



Decision to make the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2010

Statement

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Section 1

Summary

- 1.1 This statement confirms that, following a formal consultation, the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2010 (the “Regulations”) were made by us on 16 November 2010, and are coming into force on 31 December 2010. The Regulations can be obtained through the Office of Public Sector Information (OPSI).¹
- 1.2 The Regulations amend the existing technical parameters for the establishment, installation or use of Ultra-Wideband (UWB). For the purpose of this statement the word “use” in the context of UWB equipment includes installing such equipment. Specifically, in the 4.2 to 4.8 GHz band the Regulations:
 - 1.2.1 Reduce the permitted general transmission limits from a maximum mean e.i.r.p. density of no greater than -41.3 dBm/MHz to a maximum mean e.i.r.p. density of no greater than -70 dBm/MHz and from a maximum peak e.i.r.p. density of no greater than 0.0 dBm/50 MHz to a maximum peak e.i.r.p. density of no greater than -30.0 dBm/50MHz in the . However, the transmission limit of a maximum mean e.i.r.p. density of no greater than -41.3 dBm/MHz will continue to apply in circumstances where appropriate mitigation techniques are used.
 - 1.2.2 In relation to the use of UWB equipment in automotive and railway vehicles, reduce the permitted transmission limit from a maximum mean e.i.r.p. density of -53.3 dBm/MHz to a maximum mean e.i.r.p. density of no greater than -70 dBm/MHz in circumstances where appropriate mitigation techniques are not used.
- 1.3 The Regulations are required by the European Commission Decision of 21 April 2009 (2009/343/EC)² (the “UWB Amendment Decision”). All Member States are required to implement the UWB Amendment Decision.
- 1.4 Before deciding to make the Regulations, in accordance with the requirements of section 122(4) of the Wireless Telegraphy Act 2006 (the “WT Act”), we published a Statutory Notice³ (the “Notice”) on 14 September 2010 containing a draft of the Regulations (the “Proposed Regulations”) and invited comments from stakeholders.
- 1.5 We received three responses to our consultation. Having carefully considered the responses to the Notice we decided to proceed with making the Regulations. This statement confirms that we have made the Regulations which will come into force on 31 December 2010.

¹ A link to the online version can be found at http://www.opsi.gov.uk/legislation/about_legislation

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:105:0009:0013:EN:PDF>

³ <http://www.ofcom.org.uk/consult/condocs/regs2009/regs2009condoc.pdf>

Section 2

Introduction

- 2.1 In February 2007 the European Commission adopted the UWB Decision. This harmonised across the European Union (EU) the technical conditions for UWB equipment in order to eliminate barriers to the uptake of UWB equipment. It created a single market that would allow manufacturers to benefit from economies of scale and allow consumers and citizens to benefit from new technologies and cheaper prices.
- 2.2 Since 2007 work has been carried out in the European Conference of Postal and Telecommunications Administrations (CEPT) and European Telecommunications standards Institute (ETSI) on the technical parameters associated with UWB. This led to the European Commission adopting the UWB Amendment Decision published on 21 April 2009.
- 2.3 In the UK we implemented the UWB Amendment Decision by making the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2009 (the “Principal Regulations”).⁴

Licence exemption requirements for UWB equipment in 4.2 to 4.8 GHz band

- 2.4 The Regulations reduce the permitted general transmission limits from a maximum mean e.i.r.p. density of no greater than -41.3 dBm/MHz to a maximum mean e.i.r.p. density of no greater than -70 dBm/MHz and from a maximum peak e.i.r.p. density of no greater than 0.0 dBm/50 MHz to a maximum peak e.i.r.p. density of no greater than -30.0 dBm/50MHz in the 4.2 to 4.8 GHz band.
- 2.5 However, the transmission limit of a maximum mean e.i.r.p. density of no greater than -41.3 dBm/MHz will continue to apply in circumstances where appropriate mitigation techniques are used. Table 1 sets out the general transmission limits in relation to the use of UWB equipment.

Table 1: General UWB transmission limits

Frequency Range (GHz)	Maximum mean e.i.r.p. density (dBm/MHz)	Maximum peak e.i.r.p. density (dBm/50MHz)
4.2 – 4.8	-41.3 (until 31 st December 2010)	0 (until 31 st December 2010)
	-70.0 (beyond 31 st December 2010)	-30.0 (beyond 31 st December 2010)

Source: UWB Amendment Decision

- 2.6 In relation to the use of UWB equipment in automotive and railway vehicles, the Regulations reduce the permitted transmission limit from a maximum mean e.i.r.p. density of -53.3 dBm/MHz to a maximum mean e.i.r.p. density of no greater than -70 dBm/MHz in circumstances where appropriate mitigation techniques are not used.

⁴ http://www.legislation.gov.uk/ukxi/2009/2517/pdfs/ukxi_20092517_en.pdf

Section 3

Scope of Regulations

Responses to the Notice

- 3.7 We received three responses to the Notice. All three responses were fully supportive of our proposals although one noted that there were areas of the Notice where our narrative might have been clearer.

