



Notice of proposals to make
the Wireless Telegraphy (Licence
Charges) (Amendment)
Regulations 2013

Consultation

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Contents

Section		Page
1	Executive summary	1
2	Notice	2
3	Licence fee changes	4
4	General effect of the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013	8
Annex		Page
1	Responding to this consultation	9
2	Ofcom's consultation principles	11
3	Consultation response cover sheet	12
4	Consultation question	14
5	Impact Assessment	15
6	Draft Wireless Telegraphy (Licence Charges)(Amendment) Regulations 2013	24

Section 1

Executive summary

- 1.1 This document consults on draft regulations, the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013 (the 'Proposed Regulations'), that would amend the Wireless Telegraphy (Licence Charges) Regulations 2011¹ (the '2011 Regulations'). The Proposed Regulations set out the changes that we propose to make to licence charges (fees) for some classes of wireless telegraphy licence other than those awarded by auction.
- 1.2 The Proposed Regulations will only implement changes on which we have previously consulted and published our decision. Therefore in response to this consultation we are only seeking comments on whether the Proposed Regulations correctly implement Ofcom policy decisions. Unless stated in this document, all other licence charges would remain unchanged from the 2011 Regulations. In summary, the Proposed Regulations would make the following changes:
- implement the second phase of Administrative Incentive Pricing (AIP) for the following aeronautical licences:
 - Aeronautical Station (Air/Ground, Aerodrome Flight Information Service and Tower);
 - Aeronautical Station (Approach);
 - Aeronautical Station (Aeronautical Broadcast);
 - Aeronautical Station (Aircraft Communications Addressing and Reporting System); and
 - Aeronautical Station (Very High Frequency Data Link).
 - increase the level of fees payable for Coastal Station Radio (UK) and for Coastal Station Radio (International) licences, to implement the final phase of AIP for maritime;
 - remove the fees associated with the Analogue television broadcasting licence to reflect the near completion of digital switchover; and
 - set out fees for the new licence product Global Navigation Satellite System (GNSS) Repeaters.
- 1.3 In accordance with the requirements of section 122(4) and (5) of the Wireless Telegraphy Act 2006 (the 'WT Act') this document gives notice of our intention to make the Proposed Regulations. Comments on the Proposed Regulations are invited by **5pm on 2 April 2013**. Subject to consideration of responses we intend to bring the new Regulations into force in May 2013. The Proposed Regulations are included in this document at Annex 6. Further copies may be obtained from www.ofcom.org.uk or from Ofcom at Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

¹ <http://www.legislation.gov.uk/ukxi/2011/1128/made/data.pdf>

Section 2

Notice

Introduction

- 2.1 Ofcom is responsible for authorising civil use of the radio spectrum and achieves 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 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.
- 2.2 The WT Act enables us to recover the cost of managing WT Act licences by prescribing regulations under section 12 but, under section 13, it also permits the use of market mechanisms. For non-auctioned spectrum, the WT Act permits us to use 'Administered Incentive Pricing' (AIP), whereby prices for annual licence fees are set above administrative costs to reflect a range of spectrum management objectives. 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.
- 2.3 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.
- 2.4 This document gives notice of our proposal to make the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013 (the 'Proposed Regulations'). It also sets out the general effect of the Proposed Regulations. A copy of the Proposed Regulations is in Appendix 6 of this document, and further copies may be obtained from www.ofcom.org.uk or from Ofcom at Riverside House, 2a Southwark Bridge Road, London SE1 9HA.
- 2.5 Unless stated in the following sections, all existing licence charges will remain the same. This consultation concerns whether the Proposed Regulations correctly give effect to the policy decisions as published in the statements referred to in this document and to the other intentions set out in this document. We therefore seek responses to this consultation only in that respect and not on the underlying policy decisions we have already made.

Document structure

- 2.6 The document is structured as follows:
- Section 3 contains the proposals for the changes to licence charges;
 - Section 4 sets out the general effects of the Proposed Regulations;
 - Annexes 1 to 3 provide information on our approach to consultation;

- Annex 4 provides a summary of all the consultation questions;
- Annex 5 details the impact assessment of the options considered; and
- Annex 6 has a copy of the Proposed Regulations.

Next steps

- 2.7 Following the publication of this consultation document, stakeholders are invited to provide their feedback on the drafting of the regulations. Those who wish to do so have until 5pm on 2 April 2013 to make representations on our proposal. We expect to release a statement on this consultation by May 2013, having taken responses into account, and to bring the regulations into force in May 2013.

Section 3

Licence fee changes

- 3.1 The following section outlines our proposals to change the 2011 Regulations in relation to fees charged for the following licence products, these are:
- Aeronautical Station (Air/Ground, Aerodrome Flight Information Service and Tower);
 - Aeronautical Station (Approach);
 - Aeronautical Station (Aeronautical Broadcast);
 - Aeronautical Station (Aircraft Communications Addressing and Reporting System);
 - Aeronautical Station (Very High Frequency Data Link);
 - Maritime - Coastal Station Radio (UK);
 - Coastal Station Radio (International);
 - Broadcasting Services (Transmission of National and Regional Analogue Television Broadcasts); and
 - Global Navigation Satellite System (GNSS) Repeaters.

