



Decision to make the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2015

Statement

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About this document

This statement relates to Ofcom's decision to make regulations that amended the existing licence charges (fees) for some Wireless Telegraphy Act products. The regulations implement the fourth phased increase of fees for Aeronautical licences, introduce fees for High Duty Cycle Network Relay Points and make some minor modifications to the definitions used in relation to Fixed Link and Business Radio licences.

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Section 1

Summary

- 1.1 This document confirms our decision of 27 May 2015 to make the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2015 (the “Regulations”). This decision follows our recent Statutory Notice entitled “Notice of proposals to make the Wireless Telegraphy (Licence charges) (Amendment) Regulations 2015¹ (the “Notice”), which we published on 9 April 2015.
- 1.2 The Regulations come into force on 8 June 2015 and will amend the Wireless Telegraphy (Licence Charges) Regulations 2011² (the “2011 Regulations”) to reflect Ofcom policy decisions made following earlier consultations. The Regulations set out the changes to licence charges (fees) for certain classes of wireless telegraphy licences issued by Ofcom under the Wireless Telegraphy Act 2006 (the “WT Act”), other than those awarded by auction.
- 1.3 Unless stated in this document, all other licence charges remain unchanged from the 2011 Regulations. In summary, the Regulations make the following changes:
- implemented the fourth phase of Administrative Incentive Pricing (AIP) set out through consultation and confirmed in our statement of June 2011³ for the following aeronautical licences:
 - Aeronautical Station (Air/Ground, Aerodrome Flight Information Service (AFIS) and Tower);
 - Aeronautical Station (Approach);
 - Aeronautical Station (Aeronautical Broadcast);
 - Aeronautical Station (Aircraft Communications Addressing and Reporting System (ACARS));
 - Aeronautical Station (Area Control); and
 - Aeronautical Station (Very High Frequency Data Link (VDL)).
 - set out fees for the new licence product High Duty Cycle Network Relay Point as confirmed in our December 2014 statement⁴;
 - extended the application of current fee rates for Point to Point Fixed Links in the 7.42 to 7.9 GHz band to adjacent frequencies up to 8.5 GHz, to take into account spectrum being potentially being released for sharing by the Ministry of Defence (MOD);

¹ <http://stakeholders.ofcom.org.uk/consultations/wta-licence-charges-2015/>

² <http://www.legislation.gov.uk/uksi/2011/1128/made/data.pdf>

³ “Bespoke licence fees for aeronautical VHF communications frequencies, a statement”
http://stakeholders.ofcom.org.uk/binaries/consultations/bespoke-fees-aeronautical/statement/8197_statement.pdf

⁴ “Statement on authorising high duty cycle Network Relay Points”
http://stakeholders.ofcom.org.uk/binaries/consultations/network-relay-points/statement/NRP_statement.pdf

- replaced the current definitions of UHF Band I and UHF Band II for Business Radio with a single definition of UHF Bands I and II to reflect changes in the available spectrum;
 - clarified that the fees for the Point to Point Fixed links licence (71.125 - 73.125 GHz and 81.125 - 83.125 GHz) apply to a two-way channel; and
 - simplified the description of the fees for the Public Wireless Network operator licences on the Isle of Man, Guernsey and Jersey.
- 1.4 Before deciding to make the Regulations, in accordance with the requirements of section 122(4) of the WT Act, on 9 April 2015 we published the Notice setting out our proposal to make them. The Notice also contained a draft of the Regulations (the “Proposed Regulations”) and invited comments from stakeholders on whether the Proposed Regulations properly gave effect to the policy decisions on relevant licence fees that Ofcom had previously made.
- 1.5 We received one non-confidential response to the Notice. In accordance with section 122(4)(c) of the WT Act, we have considered the comments raised. After doing so, and for the reasons set out in this document, we have decided to adopt the Regulations as proposed (subject to some amendments, the details of which can be found in section 3). Copies of the Regulations can be obtained using the link below⁵.

⁵ A link to the online version can be found at <http://www.legislation.gov.uk/>

Section 2

Background

Introduction

- 2.1 The WT Act gives Ofcom the power to set fees for wireless telegraphy licences granted under it. Under section 12 of the WT Act we must prescribe in regulations the sums payable in respect of wireless telegraphy licences other than those awarded by auction. Section 13 of the WT Act permits us in prescribing those fees to use AIP, whereby prices for annual licence fees are set above administrative costs to reflect a range of spectrum management objectives⁶. This power goes to discharging a range of duties under section 3 of the WT Act which require us to efficiently manage the radio spectrum (as well as our duty under section 3 of the Communications Act 2003 (the “2003 Act”) to secure optimal use of the spectrum).
- 2.2 In order to change the fees prescribed by existing regulations, we must either make a new set of regulations or amend the existing ones. We have decided to do the latter.

Statutory Notice

- 2.3 Under section 122(4) to (6) of the WT Act, we are required to publish a notice of any proposal to make regulations. The notice must state that Ofcom proposes to make the regulations in question, set out their general effect, state where a copy may be obtained and give any person or party an opportunity to make representations about them.
- 2.4 We published the Notice, meeting the statutory requirements, on 9 April 2015. The Notice included a copy of the Proposed Regulations. The Notice gave any person or party who wished to do so until 11 May 2015 to make representations.
- 2.5 The Notice proposed the following changes to WT Act licence fees:
- implementation of the fourth phase of Administrative Incentive Pricing (AIP) set out through consultation and confirmed in our statement of June 2011⁷ for the following aeronautical licences:
 - Aeronautical Station (Air/Ground, Aerodrome Flight Information Service (AFIS) and Tower);
 - Aeronautical Station (Approach);
 - Aeronautical Station (Aeronautical Broadcast);
 - Aeronautical Station (Aircraft Communications Addressing and Reporting System (ACARS));

⁶ Section 13(2) states, “OFCOM may, if they think fit in the light (in particular) of the matters to which they must have regard under section 3, prescribe sums greater than those necessary to recover costs incurred by them in connection with their radio spectrum functions.”

