



Decision to make the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013

Statement

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Section 1

Summary

- 1.1 This statement presents our decision of 18 April 2013 to make the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013 (the 'Regulations'). It addresses the issues raised by stakeholders in response to our Statutory Notice entitled "Notice of proposals to make the Wireless Telegraphy (Licence charges) (Amendment) Regulations 2013"¹ (the 'Notice'), which we published on 1 March 2013.
- 1.2 The Regulations set out the licence charges (fees) for some classes of wireless telegraphy licences issued by Ofcom under the Wireless Telegraphy Act 2006 (the 'WT Act'), other than those awarded by auction. The Regulations will come into force on 3 May 2013 and amend the Wireless Telegraphy (Licence Charges) Regulations 2011² (the '2011 Regulations').
- 1.3 The Regulations make changes to fees for certain aeronautical and maritime licence classes that implement Ofcom's decision to introduce 'Administered Incentive Pricing' (AIP) to these sectors. AIP prices for annual licence fees are set at a level that reflect a range of spectrum management objectives. All of these changes reflect Ofcom policy decisions made following earlier consultations, in accordance with our published consultation principles.
- 1.4 Unless stated in this document, all other fees remain unchanged from the 2011 Regulations. In summary, the Regulations make the following changes:
 - implement the second phase of AIP for the following aeronautical licences (please note that these licences will not be issued in relation to stations in Jersey, Guernsey and Isle of Man):
 - Aeronautical Station (Air/Ground, Aerodrome Flight Information Service and Tower);
 - Aeronautical Station (Approach);
 - Aeronautical Station (Area Control);
 - Aeronautical Station (Aeronautical Broadcast);
 - Aeronautical Station (Aircraft Communications Addressing and Reporting System); and
 - Aeronautical Station (Very High Frequency Data Link).
 - implement the final phase of AIP for maritime by increasing the level of fees payable for Coastal Station Radio (UK) and for Coastal Station Radio (International) licences;
 - remove the fees associated with the Analogue television broadcasting licences to reflect the near completion of digital switchover (DSO);

¹ <http://stakeholders.ofcom.org.uk/consultations/licence-charges/?a=0>

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

- describes the fees for Public Safety Radio in the Isle of Man and Channel Islands; and
- set out fees for the new licence product Global Navigation Satellite System (GNSS) Repeaters.

- 1.5 Before deciding to make the Regulations, in accordance with the requirements of section 122(4) of the WT Act, on 9 April 2013 we published the Notice³ 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.
- 1.6 We received one non-confidential response to the Notice. In accordance with section 122(4)(c) of the WT Act, we have considered this response. 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 through the National Archives⁴.

³ <http://stakeholders.ofcom.org.uk/consultations/licence-charges/>

⁴ A link to the online version can be found at <http://www.legislation.gov.uk/>

Section 2

Background

Introduction

- 2.1 The Wireless Telegraphy Act 2006 (the “WT Act”) Act gives Ofcom the power to set fees. 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 that WT Act permits us in prescribing those fees to use ‘Administered Incentive Pricing’ (AIP), whereby prices for annual licence fees are set above administrative costs to reflect a range of spectrum management objectives⁵. 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, must set out their general effect, say 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 1 March 2013. The Notice included a copy of the Proposed Regulations. The Notice gave any person or party who wished to do so until 02 April 2013 to make representations.
- 2.5 The Notice put forward the following changes to WT Act licence fees:
- amendment of the current charges for the following licence classes:
 - 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);

⁵ Section 13(2) says, “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.”

- Implementation of the final phase of AIP for maritime by increasing the level of fees payable for Coastal Station Radio (UK) and for Coastal Station Radio (International) licences;
- Removal of the fees associated with the Analogue television broadcasting licence to reflect the near completion of digital switchover (DSO); and
- Setting of the fees for the new licence product Global Navigation Satellite System (GNSS) Repeaters.