Aeronautical station licences

- 3.2 In 2012 we introduced AIP-based fees for a variety of aeronautical licence classes. We set out the full rate for the licence fees in our statement “Bespoke licence fees for aeronautical VHF communications frequencies”² published on 7 June 2011.
- 3.3 As set out in paragraph 4.19 of that statement, the full AIP-rate for these services will be phased in over a period of five years. The AIP fees for aeronautical licences are subject to a maximum cap specific to each licence class and this cap will be progressively increased until 2016. The Proposed Regulations will implement the second year phased increase. The changes to the caps for various licence products are set out in Table 1.

² http://stakeholders.ofcom.org.uk/binaries/consultations/bespoke-fees-aeronautical/statement/8197_statement.pdf

Table 1: 2013 Change in the maximum level of bespoke fees for aeronautical licences.

Licence class	Channel	2012/13	2013/14
Aeronautical Station (Air/Ground, AFIS & Tower)	8.33 kHz	£100	£150
	25 kHz	£350	£500
Aeronautical Station (Approach)	8.33 kHz	£300	£650
	25 kHz	£1000	£2000
Aeronautical Station (Aeronautical Broadcast)	8.33 kHz	£300	£650
	25 kHz	£1000	£2000
Aeronautical Station (ACARS)	8.33 kHz	£300	£650
	25 kHz	£1000	£2000
Aeronautical Station (VDL)	25 kHz	£1000	£2000
	50 kHz	£2000	£4000

Maritime licence classes

- 3.4 In August 2009 Ofcom published the consultation document “Applying spectrum pricing to the maritime sector, and new arrangements for the management of spectrum used for radar and aeronautical navigation aids” (the ‘2009 Maritime consultation’)³. The 2009 Maritime consultation laid out detailed proposals in respect of licence charges for maritime VHF communications channels and the revised proposals for spectrum used with radar and aeronautical navigation aids. We set out in Section 5 of the 2009 Maritime consultation our reasons for proposing changes to the charges for certain maritime VHF communications channels. In sections 6 and 7 we outlined our assessment and proposed conclusions about the different ways to set charges. In the subsequent statement published on 15 June 2010 (the ‘Maritime statement’)⁴ we decided to proceed with our proposals. The 2011 Regulations implemented this decision.
- 3.5 In the Maritime statement we advised that we were to phase in the full AIP rate for some Coastal Station Radio (UK) and Coastal Station Radio (International) licences over three years. The proposals set out in paragraphs 3.6 and 3.7 of this document implement the final instalment of the fee changes.

Coastal Station Radio (UK)

- 3.6 Paragraphs 4.21 to 4.25 of the Maritime statement explained the charging regime for technically assigned Coastal Station Radio (UK) licences as also set out in Figure 4 of that document. A phased increase will only apply this year, in this licence class, to spectrum use in a high population area and with a large coverage area (an increase from £127.50 to £185 per 6.25 kHz channel). Table 2 below demonstrates how this is described in the Proposed Regulations alongside the other unchanged fees for this licence class.

³ http://stakeholders.ofcom.org.uk/binaries/consultations/aip_maritime/summary/aipcondoc.pdf

⁴ http://stakeholders.ofcom.org.uk/binaries/consultations/aip_maritime/statement/statement.pdf

Table 2: 2013 Coastal Station Radio (UK) licence charges for a 6.25 kHz channel

Geographic Area	Large coverage (Watts erp (P) and Antenna metres (A)) P > 5 and A > 10 or P ≤ 5 and A > 30	Medium coverage (Watts erp and (P) Antenna metres (A)) P ≤ 5 and 10 < A ≤ 30 or P > 5 and A ≤ 10	Small Coverage (Watts erp (P) and Antenna metres (A)) P ≤ 5 and A ≤ 10
High population	£185	£92.50	£25
Medium population	£62.50	£42.50	£21.25
Low population	£22.50	£20	£18.75

Coastal Station Radio (International)

3.7 Paragraphs 4.13 to 4.20 of the Maritime statement set out the new charging regime for technically assigned Coastal Station Radio (International) licences. As shown in Figure 2 of the Maritime statement, the licence fees for Heavy Congestion areas are to increase over three years for each 6.25 kHz channel. The Proposed Regulations will introduce the final phase of these fee changes. Table 3 demonstrates the licence charges after the Proposed Regulations have come into force. The changes only affect those licensees operating in a High Congestion Area. The cost of a large coverage area will change from £87.50 to £125 per 6.25 kHz channel and a medium coverage area will increase from £75 to £100.

