



Notice of proposals to make  
the Wireless Telegraphy  
(White Space Devices)  
(Exemption) (Amendment)  
Regulations 2016

	Consultation
Publication date:	8 April 2016
Closing Date for Responses:	9 May 2016

# About this document

This document consults on proposals to amend the licence exemption regulations for white space devices to include additional organisations which have recently qualified to provide white space database services.

'White spaces' are gaps in the radio spectrum in frequency bands which can be used to offer new wireless applications to benefit consumers and businesses.

The white spaces covered by the draft amendment regulations are in frequencies currently used for digital terrestrial TV and wireless microphones, among other services, in the 470 - 790 MHz spectrum band.

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## Section 1

# Executive summary

- 1.1 This document consults on draft regulations, the Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016 (the “Proposed Regulations”) that would amend the Wireless Telegraphy (White Space Devices) (Exemption) Regulations 2015 (the “2015 Regulations”) <sup>1</sup>.
- 1.2 Ofcom is responsible for authorising civil use of the radio spectrum. Under section 8(1) of the Wireless Telegraphy Act 2006 (the ‘WT Act’), it is an offence to establish, install or use equipment for wireless telegraphy without holding a licence granted by us, unless the use of such equipment is exempted. Ofcom is able to make regulations exempting the use of equipment by using powers conferred by section 8(3) of the WT Act.
- 1.3 The 2015 Regulations implemented Ofcom’s decision, as set out in our statement published on 12 February 2015 entitled “*Implementing TV White Spaces*” (the “TVWS Statement”), to allow white space devices access to unused frequencies in the UHF TV Band under a licence exemption regime, provided that the devices meet certain minimum technical requirements.
- 1.4 The Proposed Regulations would make a minor amendment to the 2015 Regulations to include additional organisations in Schedule 1 which lists the organisations that are qualified by Ofcom to provide master operational parameters and slave operational parameters to white space devices (“WSDs”). We intend to make this amendment in order to add to this list additional organisations which have recently been qualified by Ofcom to offer such services. No other changes to the 2015 Regulations are proposed at this time.
- 1.5 In accordance with the requirements of section 122(4) and (5) of the WT Act, this document gives notice of our intention to make the Proposed Regulations.
- 1.6 Comments on the Proposed Regulations are invited by 5pm on 9 May 2016. Subject to consideration of responses we intend to bring the new regulations into force in May 2016.
- 1.7 The Proposed Regulations are included in this document at Annex 5. Further copies may be obtained from [www.ofcom.org.uk](http://www.ofcom.org.uk) or from Ofcom at Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

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<sup>1</sup> <http://www.legislation.gov.uk/id/ukSI/2015/2066>

## Section 2

# Background

## Regulatory framework

- 2.1 Ofcom is responsible for authorising civil use of the radio spectrum and achieves this by granting wireless telegraphy licences under the WT Act and by making regulations exempting users of particular equipment from the requirement to hold such a licence.
- 2.2 In particular, Under section 8(1) of the WT Act, it is an offence to establish, install or use wireless telegraphy equipment in the UK except where such use is authorised either by the issue of an appropriate wireless telegraphy licence or where the use of such equipment is exempted from the need to hold such a licence by regulations (i.e. a statutory instrument) made under section 8(3) of the WT Act.
- 2.3 Under section 8(3) of the WT Act, Ofcom may by regulations exempt from the requirement of a licence the establishment, installation or use of equipment of such class as may be specified in the regulations, either absolutely or subject to such terms, provisions and limitations as may be so specified.
- 2.4 Under section 8(4) of the WT Act, we have to make regulations to exempt equipment if its installation or use is not likely to:
  - involve undue interference with wireless telegraphy;
  - have an adverse effect on technical quality of service;
  - lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
  - endanger safety of life;
  - prejudice the promotion of social, regional or territorial cohesion; or
  - prejudice the promotion of cultural and linguistic diversity and media pluralism.
- 2.5 In accordance with the requirements of section 8(3B) of the WT Act, the terms, provisions and limitations specified in the regulations must be:
  - objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus to which they relate;
  - not such as to discriminate unduly against particular persons or against a particular description of persons;
  - proportionate to what they are intended to achieve; and
  - transparent in relation to what they are intended to achieve.
- 2.6 Before making any regulations we are required by section 122(4) of the WT Act to give notice of our proposal to do so. Under section 122(5), the notice must state that Ofcom proposes to make the regulations in question, set out their general effect,

specify an address from which a copy of the proposed regulations or order may be obtained, and specify a time before which any representations with respect to the proposal must be made to Ofcom. That time must be at least one month beginning with the day after that on which the notice is given or published.

