.r.p.). The maximum duty cycles for the meter reading systems and tracing and asset tracking system in the low power part of the 169,4 – 169,8125 MHz radio spectrum band shall be < 10 % and < 1 % respectively.

In a number of notifications under Directive 98/34/EC, it appears that certain Member States have set the maximum power level for social alarms, hearing aids & meter reading systems in the band 169.4 – 169.6 MHz at 10 mW e.r.p., while other Member States set the maximum at 500 mW e.r.p.

It seems that the sentence in Article 3.5 “*The maximum radiated power in the low power part of the 169.4 – 169.8125 MHz radio spectrum band shall be limited to 0.5 Watt effective radiated power (e.r.p.)*.” has been understood by some Member States as setting maximum restrictions, i.e. that all restrictions on radiated power imposed by Member States shall stay within the boundary of 0.5 W e.r.p. but that Member States can set lower levels.

The Commission services however consider that Member States must allow the use of spectrum up to the power level of 0.5 W e.r.p. and may not prohibit use up to that level, while they must prohibit the use of higher power levels. As a consequence, applications operating in the respective bands may use in all Member States up to 0.5 W e.r.p. power levels as well as lower power levels if they so wish.

¹ According to the annex the ‘low power part’ is 169.4 to 169.6 MHz.

3. CHANNELLING ARRANGEMENT

The annex to the Decision consists of two pages:

- page 1 of the annex describes the **frequency plan, i.e. applications vs. channels (frequencies and channel widths)**

In the frequency plan on page 1 of the annex, the fourth row describes the channel raster (in kHz) and the fifth row the channel number (see extract below).

Frequency plan fo

Low power applications										Guardband		
Specific low power applications			Social alarms		Hearing aids			Social alarms			Tracking a tracing syst	
Hearing aids			Exclusive use									
12,5			12,5		50			12,5				
1a	1b	2a	2b	3a	3b	4a	4b+5+6a	6b+7+8a	8b		9a	

Legend:

1st row: category application, i.e. low power applications or high power applications;

2nd row: preferred applications:

- Specific low power applications: see Article 3(2)(c) and (d).
- Social alarms: see Article 3(2)(b).
- Hearing aids: see Article 3(2)(a).
- Tracking and tracing system (high power part): see Article 3(3)(a)
- Paging system: see Article 3(3)(b)

3rd row: alternative applications: see Article 3(4);

4th and 5th rows: channel raster (in kHz) and channel number.

On page 1 of the Annex, for the frequencies 169.4 MHz (beginning of channel 1a) to 169.475 MHz (end of channel 3b) the channel raster is 12.5 kHz, according to the figure '12.5' in the fourth row. For these channels / frequencies, hearing aids are listed as "alternative applications".

However, a number of Member States have notified a channel width of 50 kHz for hearing aids operating in 169.4-169.475 MHz, considering that a channel width of 12.5 kHz is too narrow for 'Hearing aids' - while acceptable for the preferred 'Specific low power applications'.

- Page 2 of the annex explains **channel designations and their exact locations frequency-wise**.

Channelling arrangement for the 169,4 – 169,8125 MHz band

12,5 kHz bandwidth		25 kHz bandwidth		50 kHz bandwidth	
Channel number	Centre frequency	Channel number	Centre frequency	Channel number	Centre frequency
1a	169,406250	1	169,412500		
1b	169,418750				
2a	169,431250	2	169,437500	'0'	169,437500
2b	169,443750				
3a	169,456250	3	169,462500		
3b	169,468750				
4a	169,481250	4	169,487500		
4b	169,493750				
5a	169,506250	5	169,512500	'1'	169,512500
5b	169,518750				
6a	169,531250	6	169,537500		
6b	169,543750				
7a	169,556250	7	169,562500	'2'	169,562500
7b	169,568750				
8a	169,581250	8	169,587500		
8b	169,593750				

The Commission services are of the opinion that in the present form the Decision and the specifications of page 1 of the annex impose a channel width of 12.5 kHz for hearing aids operating in the 169.4 – 169.475 MHz band.

The Commission would like to indicate that both pages of the annex correspond precisely to what the CEPT has reported² pursuant to the mandate issued prior to the adoption of the Decision.

The Commission services are sensitive to the technical argument that 12.5 kHz might constitute a too narrow channel specification for hearing aids. If this was the case, a revision of the Decision might need to be considered. However, before envisaging such a step, it would be necessary to carefully analyse the impact of such a change on the preferred applications in this band which are presently operating on the 12.5 kHz channel width as specified by the Decision.

In addition to the non-exclusive hearing aids allocation, the 169.4875 – 169.5875 MHz band is allocated to hearing aids on an exclusive basis and imposes a channel width of 50 kHz. Apparently the standard for hearing aids is being revised and the revised standard will offer hearing aids operating in the whole 169 MHz range the possibility to operate at 12.5, 25 & 50 kHz channel widths.