Table 3: 2013 fees for Coastal Station Radio (International) fee calculation per 6.25 kHz channel

Geographic Area	Large Coverage area (Watts erp (P) and Antenna metres (A)) P ≥ 24 and A ≥ 10 P ≥ 10 and A ≥ 20 P ≥ 5 and A ≥ 30	Medium Coverage area (Watts erp (P) and Antenna metres (A)) P > 10 and A < 10 7 < P < 24 and 5 < A < 20 3 < P < 10 and 10 < A < 30 1.5 < P < 5 and A > 20 P < 5 and A > 30	Small Coverage area (Watts erp (P) and Antenna metres (A)) P ≤ 10 and A ≤ 5 P ≤ 7 and A ≤ 10 P ≤ 3 and A ≤ 20 P ≤ 1.5 and A ≤ 30
High congestion area	£125	£100	£75
Medium congestion area	£50	£37.50	£31.25
Low congestion area	£25	£18.75	£18.75
Non- congested area	£18.75	£18.75	£18.75

Implementation of fee changes

3.8 In line with the original dates on which the phasing of fee increases began, the fee changes outlined will be implemented in May 2013 except for aeronautical licences where the new fees take effect in June 2013. To provide for this the Proposed Regulations may be amended.

Broadcasting Services (Transmission of National and Regional Analogue Television Broadcasts)

3.9 In October 2007, the UK began the migration from analogue to digital broadcasting of television services as part of Digital Switchover (DSO). The migration is happening one television region at a time and the process is due to end in March 2013.

- 3.10 Following the conclusion of DSO, we will no longer need to devote any time or resources to planning or protecting UK analogue television transmissions, although there may be some administrative work required right at the end. So by the end of March 2013, provided DSO goes to schedule, the costs to be recovered should be zero, or very close to zero. Therefore, beginning in 2009 we decided to reduce the licence cost associated with these two licences classes as each area switches off their analogue network.
- 3.11 As DSO is now almost complete we are to remove the two Broadcasting Services (Transmission of National and Regional Analogue Television Broadcasts) licence classes from the 2011 Regulations.

Global Navigation Satellite System (GNSS) Repeaters.

- 3.12 In March 2012 we published a consultation “Authorisation regime for GNSS repeaters 1164 to 1215 MHz, 1215 to 1300 MHz and 1559 to 1610 MHz”⁵. This set out proposals to licence GNSS repeaters in the UK. Following the consultation on 20 June 2012 we published “Statement on Authorisation regime for GNSS repeaters”⁶. This advised that we were going ahead with our proposals and that we would charge a one-off fee of £75 for each licence that we issue. The Proposed Regulations will introduce this new licence product and fee into the 2011 Regulations.

⁵ <http://stakeholders.ofcom.org.uk/binaries/consultations/gnss-repeaters/summary/condoc.pdf>

⁶ <http://stakeholders.ofcom.org.uk/binaries/consultations/gnss-repeaters/statement/statement.pdf>

Section 4

General effect of the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013

The legislative framework

- 4.1 Ofcom can charge for the granting of wireless telegraphy licences, other than those awarded by auction, by making Regulations under section 12 of the WT Act. By virtue of section 13 of that Act we can use AIP to set those charges: setting licence fees above administrative costs to reflect a range of spectrum management objectives. Doing so discharges a range of duties under section 3 of the WT Act which require us to efficiently manage the radio spectrum.
- 4.2 We intend to make the Proposed Regulations, under section 12, to set the relevant charges. The Proposed Regulations would implement the changes to charges as proposed in this document.
- 4.3 The 2011 Regulations would be amended by the Proposed Regulations. A draft of the Proposed Regulations is included in Annex 6 of this document.

Extent of application

- 4.4 The Proposed Regulations would apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal agreement of the Island Authorities.

The Proposed Regulations

- 4.5 A draft of the Proposed Regulations is set out in Annex 6.
- 4.6 Regulation 3 sets out the changes to Schedule 2 of the 2011 Regulations;
 - 4.6.1 (2)(a) to (e) amends the aeronautical licence classes introducing the second phased increase of fees;
 - 4.6.2 2(f) removes the two Broadcasting Services (Transmission of National and Regional Analogue Television Broadcasts) from the 2011 Regulations; and
 - 4.6.3 (3) introduces the new GNSS Repeater licence product.
- 4.7 Regulation 4 amends Schedule 9 to introduce the final increase in fees for the Coastal Station Radio (International) licence product.
- 4.8 Regulation 5 amends Schedule 13 to introduce the final increase in fees for the Coastal Station Radio (UK) licence product.

Question 1) We would welcome any comments on the drafting of the Proposed Regulations, and in particular whether they give effect to what Ofcom intends (as outlined in this document).

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 2 April 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeolders.ofcom.org.uk/consultations/licence-charges>, 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 Paul.Chapman@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Paul Chapman
Spectrum Policy 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 questions asked in this document, which are listed together 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 Paul Chapman on 020 7981 3069.

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, 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/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in April 2013.
- 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/static/subscribe/select_list.htm

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 . 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

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.
- 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 www.ofcom.org.uk/consult/.
- 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 Name/contact details/job title

Whole response Organisation

Part of the response If there is no separate annex, which parts?

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

DECLARATION

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

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

Name

Signed (if hard copy)

Annex 4

Consultation question

- A4.1 As required by Section 122 of the Wireless Telegraphy Act 2006, we must give notice of proposals that we intend to make and consider any representations that we receive. This document gives notice of our proposal to make the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013.

Question 1) We would welcome any comments on the drafting of the Proposed Regulations, and in particular whether they give effect to what Ofcom intends (as outlined in this document).