⁷ “Bespoke licence fees for aeronautical VHF communications frequencies, a statement”

http://stakeholders.ofcom.org.uk/binaries/consultations/bespoke-fees-aeronautical/statement/8197_statement.pdf

- Aeronautical Station (Area Control); and
 - Aeronautical Station (Very High Frequency Data Link (VDL)).
 - setting out fees for the new licence product High Duty Cycle Network Relay Point as confirmed in our December 2014 statement⁸;
 - extending the application of current fee rates for Point to Point Fixed Links in the 7.42 to 7.9 GHz band to adjacent frequencies less than 8.5 GHz, to take into account spectrum being potentially being released for sharing by the Ministry of Defence (MOD);
 - replacing the current definitions of UHF Band I and UHF Band II for Business Radio with a single definition for UHF Band to reflect changes in the available spectrum;
 - clarifying that the fees for the Point to Point Fixed links licence (71.125 - 73.125 GHz and 81.125 - 83.125 GHz) apply to two-way channel; and
 - simplifying the description of the fees for the Public Wireless Network operator licences on the Isle of Man, Guernsey and Jersey.
- 2.6 We received one response to the Notice and this is detailed in the next section of this document.

⁸ "Statement on authorising high duty cycle Network Relay Points"
http://stakeholders.ofcom.org.uk/binaries/consultations/network-relay-points/statement/NRP_statement.pdf

Section 3

Scope of Regulations

Introduction

- 3.1 This section outlines the comments that we received in relation to the Notice and our responses to these.
- 3.2 We received one non-confidential response. This response is published in full on our website⁹. Following consideration of the response, as outlined below, we have decided to proceed with our proposal to make the Regulations making the amendments as indicated. We therefore have decided to adopt the Proposed Regulations subject to some minor changes.

Stakeholders' responses to the Notice

- 3.3 The Joint Radio Company (JRC) raised an issue concerning the proposed amendment regarding the terms UHF Band I and UHF Band II. JRC highlighted that national co-ordination arrangements for UHF Band I and UHF Band II are significantly different and users need to be aware of this. They advised that combining the UHF Band I and UHF Band II into a single UHF Band for licensing purposes would cause confusion. This would be especially so if the option to choose either UHF Band I spectrum or UHF Band II spectrum is removed from the licence application forms. In addition, they also advised that this change might be confused with the term used by mobile operators to refer to the 700 MHz band.
- 3.4 JRC instead proposed that the current UHF Band II frequency range of 453.00625 MHz to 466.08750 MHz to become 450 MHz to 470 MHz or that we consider referring to the combined band as either the 400 MHz UHF Band or the Business Radio UHF Band.

Ofcom's response

- 3.5 We would like to thank JRC for their response. We would like to note that the proposed changes only relate to the term being used in the 2011 Regulations and would not affect how Ofcom would license the band. In light of this response we have made a minor amendment to the regulations. We have changed the proposed definition term from UHF Band to UHF Bands I and II.

Final scope of Regulations

Ofcom's decision

- 3.6 On 21 May 2015 Ofcom made the Regulations as proposed, subject to the changes described in paragraph 3.10. The Regulations come into force on 5 June 2015. They are summarised below.

⁹ <http://stakeholders.ofcom.org.uk/consultations/wta-licence-charges-2015/?showResponses=true>

Extent of application

- 3.7 The Regulations apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal adoption by the Island Authorities.

The Regulations

- 3.8 Details of the changes made by the Regulations are listed below:
- 3.8.1 Regulation 3 replaces the definition of UHF Band I and UHF Band II in Regulation 2 of the 2011 Regulations with a single definition, UHF Bands I and II, for the frequencies between 410 and 470 MHz;
 - 3.8.2 Regulation 4(2) amends the fees for specified aeronautical licence classes to introduce the fourth phase of fee increases;
 - 3.8.3 Regulation 4(3) amends the description of the charging method for Point to Point Fixed Links in the 71.125 to 73.125 GHz and 81.125 to 83.125 GHz bands. The amendment clarifies that the fee applies to a two-way channel;
 - 3.8.4 Regulation 4(4) replaces the fee definition in the Public Wireless Networks (Guernsey), Public Wireless Networks (Jersey) and Public Wireless Networks (Isle of Man) from “£320 for each 2 x 200 kHz channel or slot. £4000 for each 1 x 5 MHz channel or slot. £8000 for each 2 x 5 MHz channel or slot” to “£80 for each 100 kHz channel or slot”;
 - 3.8.5 Regulation 4(5) introduces annual charges of £75 for a High Duty Cycle Network Relay Point licence; and
 - 3.8.6 Regulation 5 amends the table in Schedule 3 Parts 2 and 4 to extend the current Fixed Link fees for the band from 7.42 to 7.9 GHz to the adjacent frequencies less than 8.5 GHz.

Annex 1

Respondents

Joint Radio Company (JRC)