2.6 We received one response to the Notice and this is detailed in the next section of this document.

Section 3

Scope of Regulations

Introduction

- 3.1 This section outlines the comments that we received to the Notice and our response to these. We also outline some further amendments that have been made and describe the final scope of the Regulations.
- 3.2 We received one non-confidential response. The response is published in full on our website⁶. 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 NATS responded and outlined that the Proposed Regulations contained some inaccuracies. These were that the licence class Aeronautical Station (Area Control) was missing from the Proposed Regulations, that the fee cap for Aeronautical Station (Aeronautical Broadcast) was incorrectly described as £600 rather than £650 and there was a typographical error in the name of GNSS repeater licence name.
- 3.4 In addition to these errors NATS also requested that for the licence classes Aeronautical Station (Aerodrome Surface and OPC) and (Offshore) be described in both 8.33 kHz and 25 kHz channel terms. They also requested that the rounding down to the nearest £50 be applied to both these licence classes the same way as the bespoke AIP-based licence classes.
- 3.5 We would like to thank NATS for highlighting the errors in the Proposed Regulations and these have now been addressed. In response to the additional points that NATS raised concerning the description of fees in both 8.33 kHz and 25 kHz channels and the addition of the rounding to other licence classes we have decided not to change the Proposed Regulations.
- 3.6 Licence classes subject to bespoke AIP-based fees are subject to a rounding down to the nearest £50 clause. To put beyond doubt when the rounding would apply, we described the fees in both 8.33 kHz and 25 kHz channel scenarios. As Aeronautical Station (Aerodrome Surface and OPC) and (Offshore) licence classes are not subject to bespoke AIP-based fees the rounding does not apply. Therefore we do not see a need to describe, in the Regulations, the fee for a 25 kHz channel as this can be easily ascertained from the 8.33 kHz fee.
- 3.7 Finally, the purpose of the Notice was to implement changes in fees that Ofcom had previously consulted on. The application of the rounding criteria for Aeronautical Station (Aerodrome Surface and OPC) and (Offshore) has not been consulted on a therefore we will not be implementing this proposal in the Regulations.

⁶ <http://stakeholders.ofcom.org.uk/consultations/licence-charges/?showResponses=true>

Amendments to Regulations

3.8 We have made a number of amendments to the Proposed Regulations. These are described below:

- corrected the error in Aeronautical Station (Aeronautical Broadcast) to reflect the correct fee of £650 for a 8.33 kHz cap;
- included the Aeronautical Station (Area Control) licence class with a maximum fee cap per channel of £650 for 8.33 kHz and £2000 for 25 kHz;
- included the fees for Public Safety Radio licences in the Channel Islands and Isle of Man. These are based on existing agreed fees that have not previously been included in the 2011 Regulations; and
- corrected the typographical error in the GNSS repeater licence name.

Channel Islands and Isle of Man

3.9 The Regulations reflect the decision by the authorities in Jersey, Guernsey and Isle of Man for Aeronautical licences not to be based on AIP. Stations operating in these jurisdictions will continue to be issued with Aeronautical Ground Station licences, which are retained in the 2011 Regulations and charged on a cost recovery basis.

Final scope of Regulations

Ofcom's decision

3.10 On 18 April Ofcom made the Regulations as proposed, subject to the changes described in paragraph 3.8. The Regulations come into force on 3 May 2013. They are summarised below.

Extent of application

3.11 The Regulations will apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal adoption by the Island Authorities. However, as mentioned in paragraph 3.9, the Aeronautical Station licence classes will not be issued for those stations in the Channel Islands or Isle of Man.

The Regulations

3.12 Regulation 3(2) amends the maximum fee cap for Aeronautical Station licence classes, imposing the second phase of bespoke AIP-based pricing.

3.13 Regulation 3(3) removes the Broadcasting Services (Transmission of National and Regional Analogue Television Broadcast – BBC) and Broadcasting Services (Transmission of National and Regional Analogue Television Broadcast – Independent Television Networks) from the 2011 Regulations.

3.14 Regulation 3(4) inserts the fees for Public Safety Radio licences that have been issued on the Isle of Man and Channel Islands for a number of years.

3.15 Regulation 3(5) inserts the fee for the new licence class Global Navigation Satellite System (GNSS) Repeaters.

- 3.16 Regulation 4 and 5 introduce the third and final phase increase in fees for Coastal Station Radio (UK) and (International) licence classes.

Annex 1

Respondents

NATS