Annex 5

Impact Assessment

Introduction

- A5.1 The analysis in this annex, together with that elsewhere in this document and set out more fully in the consultation documents and statements referred to below (and elsewhere in this document), is an impact assessment relating to the draft Wireless Telegraphy (Licence charges) (Amendment) Regulations 2013 (the 'Proposed Regulations'). Impact assessments are defined in section 7 of the Communications Act 2003 (the '2003 Act'). As the impact of the policy decisions that would be implemented by the Proposed Regulations has already been assessed in the other documents referred to, a separate impact assessment for the Proposed Regulations may not strictly be necessary. We nevertheless include this annex, which summarises the earlier, fuller assessments, as a matter of good practice.
- A5.2 You should send any comments on this impact assessment to us by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- A5.3 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the 2003 Act, which means that generally we have to carry out impact assessments where our 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. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom's approach to impact assessment, which are on our website: http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf.
- A5.4 This impact assessment relates to our proposal to update the regulations that prescribe charges for wireless telegraphy licences. We are proposing new regulations – the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013 (the 'Proposed Regulations') – that would amend the current legislation: The Wireless Telegraphy (Licence Charges) Regulations 2011 (SI 2011/1128) (the '2011 Regulations'). The Proposed Regulations would maintain a number of the charges prescribed by the 2011 Regulations, but would also create charges for a new licence class and change some existing charges, some on the basis of AIP.

The citizen and/or consumer interest

- A5.5 Our principal duty under section 3 of the 2003 Act is to further the interests of citizens in relation to communications matters; and of consumers in relevant markets, where appropriate by promoting competition. We take account of the impact of our decisions upon both citizen and consumer interests in the markets we regulate. We must, in particular, secure the optimal use for wireless telegraphy of spectrum and have regard to the principle under which all regulatory activities should be targeted only at cases in which action is needed. In proposing changes we have considered the wider impact beyond immediate stakeholders in the radiocommunications community.

A5.6 We believe that the proposals will be of benefit to consumers as the continued use of Administered Incentive Pricing (AIP), in the circumstances where we have decided to apply AIP, will encourage more efficient use of the radio spectrum. This will enable consumers to continue to benefit from advances in technology and the new services they may offer.

Ofcom's policy objective

A5.7 We have a number of duties under section 3 of the Wireless Telegraphy Act 2006 (the 'WT Act'). These include having regard when carrying out our radio spectrum functions to:

- i) the extent that spectrum is available for use; and
- ii) the desirability of promoting the efficient management and use of the spectrum for wireless telegraphy.

A5.8 Under section 12 of the WT Act Ofcom may prescribe in regulations the sums payable in respect of wireless telegraphy licences other than those awarded by auction. This power enables us to recover the cost of administering and managing WT Act licences. However, section 13 of the WT Act permits us to recover sums greater than those we incur in performing our spectrum management functions (this is termed AIP), to reflect a range of spectrum management objectives. In particular, in order to provide incentives for licensees to use their spectrum more efficiently. This goes to discharging our duties under section 3 of the WT Act.

Options considered

A5.9 The options open to Ofcom in relation to the fees charged for WT Act licences generally fall into the following categories and would have been considered when the policy proposals was undertaken:

- i) not to charge for WT Act licences;
- ii) to charge cost recovery prices for wireless telegraphy licences;
- iii) to charge the full rate of AIP; or
- iv) a mixture of these options.

A5.10 However, having made the relevant policy decisions in other documents referred to (most notably, the Aeronautical AIP consultation documents and statements), the principal options open to us in connection with the Proposed Regulations are:

- i) to make regulations (the Proposed Regulations) that introduce new fees for certain licence class and change others; or
- ii) to do nothing (not making the Proposed Regulations and maintaining the fees in the 2011 Regulations).

Analysis of options

A5.11 The following assesses the impact of options open to Ofcom by reference to the principal changes that would be made by the Proposed Regulations.

Make new regulations

Aeronautical licence classes

- A5.12 The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2012 implemented the first phase of a five year programme of fees changes designed to improve the efficient use of radio spectrum. The Proposed Regulations would implement the second phase increase.
- A5.13 A full analysis of the options for the proposed fees for aeronautical services, and their impact, was set out in our documents “Applying spectrum pricing to the Aeronautical sector, a second consultation”⁷ (the ‘December 2009 consultation’) published December 2009, “Fees for aeronautical radio licences, a statement”⁸ published December 2010 (the ‘December 2010 statement’), “Bespoke licence fees for aeronautical VHF communications frequencies, a further consultation”⁹ published on March 2011 (the ‘March 2011 consultation’) and “Bespoke licence fees for aeronautical VHF communications frequencies, a statement”¹⁰ (the ‘June 2011 Statement’).

The benefits of AIP based fees for certain aeronautical licence classes.