² RSCOM 04-69.

The Commission services would therefore request CEPT to clarify the origin of the 12.5 kHz specification for the band 169.4 – 169.475 MHz as well as the impact of a change of the channel width, possibly to allow 50 kHz with 12.5 and 25 kHz subdivisions according to the definition of page 2 of the annex permitted for the bands 169.4 – 169.475 MHz & 169.4875 – 169.5875 MHz.

Delegates are invited to discuss the best way forward.

4. DUTY CYCLE RESTRICTIONS

Article 3.5 of Decision 2005/928/EC sets maximum duty cycles in the lower part of the band only for meter reading systems (< 10%) and tracing and asset tracking systems (<1%).

However, several national documents notified under Directive 98/34 also impose duty cycle restrictions for social alarms operating in the lower part of the band (bands 4a and 8b). This is not allowed under the Decision.

Therefore Member States should apply duty cycle restrictions only where allowed by the Decision i.e. for meter reading systems and tracing and asset tracking systems, and refrain from imposing duty cycle restrictions on other applications.

5. REQUEST TO MEMBER STATES

Member States are invited to examine the views expressed by the Commission services in this document and to give guidance to the Commission on the issue discussed under section 3 of this document.

Annex 6

Responding to this consultation

How to respond

- A6.1 We invite written views and comments on the issues raised in this document, to be made **by 5pm on 7 January 2008**.
- A6.2 We strongly prefer to receive responses using the online web form at http://www.ofcom.org.uk/consult/condocs/wireless_exemption/howtorespond/form, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response (see Annex 8), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A6.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email paul.chapman@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A6.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Paul Chapman
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3921
- A6.5 Note that we do not need a hard copy in addition to an electronic version. We will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.

Further information

- A6.6 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Paul Chapman on 020 7981 3069.

Confidentiality

- A6.7 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm on their response coversheet that this is acceptable).
- A6.8 All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex so that non-confidential parts may be published along with the respondent's identity.

- A6.9 We reserve our power to disclose any information we receive where this is required to facilitate the carrying out of our statutory functions.
- A6.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to us to use in order to meet its legal requirements. Our approach on intellectual property rights is explained further on our website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A6.11 Following the end of the consultation period, we intend to publish a statement in January 2008.
- A6.12 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

Our consultation processes

- A6.13 We seek to ensure that responding to a consultation is as easy as possible. For more information please see our consultation principles in Annex 7.
- A6.14 If you have any comments or suggestions on how we conduct our 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 we 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.
- A6.15 If you would like to discuss these issues or our consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is our consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@ofcom.org.uk

Annex 7

Our consultation principles

A7.1 We have published the following seven principles that we will follow for each public written consultation.

We will seek to engage stakeholders before the consultation

A7.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

We will be open and transparent during the consultation

A7.3 We will be clear about whom we are consulting, why, on what questions and for how long.

A7.4 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A7.5 When we decide how long a consultation should last, we need to strike the right balance between the two. There are generally 3 categories of consultation:

Category 1: Consultations which contain major policy initiatives and/or of interest to a wide range of stakeholders (especially those who may need a longer time to response); we will consult for 10 weeks.

Category 2: Consultations which, whilst containing important policy proposals, will be of interest to a limited number of stakeholders who will be aware of the issues; we will consult for 6 weeks.

Category 3: Consultations which fall within one or more of the following

- a) detailed technical issues;
- b) where there is a need to complete the project in a specified timetable because of market developments or other factors which require the project to be concluded within a short period;
- c) the issue has already been the subject of a consultation;
- d) a proposal will have a limited effect on a market;
- e) a proposal is only a limited amendment to existing policy or regulation.

A7.6 The time period for consultations in this category is one month.

A7.7 There will be a person within Ofcom who will be in charge of making sure that we follow our own guidelines and reach out to the largest number of people and

organisations interested in the outcome of our decisions. This individual (whom we call the consultation champion) will also be the main person to contact with views on the way that we run our consultations.

- A7.8 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a “red-flag consultation” that needs their urgent attention.

Our decisions will take full account of responses

- A7.9 We will look at each response carefully and with an open mind. We will give reasons for our decisions and an account of how the views of those concerned helped shape those decisions.

Annex 8

Consultation-response cover sheet

- A8.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full at www.ofcom.org.uk.
- A8.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. (It is incorporated into the online web form if you respond in this way.) This will speed up our processing of responses and help to maintain confidentiality where appropriate.
- A8.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore, we would encourage respondents to complete their cover sheet in a way that allows us to publish their responses upon receipt rather than wait until the consultation period has ended.
- A8.4 We strongly prefer to receive responses via the online web form. If you are responding via email, post or fax, you can download an electronic copy of this cover sheet in Word or RTF format from www.ofcom.org.uk/consult/244504/.
- A8.5 Please put in a separate annex any parts of your response that you consider should be kept confidential and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

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

Nothing 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 we 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 email text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is not 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)