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OFCOM  
Spectrum Policy Group – Floor 3  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA6<sup>th</sup> September 2010For the attention of Mr Paul Chapman

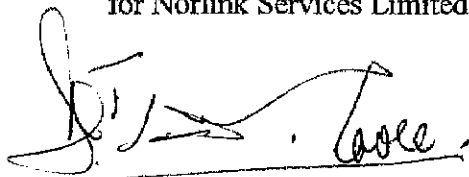
BY FAX AND MAIL

Dear Sirs

**OFCOM NOTICE OF PROPOSALS FOR CHANGES TO LICENCE EXEMPTION  
OF WIRELESS TELEGRAPHY DEVICES**

We refer to your above mentioned consultation document dated 26<sup>th</sup> July 2010 and are now pleased to attach our submission of even date for your consideration.

We confirm that there are no confidentiality issues associated with this submission and that you may publish this document on your website in full in accordance with your usual procedure.

Yours faithfully  
for Norlink Services LimitedDaniel St A Moore  
Managing Director

**SUBMISSION TO OFCOM BY NORLINK SERVICES LIMITED**

**REPRESENTATIONS AGAINST THE MAINTENANCE AND/OR EXTENSION OF  
REGULATION 4(2) OR ITS EQUIVALENT IN DEVICE EXEMPTION REGULATIONS**

Hereby we make representations concerning Ofcom's Notice of Proposals dated 26<sup>th</sup> July 2010 for changes to the WTA (Exemption) Regulations in relation to mobile or fixed wireless devices. This document is submitted within the time period specified by Ofcom for response.

On 20<sup>th</sup> May 2010 this Company made representations in response to the original Ofcom Consultation on this matter dated 12<sup>th</sup> March 2010. These representations have been published on the Ofcom website under the responses section and are incorporated herein by reference.

These previous representations demonstrated that the existing position and what is proposed for the new mobile telephone frequencies of 900 and 1800 MHz for UMTS are and would be ultra vires. This illegality arises because the subordinate legislation embodied in Regulation 4(2) of the WTA (Exemption) Regulations is in clear breach of European law in the form of both the R&TTE Directive (1999/5/EC) and the Authorisation Directive (2002/20/EC) as summarised therein. In addition the said Regulation 4(2) is also in breach of Section 8 of the Wireless Telegraphy Act 2006 under which it is drawn.

We note the reference to this Company in the above mentioned Ofcom Notice of Proposals at paragraph 2.48 on page 12. It is clear that this reference is gross misrepresentation by omission because, in lodging a reasoned objection to any extension of Regulation 4(2) on the grounds of incompatibility with the law, we did much more than just ask a question. No response whatsoever to such objection has been forthcoming from Ofcom.

More seriously, paragraph A5.18 on page 30 of the above referenced Ofcom Notice of Proposals states that HM Government gave an instruction to Ofcom not to change the licensing position as regards existing frequencies. HM Government is not entitled to give any such direction in contravention of European law, as this is, and Ofcom is not entitled or obliged to obey it. In fact it is reasonable to expect Ofcom to fulfill its statutory obligation to be an independent and neutral National Regulatory Authority by resisting strenuously all attempts by Government to influence its decisions improperly and, more especially, so where this is ultra vires.

OFCOM, in its own Impact Assessment as set out in paragraphs A5.8 and A5.9 on pages 23 and 24 of the above referenced Ofcom Notice of Proposals, acknowledges that it is obligated by law to exempt from licensing the use of all equipment which is not likely to cause undue (i.e. harmful) interference. The available evidence is conclusive in that the equipment in question does not cause interference, whether it be described as undue or harmful, and this has been confirmed by the UK Courts assisted by Ofcom's own appointed expert.

In conclusion, we demand Ofcom withdraws forthwith those sections of its Notice of Proposals for changes to licence exemption to mobile and fixed wireless devices where such proposals would, if given effect to, breach both European and United Kingdom law as has been demonstrated.

for Norlink Services Limited

Daniel St A Moore  
Managing Director

6<sup>th</sup> September 2010

cc: European Commission & Parliament - Brussels