- A5.14 Where the supply of spectrum is sufficient to meet demand, without recourse to prescriptive command and control of assignments, there is little to be gained in efficiency terms from setting fees other than to recover some or all of our relevant administrative costs. However, where there is excess demand for spectrum, we believe the cost to others and to the wider UK economy should be recognised by the current users so that they can make appropriate decisions. AIP based licence fees are intended to achieve this outcome.
- A5.15 There is excess demand for these frequencies from within the aeronautical sector and it is often very difficult to meet new requests for aeronautical VHF frequencies required by aerodromes and air traffic controllers. Europe is reviewing a number of measures to alleviate VHF congestion, including an extension of the use of narrower 8.33 kHz channels at additional flight levels. However, in our view it is too early to conclude that these measures will result in additional capacity such that use of aeronautical frequencies no longer has an associated opportunity cost.
- A5.16 We recognise that there are operational and regulatory constraints on the ability of spectrum users to respond to fees by using spectrum more efficiently in the short term. However, we consider that do have scope to respond in the long term, even if a change of spectrum use necessitates significant changes to the way operations are conducted or changes to the services provided in some cases.
- A5.17 There is also potential excess demand from other sectors of the economy which face shortages of spectrum which could be overcome if spectrum currently used by the aeronautical sector was made available to them. We recognise that it is not feasible to use aeronautical VHF communications frequencies for other applications today as this is likely to cause unacceptable interference with the current

⁷ http://stakeholders.ofcom.org.uk/binaries/consultations/spectrum_pricing/summary/aip2.pdf

⁸ http://stakeholders.ofcom.org.uk/binaries/consultations/spectrum_pricing/statement/statement.pdf

⁹ <http://stakeholders.ofcom.org.uk/binaries/consultations/bespoke-fees-aeronautical/summary/condoc.pdf>

¹⁰ <http://stakeholders.ofcom.org.uk/binaries/consultations/bespoke-fees-aeronautical/statement/statement.pdf>

applications, in contravention of the UK's obligations under international treaties. Whether this situation might change in future, and in what timeframe, is unclear. In determining the appropriate level of fees, therefore, no account has been taken of potential use of these frequencies by other sectors of the UK economy.

- A5.18 In conclusion, we consider that licence fees based on opportunity costs will help manage excess demand for these frequencies, and promote efficiency improvements where possible, making it more likely that those who provide spectrum dependent services which are highly valued by UK citizens and consumers will have access to the frequencies which they need to deliver those services. We conclude that this will generate net benefits for UK citizens and consumers.
- A5.19 Where frequencies are used on a "commons" basis, often for safety of life purposes, Ofcom has decided to apply zero rated fees (e.g. SafetyCom, international distress and Fire frequencies).
- A5.20 We intend to phase-in fee increases to mitigate the transitional financial impacts that specific licensees may experience. This should reduce risks of inefficient responses to the new fees, including from smaller organisations which may be proportionately affected. A phased introduction of fees will enable us to identify the impacts of incremental changes for particular operators prior to full fees applying. By gradually introducing fees over time, this will ensure that Ofcom can respond quickly, as and when appropriate, during this period.
- A5.21 Our analysis explicitly recognised the critical importance of safety in the aeronautical sector and the relevant duties of the Civil Aviation Authority (CAA) as safety regulator. Where services which are provided using spectrum support the provision of public goods, the appropriate policy interventions to maximise such social value, or minimise social disbenefits, take the form of targeted subsidies and taxes for the outputs concerned, or direct regulation, rather than subsidies for the required inputs (including spectrum). The CAA has confirmed that it has adequate powers to respond to any safety concerns arising from Ofcom's proposals to apply AIP to the aeronautical sector, and that the adequacy of VHF communications provision will be subject to safety regulation by the CAA using appropriate regulatory instruments taking into account safety justification provided by the service providers via, for example, safety cases.

The incremental benefits of bespoke pricing compared with generic pricing

- A5.22 The objective of applying bespoke pricing, instead of generic pricing, to some types of aeronautical radio licences, is to provide more effective incentives for licensees to use spectrum efficiently. The more closely charges reflect opportunity costs, the larger the gains from more efficient usage are likely to be. Generic fees will cause spectrum users to review the volume of each assignment type that they require, potentially releasing frequencies for other aeronautical users who place a higher value on that resource. However bespoke fees which vary according to the geographic impact of different assignments can provide additional incentives for licensees to consider using the minimum Designated Operational Coverage (DOC) consistent with their operational and regulatory requirements, thereby potentially releasing spectrum for other aeronautical users, and making it easier over time for the CAA to accommodate current and future demand for assignments.
- A5.23 Bespoke pricing may also have the advantage over generic pricing in so far as it may help to ensure that some users may decide to continue using spectrum which,

otherwise, at generic prices, they would have given up, rationally (in response to the price set) but inefficiently (in relation to the value they derive from the use).

- A5.24 We recognise that bespoke pricing may be more complex and costly to administer than generic pricing. We forecast that most of the additional costs will take the form of one-off up-front costs incurred in implementing the IS system needed to calculate bespoke fees. We estimate that the ongoing costs of generic and bespoke pricing will be similar as licence records would need to be maintained and invoices generated under either arrangement.
- A5.25 In the light of this analysis, we concluded that the cost of implementing and operating bespoke pricing for some licence classes is outweighed by the benefits in terms of more efficient use of scarce frequencies.