Final scope of the Regulations

The Legislative Framework

- 3.8 We can exempt the establishment, installation and use of wireless telegraphy equipment by making Regulations under section 8(3) of the WT Act. Under section 8(1) of the WT Act, it is an offence to establish, install or use equipment to transmit without holding a licence granted by us unless the use of such equipment is exempted. Under section 8(4) of the WT Act, we must make regulations to exempt equipment if its installation or use is unlikely to cause undue interference.

Extent of application

- 3.9 The Regulations will apply in the United Kingdom, the Channel Islands and the Isle of Man.

The Regulations

- 3.10 Regulation 2 amends the Principal Regulations.
- 3.11 The effect of regulation 3 is to reduce the permitted general power limit in the 4.2 to 4.8 GHz band from a maximum mean e.i.r.p. density no greater than -41.3 dBm/MHz to -70 dBm/MHz in circumstances where appropriate mitigation techniques are not used. The maximum peak e.i.r.p. density of no greater than 0.0 dBm is reduced to -30.0 dBm.
- 3.12 Regulation 4 applies similar restrictions for automotive and railway vehicles in the 4.2 to 4.8 GHz band. A maximum mean e.i.r.p. density no greater than -70 dBm/MHz is introduced to replace the current -53.3 dBm/MHz limit in circumstances where appropriate mitigation techniques are not used.

Annex 1

Impact Assessment

Introduction

- A1.1 The analysis presented in this annex represents an impact assessment, as defined in section 7 of the Communications Act 2003,⁵ for the Wireless Telegraphy (Ultra-wideband Equipment) (Exemption) (Amendment) Regulations 2010 (the “Regulations”).
- A1.2 You should send us any comments on this impact assessment by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- A1.3 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 Communications 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 at www.ofcom.org.uk/consult/policy_making/guidelines.pdf.

Background

- A1.4 In the UK, we are responsible for the authorising of civil use of the radio spectrum and achieve 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 8(1) of the WT Act, it is an offence to install or use equipment to transmit without holding a licence granted by us, unless the use of such equipment is exempted. Section 8(3) enables us to make regulations exempting equipment from the requirement to hold a licence subject to specified terms, provisions and limitations and under Section 8(4) of the WT Act we must make regulations to exempt equipment if it is unlikely to cause undue interference.

Proposal

- A1.5 This impact assessment relates to the decision to make the Regulations by amending the Wireless Telegraphy (Ultra-wideband Equipment) (Exemption) Regulations 2009 (the “Principal Regulations”)⁶. The Regulations will implement the European Commission Decision of 21 April 2009 amending Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community (2009/343/EC) (the “UWB Amendment Decision”).⁷

⁵ www.opsi.gov.uk/acts/acts2003/pdf/ukpga_20030021_en.pdf.

⁶ http://www.opsi.gov.uk/si/si2009/pdf/uksi_20092517_en.pdf

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:105:0009:0013:EN:PDF>

The citizen and/or consumer interest

- A1.6 We take account of the impact of our decisions have upon both citizen and consumer interests in the markets we regulate. In proposing changes to the Principal Regulations we considered the wider impact beyond immediate stakeholders in the radiocommunications community. We believe that our decision will be of benefit to consumers for the following reasons:
- i) The measures all concern the use of radio equipment on a licence-exempt basis which reduces the regulatory and administrative burden on our stakeholders;
 - ii) Licence-exemption is only proposed in areas where use of equipment is unlikely to cause harmful interference to other spectrum use;
 - iii) They support the introduction of new and innovative technologies which will be of benefit to consumers in general.
- A1.7 We are required by statute to assess the impact of all our functions, policies, projects and practices on race, disability and gender equality – an Equality Impact Assessment (EIA) is our way of fulfilling these obligations. The findings of our EIA initial screening showed that these proposals do not have a particular impact on equality.

Our policy objective

- A1.8 In accordance with the WT Act, we must exempt from licensing the use of specified equipment where it is not likely that such use will cause interference to other legitimate users of the radio spectrum or is contrary to an international obligation.
- A1.9 As a Member State, the UK is bound by the terms of the UWB Amendment Decision and the requirement to implement it.

Options considered

- A1.10 The options open to us in relation to compliance with the UWB Amendment Decision were as follows:
- to make Regulations that are in line with the UWB Amendment Decision; or
 - to do nothing.

Analysis of options

Make new regulations

- A1.11 The most efficient route to mandatory compliance is to make the Regulations that are as consistent as possible with the UWB Amendment Decision.
- A1.12 There are one-off administrative costs associated with making a Statutory Instrument. We consider the implementation costs to be low and offset by the benefits.

Do nothing

- A1.13 By doing nothing, we would have been in breach of the UWB Amendment Decision and could be open to infraction proceedings initiated by the European Commission.

The preferred option

- A1.14 The preferred option therefore was to make the Regulations as indicated in order to comply with the UWB Amendment Decision. The benefits of this option were that the UK remains compliant with European Community law.

Evaluation

- A1.15 Article 4 of the UWB Decision requires that that the bands identified for UWB be kept under active scrutiny by Member States to ensure that the continued relevance of the technical conditions remain valid, and report their findings to the Commission to allow a timely review of this Decision.
- A1.16 We will assist the Commission in carrying out these reviews as required.

Annex 2

List of respondents

Everything Everywhere

European Satellite Operators Association (ESOA)

NetTek Ltd