2.7 This document gives notice of our proposal to make the Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016 (the “Proposed Regulations”). It is structured as follows:

- Section 3 sets out the general effect of the proposed changes to the 2015 Regulations which would be implemented by the Proposed Regulations;
- A draft of the Proposed Regulations is in Annex 5.

## **Next steps**

2.8 Following the publication of this consultation document, stakeholders are invited to provide their feedback on the Proposed Regulations. Those who wish to do so have until 5pm on 9 May 2016 to make representations. We expect to release a statement on this consultation in May 2016, having taken responses into account, and to bring the regulations into force at the same time.

## Section 3

# Proposed Changes

## Background

- 3.1 On 12 February 2015 we published the TVWS Statement in which we set out our decision to move ahead with the policy proposal to allow WSDs access to the UHF TV Band under a licence exemption regime, provided that the devices meet a minimum technical specification.
- 3.2 The TVWS Statement laid out:
- the high level framework for operation of WSDs and its main features;
  - the technical conditions that devices will have to comply with in order to operate without a licence; and
  - the detail of the rules to ensure coexistence of WSDs with existing users of the band, users of neighbouring bands and in neighbouring countries.
- 3.3 On 6 November 2015 we published a Notice of Proposals to make the Wireless Telegraphy (White Space Devices) (Exemption) Regulations 2015 in order to implement our decision in the TVWS Statement to allow WSDs access to the UHF TV Band on a licence exempt basis. We published our decision to proceed with making the 2015 Regulations on 21 December 2015 (the “2015 Statement”)<sup>2</sup>. The 2015 Regulations came into force on 31 December 2015.
- 3.4 The 2015 Regulations permit WSDs to operate in TV White Spaces provided they comply with the terms, conditions and limitations set out in those Regulations. The 2015 Regulations require WSDs to transmit in accordance with operational parameters obtained from a database operated by an organisation listed in Schedule 1 of those Regulations. Those organisations must have entered into contractual arrangements with Ofcom and have successfully completed the Qualification Assessment as required under the contract. This means that they have demonstrated to Ofcom’s satisfaction that they comply with the technical requirements for a WSDB that provides services to WSDs as set out in the contract.

## The general effect of the Proposed Regulations

- 3.5 At the time of making the 2015 Regulations, we had signed contracts with seven organisations that wished to become qualified to provide database services to WSDs. These organisations are:
- Council for Scientific and Industrial Research (CSIR),
  - Fairspectrum Oy,
  - Google UK Limited,
  - Microsoft Ireland Operations Limited,

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<sup>2</sup> <http://stakeholders.ofcom.org.uk/spectrum/tv-white-spaces/consultations-statements/tvws-regulations-2015/>

- Nominet UK,
  - Sony Europe Limited, and
  - Spectrum Bridge Inc.
- 3.6 Four of these organisations had completed qualification to operate databases by December 2015 and, as explained in the 2015 Statement, were accordingly listed in the 2015 Regulations. Those organisations were: Fairspectrum Oy, Nominet UK, Sony Europe Limited, and Spectrum Bridge Inc.
- 3.7 Two further organisations have now successfully completed the Qualification Assessment as required under the contract. These are: Council for Scientific and Industrial Research (CSIR) and Google UK Limited.
- 3.8 We therefore propose to make the Proposed Regulations to amend Schedule 1 of the 2015 Regulations in order to include these organisations in a revised list of organisations operating databases from which WSDs may obtain master operational parameters and slave operational parameters.
- 3.9 Microsoft Ireland Operations Limited has not yet completed the Qualification Assessment. If Microsoft Ireland Operations Limited were to satisfactorily complete the Qualification Assessment within the required period prior to the final regulations being made, we would also intend to include this organisation in the revised list at Schedule 1 to the 2015 Regulations.
- 3.10 No other changes to the 2015 Regulations are proposed at this time.
- 3.11 We seek comments on the Proposed Regulations, a draft of which is set out in Annex 5 to this Notice.