Impacts on different types of stakeholders

- A5.26 As set out in the December 2010 and June 2011 statements, we took care to review the distribution of financial impacts of the fee changes on different types of licensees. The impact of imposing AIP based licence fees for VHF on aviation users will fall on a wide variety of users. The impact on the industry as a whole will be an increase of about £3.5m per year at the end of the five years during which increases will be phased in. (The precise amount will depend on how licensees respond to pricing signals).
- A5.27 The largest individual financial impact falls on NATS En-Route plc (NERL) the regulated UK air navigation service provider. The total extra costs amount to 0.24% of NERL's regulated cost base. We understand that, although there may be intervening cash consequences, these costs are likely to be passed through to airlines under the next regulatory price review.
- A5.28 At the large airports where charges are regulated by the CAA, AIP charges are also unlikely to be able to be passed through in the short term so the airports affected will experience a cash impact in the relevant intervening periods before costs are potentially passed onto airlines. However, particularly in the light of our phasing proposals, such cash impacts are likely to amount to only a fraction of a penny per passenger movement. The larger commercial competitive airports will also face AIP charges amounting to a relatively small proportion of their aeronautical revenue which (because the proposed licence fees are industry-wide) are likely to be passed on to users. Charges amount to no more than a few pence per passenger movement at such airports.
- A5.29 The impact on smaller airports becomes proportionately larger, although at typically around 6p per passenger, in the more extreme cases, these impacts are small both in absolute terms and relative to overall costs in the aviation value chain. Furthermore, phasing will mitigate significantly any specific transitional issues.
- A5.30 Other impacts fall on a wide range of different types of licensee including airlines, aeronautical clubs, flying schools, private individuals, oil companies operating offshore installations, and research establishments. In our analysis of impacts we assumed that the great majority of licensees holding Air/Ground and Aerodrome Flight Information Service assignments which would attract a bespoke fee of £3350 will opt to reduce their DOC and reduce the fee to £650. We confirm that if, in practice, a substantial proportion of these licensees are unable to reduce their fees liability in this way, we will consult on implementing additional transitional arrangements before bespoke fees would otherwise exceed the equivalent generic

fee of £2600 set out in the December 2010 statement but superseded by the bespoke fees algorithm set out in the June 2011 statement. We will consult with stakeholders if less than half of these assignments have had their DOC reduced in this way by May 2015.

- A5.31 Small aerodromes will typically see annual cost increases of 20p/movement or less (assuming a fee of £2600 payable for a DOC greater than 10nm radius and 3000ft service height). We note that per movement charges for sampled non-reporting aerodromes are low when compared to the cost of renting a small single engine craft (i.e. £80-£130 per hour before additional fees including fuel, landing fees, and parking). Furthermore, the same charges are very low when compared against the variable per hour operating cost of a business jet (e.g. between £526 and £5,482 total cost per hour). We also note that many small aerodromes may choose to operate with a more localised DOC which will attract an annual fee of £650 instead of £2600.
- A5.32 We are proposing to phase-in fee increases to mitigate the transitional financial impacts that specific licensees may experience. We have concluded that we should implement a phasing scheme where fee increases are relatively small in the early years and proportionately greater in the later years. We have concluded that this is appropriate because it will be in the early years that uncertainty about scope to respond in a manner consistent with safe and efficient operation will be greatest. Our proposals are intended to reduce the risk of inefficient responses to the new fees, including from the smaller organisations which are proportionately more affected. We consider our proposals will enable us to identify the impacts of incremental changes for these operators prior to full fees applying. By gradually introducing fees, we will ensure that Ofcom can respond quickly, as and when appropriate, during this period.

Broadcasting

- A5.33 The holders of the two Broadcasting (Transmission of National and Regional Analogue Television Broadcast), the BBC and ITN, would see their fees removed. This would mean a reduction of £44,944 for the BBC and £52,791 for ITN. This represents a 100 percent decrease in licence charges.

Maritime licence classes

- A5.34 A full analysis of the options for the proposed fees for maritime licensing, and their impact, was set out in section 4 of our document “Applying spectrum pricing to the maritime sector, and new arrangements for the management of spectrum used with radar and aeronautical navigation aids” statement published on 15 June 2010¹¹.
- A5.35 The assessment was that:
- 5.35.1 We consider our proposals will benefit citizens and consumers by helping to manage excess demand, potentially leading to release of spectrum for other users.
 - 5.35.2 We consider the proposal to apply AIP licence fees to the use of spectrum in the maritime sector is consistent with our duties and functions under the 2003 Act, since we have a general duty to promote the “efficient use and management of the electro-magnetic spectrum for wireless telegraphy”.

