

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Applying spectrum pricing to the Maritime and Aeronautical sectors

To (Ofcom contact): Michael Richardson

Name of respondent: Robin Padgett

Representing (self or organisation/s): Emirates

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the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

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☐

Name Robin Padgett

Signed (if hard copy)



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30 October 2008

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

Dear Mr Richardson,

Emirates Airline is one of the largest international carriers operating to the United Kingdom (UK) with a total of 14 daily services between Dubai and London, Manchester, Birmingham, Glasgow and Newcastle. Emirates also operates flights between Dubai and North America which transit the airspace of the UK. As a stakeholder, we therefore appreciate the opportunity to participate in the Office of Communications (Ofcom) consultation on the application of spectrum pricing to the Aeronautical sector.

Emirates has significant concerns regarding Ofcom's proposal to introduce Administered Incentive Pricing (AIP) on aeronautical spectrum.

In our view, the proposal would result in an unnecessary and poorly designed methodology being imposed on the aviation industry whereby licensed operators of aeronautical ground stations would simply pass on AIP charges to their customers – the airlines.

In addition, the introduction of AIP on aeronautical spectrum would probably lead to reduced overall UK overflight revenue since the implementation of the proposal would make it more attractive for major airlines such as Emirates to use alternative routes which by-pass UK Airspace.

More broadly, it is likely that other EU Member States and other countries may follow the UK and introduce AIP on their own aeronautical spectrum, resulting in an enormous additional cost burden on the airline industry – which unlike most other transport modes, pays for all of its own infrastructure costs.

Response to Consultation Document

Emirates has reviewed the consultation document titled "Applying spectrum pricing to the Maritime and Aeronautical sectors" released on 30 July 2008 and wishes to make the following summary comments:

1. The consultation document fails to specify the exact problem faced by Ofcom or justify why AIP is the optimal solution.

Emirates agrees with the principle that spectrum should be used efficiently. However, there is no indication in the consultation document of any significant problems associated with the current usage of spectrum by the aeronautical sector and the whole proposal therefore appears to be purely a revenue raising vehicle for the UK Government with no user benefits whatsoever.

2. The methodology being proposed for setting opportunity cost is unclear.

The consultation document proposes a number of possible alternatives for calculating opportunity cost, but does not detail which method Ofcom is proposing. Emirates notes that the Cave Review stated that "for some spectrum uses, the opportunity cost will be zero. This will occur where use of a particular band in the UK has been exclusively defined through international agreements and incumbents have no scope to change their spectrum use". This is the case in the aeronautical sector and it is therefore not appropriate to apply any form of AIP to it.

3. Ofcom has not fulfilled its statutory duty by conducting an Impact Assessment.

The UK Code of Practice on Consultation and Section 7 of the UK Communications Act 2003 require Ofcom carry out an Impact Assessment. Emirates submits that Ofcom must carry out a full Impact statement prior to consultation on any AIP proposal.

4. AIP will not achieve a reduced spectrum in the short term.

Ofcom acknowledges in the consultation document that holders of spectrum have a limited ability to achieve changes in usage from AIP in the short term. In fact, the scale and timing of re-equipment required by airlines and the UK general aviation sector means that there are very few options to reduce spectrum in the short term.

5. Aeronautical Spectrum usage cannot be managed on a unilateral basis.

Frequency usage in the UK is limited by usage in neighbouring EU Member States or other countries and vice versa. If as a result of the Ofcom policy proposal, spectrum usage was actually reduced in the UK, this could lead to a perverse outcome where additional frequencies are instead assigned to neighbouring EU Member States or other countries. This possibility underlines why any UK initiative to manage the efficient use of spectrum must be proposed and implemented at an international level through ICAO.

6. The introduction of AIP will have safety implications.

Airlines rely on the ground infrastructure for communications, navigation and surveillance to provide a safe and efficient operation. Communication with air traffic control, whether through datalink or voice, is essential to ensure a safe orderly flow of traffic. Airlines are being asked to pay large sums of money to retrofit avionics equipment that allows it to take advantage of new technologies. To further penalise the airlines by applying what is effectively a tax could mean a number of operators decide to forestall equipage. This in itself can have an effect on the capacity of the airspace and use of the new technologies.

Thank you for the opportunity to participate in the Ofcom consultation on the application of spectrum pricing to the Aeronautical sector.

Yours faithfully



for:

Robin Padgett
Vice President Procurement (Airline)