



European Low Fares Airline Association

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Belgium

**Mr Michael Richardson
Riverside House
2A Southwark Bridge Road
London SE1 9HA**

3 November 2008

Dear Richardson,

Consultation: Applying spectrum pricing to the Maritime and Aeronautical sectors

Thank you for affording the European Low Fares Airline Association (ELFAA) the opportunity to respond to the consultation on the proposed application of spectrum pricing to the maritime and aeronautical spectrum. ELFAA represents leading European low fares airlines that will jointly carry some 150 million passengers in 2008. Our members are highly concerned at Ofcom's recommendations in this area.

ELFAA has had sight of the responses from our colleague Associations – IATA and AEA and fully endorses those submissions. ELFAA will not therefore be submitting detailed responses to each of the questions raised as these have been fully covered by the responses you have already received from IATA and AEA. ELFAA would offer the following further submissions.

ELFAA is firmly of the view that the making available of spectrum to aviation is a sine qua non to meet the critical safety requirements of aviation. The consultation appears to acknowledge this safety requirement by virtue of the intention not to levy charges on aircraft. Vital radio safety communication by aircraft is, however, primarily with operators of ground installations, responsible for Air Traffic Management. Perversely, these ground installations would be subject to the proposed charging. Inevitably, the providers of Air Traffic Management would seek to recover the cost to them of spectrum charging, creating a backdoor stealth tax on airlines for the safety-driven requirement for radio spectrum.

The parallel, which the consultation seeks to make with emergency services, is not valid. Payments for spectrum by emergency services are merely transfers from one public purse to another and do not constitute a valid precedent for charging a non-governmental, commercial entity.

The making available of radio spectrum to aviation is further mandated by international agreement. Allocation of radio spectrum is, in fact, carried out by the ITU World Radio Communication Conferences (WRC), whose Final Acts have treaty status. Individual governments have no legitimate locus, therefore, to propose charges on the basis of alleged opportunity cost to them.

ELFAA strongly opposes the proposed pricing of aeronautical spectrum, which conflicts with the obligations of the UK government under international agreement and its over-riding responsibility to ensure the safety of aviation operations.

I am at your disposal for any additional information you may require.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Hanlon', with a stylized flourish at the end.

John Hanlon
Secretary General