¹¹ http://stakeholders.ofcom.org.uk/binaries/consultations/aip_maritime/statement/statement.pdf

- 5.35.3 We consider that fees based on opportunity costs are likely to generate higher welfare benefits for consumer and producers overall where there is excess demand in current or alternative uses. In cases where there is no excess demand in either current or feasible alternative use, we proposed administrative (cost-recovery) fees. Where frequencies are used on a private commons basis, often for safety of life purposes, we proposed zero rated fees for end users (e.g. international calling and distress channels and channels used for co-ordinated search and rescue).
- 5.35.4 We identified the distribution of financial impacts of these detailed fees structures on different types of licensees. We commissioned independent consultants Helios Technology Ltd to make a detailed assessment of the relevant fees impacts on individual licensees. Consequently it was estimated that 33% of licensees would see overall decreases, 40 % (mainly those using the marina channels) will see no overall change, and 26% will see overall increases. Although some licensees have surrendered their licences and others have been granted new licences since the dataset used for the analysis set out in August 2009 was compiled, these proportions have not changed materially and are now 30%, 44% and 25% respectively (these figures do not quite add up to 100% as data was rounded to nearest whole number). Of those facing overall increases, we estimated that half will see overall increases of not more than £400 per year, and this remains the case with the current population of licences.
- 5.35.5 Ofcom considered specific phasing-in options for detailed fees structures (see paragraphs 7.103 to 7.109 of the August 2009 consultation) aimed at mitigating the transitional financial impacts that specific licensees may experience. Our proposals were aimed at reducing risks of inefficient responses to the new fees, even from the smaller organisations which are proportionately more affected.

Global Navigation Satellite System (GNSS) repeaters

- A5.36 The Proposed Regulations would set out the fees for GNSS repeater licences in the UK. This follows on from our decision “Statement on Authorisation regime for GNSS repeaters”¹² published on 20 June 2012. In our March 2012 we published a consultation “Authorisation regime for GNSS repeaters 1164-1215 MHz, 1215-1300 MHz and 1559-1610 MHz”¹³. This set out proposals to licence GNSS repeaters in the UK in a way which would minimise the regulatory burden and cost for stakeholders, and resource to implement the process by Ofcom. Therefore we proposed the use of a simple site licence, with one licensed address having one or more GNSS repeater installations listed on it. The fee would be £75 for a tradable lifetime licence.
- A5.37 Many consumer and industry products contain GNSS receivers used for positioning and timing applications. GNSS receivers are found in the majority of mobile smart phones and a range of transport, including aircraft and ships. Location reports from GNSS receivers can be used for managing vehicle and personnel resources. They are used by the emergency services, in the military, in agriculture, and civil engineering. GNSS repeaters can provide continuity of GNSS signals in areas of low or no coverage (e.g. inside buildings). This can assist with operational efficiency

¹² <http://stakeholders.ofcom.org.uk/binaries/consultations/gnss-repeaters/statement/statement.pdf>

¹³ <http://stakeholders.ofcom.org.uk/binaries/consultations/gnss-repeaters/summary/condoc.pdf>

and resource management in a number of areas including product testing, transportation, logistics and emergency response.

Cost to Ofcom

A5.38 There are one-off administrative costs associated with making a Statutory Instrument and making the necessary adjustment to the systems that support our licensing process. We consider the implementation costs to be low and offset by the benefits. There may be a slight reduction in spectrum management costs in certain areas.

Do nothing

A5.39 The main alternative amongst the specific options open to us would be to do nothing. By doing nothing, we mean not making the Proposed Regulations and maintaining the fees in the 2011 Regulations for all relevant licence classes. This would mean that we would not be implementing policy changes that Ofcom had previously consulted and decided upon and in relation to which we had published statements.

Aeronautical licence classes

A5.40 If we did not adopt new fees regulations, the sector would not be subject to an overall increase of around £3.5m in licence charges (based on the full rate of AIP applicable after 5 years). A significant proportion of the proposed increase would fall on NATS En-Route plc (NERL), the regulated UK air navigation service provider. This additional cost would likely to be passed onto airlines under the next regulatory price review.

A5.41 There is excess demand from within the aeronautical sector. It is often very difficult to meet new requests for aeronautical VHF communications frequencies required by aerodromes and air traffic controllers. Failure to implement the Proposed Regulations would mean that the issue of spectrum scarcity continues to not be addressed.

A5.42 The decision Ofcom had made to adopt AIP for certain classes of Aeronautical licence was consistent with Ofcom's duties under sections 3 of the 2003 and WT Acts. Not giving effect to that decision by adopting the Proposed Regulations risks continued inefficient use of spectrum that would be inconsistent of our duties set out in sections 3 of those Acts.

Broadcasting

A5.43 Licensees would not benefit from an overall reduction in licence charges of £97,735 to take into account the completion of switchover from analogue to digital television.

Maritime

A5.44 If we do not make the Proposed Regulations, the 25% of Maritime licensees who are likely to incur increased fees would not be affected by an increase in fees.

A5.45 The decision Ofcom had made to adopt AIP for certain classes of Maritime licence was consistent with Ofcom's duties under sections 3 of the 2003 and WT Acts. Not giving effect to that decision by making the Proposed Regulations would risk

continued inefficient use of spectrum that would be inconsistent of our duties set out in sections 3 of those Acts.

Global Navigation Satellite System (GNSS) repeaters

- 4.9 Without the Proposed Regulations we could not go ahead and issue GNSS repeater licences in the UK. This would deny the benefits that these systems can bring to citizens, consumers and industry.

