

**Title:**

Mr

**Forename:**

Tim

**Surname:**

Cull

**Representing:**

Organisation

**Organisation (if applicable):**

FEDERATION OF COMMUNICATION SERVICES

**Ofcom may publish a response summary:**

Yes

**Additional comments:**

The Federation of Communication Services is the UK trade association for the professional communication services sector. Our 400 members and associates deliver voice and data functionality and services to business and public sector users by means of copper, fibre and radio transmission infrastructures.

We are pleased to have the opportunity of responding to the Ofcom Consultation on the Notice of proposals to make The Wireless Telegraphy (Control of Interference from Apparatus) Regulations 2015.

This contribution builds on other work done by the FCS in relation to the more effective use of the radio spectrum.

With the rise and rise of clocking rates in some devices that are in the marketplace in considerable volume, the FCS applauds the efforts of Ofcom and other bodies to safeguard the radio spectrum at this critical time.

Several bands are already affected by these EMC issues. The noise floor has risen in recent years considerably. That is perhaps unavoidable. However, non-stochastic interference from a fixed unit is particularly harmful.

**Question 1: Do you agree that the Proposed Regulations correctly give effect to the policy proposals referred to, and to the other intentions set out, in this document?:**

The FCS agrees that the proposed modifications do give a clarification of the powers in many situations relating to equipment failure or incorrect use etc. However, we are concerned that there may be several situations where the proposals might not be sufficient.

We note that neither Directive 2004/108 or in 2014/30 has a definition of „installation". Installation is not generally taken to encompass the software configuration of the device prior to installation.

Thus a product could be correctly installed, maintained and used for the intended purpose etc., but, because it was not correctly configured in its software, it fails to behave in a manner that avoids interference as it should in the intended application.

Alternatively, the device may have had additional application software added at some time either prior to installation or after installation. The change in behaviour resulting from this additional software application may be the root cause of the interference. In this case, the device is still operating in accordance with its intended purpose and was correctly installed etc. but following the addition of the application software, it is causing interference.

The FCS therefore further proposes that the concept of „installation" be expanded to include configuration. Furthermore, the concept of what the device actually is could be examined such that the concepts of Regulation 768/2008 be applied. That being that the device itself is changed by the introduction of the software. Thus it is the entity that introduces the software into the device that takes on the full burden of product compliance. This includes a full suite of conformity assessment together with appropriate labelling.

The FCS would stress that the entity that configures the device may not be the same as the one that installs it. Furthermore, there may be a further entity that defines the specification for the configuration. Thus two entities are involved in the configuration of the device, neither being involved with the installation.

The FCS does note that the 2014/30 Directive does encompass more of the problem through the additional attention on placing into use. This is believed to be a significant improvement on the 2004 Directive.