### **Extent of application (reg. 1)**

- 3.12 The Proposed Regulations would apply in the United Kingdom and the Isle of Man. They would not extend to the Channel Islands.

### **Entry into force of the proposed regulations (reg. 1)**

- 3.13 The Proposed Regulations will come into force as soon as practical after making the final regulations. The final regulations will be made after Ofcom has concluded its consultation process on its proposal and made a final decision as to the nature of the amendment to be made to the 2015 Regulations.

## Annex 1

# Responding to this consultation

## How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 9 May 2016**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/TVWS-amendment-regulations-apr16/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email [TVWSManager@ofcom.org.uk](mailto:TVWSManager@ofcom.org.uk) attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Vaughan John  
Spectrum Group  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the question asked in this document, which is shown at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

## Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Vaughan John on 020 7981 3093.

## Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/terms-of-use/>

## Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in May 2016.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: <http://www.ofcom.org.uk/email-updates/>

## Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk) . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

Tel: 020 7981 3601

Email [Graham.Howell@ofcom.org.uk](mailto:Graham.Howell@ofcom.org.uk)

## Annex 2

# Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

### Before the consultation

A2.2 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.

### During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 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 Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

### After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

## Annex 3

# Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk).
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this 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.
- A3.3 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 Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at <http://stakeholders.ofcom.org.uk/consultations/consultation-response-coversheet/>.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response 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	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## Annex 4

# Consultation question

*Do you have any comments on the Proposed Regulations?*

# Draft Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016

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STATUTORY INSTRUMENTS

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2016 No. \*\*\*\*

## ELECTRONIC COMMUNICATIONS

### The Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016

*Made* - - - - \*\*\*\* 2016  
*Coming into force* - - - - \*\*\*\* 2016

The Office of Communications (“OFCOM”), in exercise of the powers conferred by section 8(3) of the Wireless Telegraphy Act 2006 (the “Act”)(3), 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 that notice in accordance with section 122(4)(c) of the Act.

#### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016 and shall come into force on \*\*\*\* 2016.

(2) These Regulations shall not extend to the Channel Islands.

#### Amendment of the Wireless Telegraphy (White Space Devices) (Exemption) Regulations 2015

2.—(1) The Wireless Telegraphy (White Space Devices) (Exemption) Regulations 2015(4) are amended in accordance with the following paragraph of this regulation.

(2) In place of the list of organisations set out in Schedule 1 substitute the following:

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(3) 2006 c. 36. Section 8(3) was extended to the to the Isle of Man by article 2 of the Wireless Telegraphy (Isle of Man) Order 2007 (S.I. 2007/278); to the Bailiwick of Jersey by article 2 of the Wireless Telegraphy (Jersey) Order 2006 (S.I. 2006/3324); and to the Bailiwick of Guernsey by article 2 of the Wireless Telegraphy (Guernsey) Order 2006 (S.I. 2006/3325)

(4) S.I. 2015/2066

- “— The Council for Scientific and Industrial Research (CSIR), a statutory body established under South African legislation<sup>(5)</sup>;
- Fairspectrum Oy, a company registered in Finland with company number 2372718-1;
- Google UK Limited, a company registered in the United Kingdom with company number 03977902;
- [*to insert the following name if the organisation successfully completes the Qualification Assessment within the required period – see further explanation in the Notice: Microsoft Ireland Operations Limited, a company registered in the Republic of Ireland with company number 256796*];
- Nominet UK, a company registered in the United Kingdom with company number 03203859;
- Sony Europe Limited, a company registered in the United Kingdom with company number 02422874;
- Spectrum Bridge Incorporated, a company incorporated in the State of Delaware, United States of America.”

\*\*\*\* 2016

*Name*  
Group Director Spectrum Group  
For and by the authority of the Office of Communications

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(5) The Scientific Research Council Act, No 46 of 1988