Preferred option

- A5.46 Our preferred option is to implement the Proposed Regulations in order to continue to meet our spectrum management duties. Although they are difficult to quantify, we believe, for the reasons set out in more detail in the assessments referred to above, that these benefits are likely to exceed the costs to stakeholders of the increases in fees that will apply in some cases. Moreover, if we did not update our spectrum fees – for example, to reflect the value of the spectrum in appropriate cases and reflect administrative costs in others - it might harm the efficient use of spectrum. We would not be acting consistently with our wider spectrum management duties, which would have repercussions in terms of economic efficiency.

Equality Impact Assessment

- A5.47 Following an initial assessment of our policy proposals we consider that it is reasonable to assume that any impacts on consumers and citizens arising from the Proposed Regulations would not differ significantly between groups or classes of UK consumers and citizens, all of whom would have access to these services, potentially at end-user prices reflective of all general input costs, including opportunity costs of spectrum used.
- A5.48 In addition, we note that there is no available evidence to suggest the decision to apply the further phases of AIP charging would have a significantly greater direct financial impact on groups including based on gender, race or disability or for consumers in Northern Ireland relative to consumers in general. We do not consider that there is evidence to suggest that costs imposed on operators, would differ significantly by these aforementioned groups of consumers and citizens relative to consumers in general. This is because one would not expect the impact of supplying these consumers and citizens to differ significantly between these groups and consumers in general. Nor would cost reflective end-user prices therefore be expected to impact significantly differently on these groups as a result of charging for WT Act licences.
- A5.49 We have not carried out a full Equality Impact Assessment in relation to race equality or equality schemes under the Northern Ireland and disability equality schemes at this stage. This is because we are not aware that the proposals being considered here are intended (or would, in practice) have a significant differential impact on different gender or racial groups, on consumers in Northern Ireland or on disabled consumers compared to consumers in general.

Annex 6

Draft Wireless Telegraphy (Licence Charges)(Amendment) Regulations 2013

STATUTORY INSTRUMENTS

2013 No.

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013

Made - - - - - 2013

Coming into force - - - - - 2013

The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred by sections 12, 13(2) and 122(7) of the Wireless Telegraphy Act 2006⁽¹⁴⁾ (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) of the Act.

Citation and commencement

1. These Regulations may be cited as the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013 and shall come into force on [].

Amendment of the Wireless Telegraphy (Licence Charges) Regulations 2011

2. The Wireless Telegraphy (Licence Charges) Regulations 2011⁽¹⁵⁾ (“the principal Regulations”) shall be amended in accordance with the following provisions of these Regulations.

Amendment of Schedule 2

3.—(1) Schedule 2 to the principal Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) Under the heading “**Aeronautical**”—

(a) in relation to the licence class “Aeronautical Station (Aeronautical Broadcast)” —

(i) for “£300, the sum payable is £300” substitute “£600, the sum payable is £600”; and

⁽¹⁴⁾ 2006 c. 36.

⁽¹⁵⁾ S.I. 2011/1128.

- (ii) for “exceeds £1,000, the sum payable is £1,000” substitute “£2,000, the sum payable is £2,000”.
 - (b) in relation to the licence class “Aeronautical Station (Aircraft Communications Addressing and Reporting System)”—
 - (i) for “£300, the sum payable is £300” substitute “£650, the sum payable is £650”; and
 - (ii) for “exceeds £1,000, the sum payable is £1,000” substitute “£2,000, the sum payable is £2,000”.
 - (c) in relation to the licence class “Aeronautical Station (Air/Ground, Aerodrome Flight Information Service and Tower)”—
 - (i) for “exceeds £100, the sum payable is £100” substitute “exceeds £150, the sum payable is £150”; and
 - (ii) for “exceeds £350, the sum payable is £350” substitute “exceeds £500, the sum payable is £500”;
 - (d) in relation to the licence class “Aeronautical Station (Approach)”—
 - (i) for “exceeds £300, the sum payable is £300” substitute “exceeds £650, the sum payable is £650”; and
 - (ii) for “exceeds £1,000, the sum payable is £1,000” substitute “exceeds £2,000, the sum payable is £2,000”;
 - (e) in relation to the licence class “Aeronautical Station (Very High Frequency Data Link)”—
 - (i) for “exceeds £1,000, the sum payable is £1,000” substitute “exceeds £2,000, the sum payable is £2,000”; and
 - (ii) for “exceeds £2,000, the sum payable is £2,000” substitute “exceeds £4,000, the sum payable is £4,000”;
 - (f) delete the entries for “Broadcasting Services (Transmission of National and Regional)”, “Analogue Television Broadcasts - BBC”, Broadcasting Services (Transmission of National and Regional Analogue Television Broadcasts- Independent Television Networks)”;
- (3) Under the heading “**Satellite**” before the entry for “Satellite (Earth Station Network)” add the following entry—

Global Navigation Satellite System (ENSS) Repeaters	£75		
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Amendment of Schedule 9

- 4.—(1) In the table in Schedule 9 to the principal Regulations—
- (a) for “£75” where it appears in column 3, substitute “£100”; and
 - (b) for “£87.50” substitute “£125”.

Amendment of Schedule 13

- 5.—(1) In the table in Schedule 9 to the principal Regulations for “£127.50” substitute “£185”.

