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Dear Sirs

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

The response from the Old Gaffers Association.

We take this opportunity to offer our views in this consultation and in doing so explain what we are. We would advise that as a maritime organisation we can only comment on the Maritime aspect of this consultation leaving Aeronautical responses to others more qualified.

The Old Gaffers Association is a world recognised association dedicated to the preservation and promotion of Gaff Rig sailing vessels - which also includes Lug and Gunter rigs. The association was formed in the UK in 1964 and now has around 1500 members in the UK with upwards of 5000 craft registered in the archive. Since 1964 we have encouraged the formation of other Old Gaffer associations around the world, most notably in France, The Netherlands and Australia with connections in the USA, New Zealand and elsewhere. All operating under the same burgee (flag) of a white pitchfork on a dark blue background. This design is a stylized representation of the gaff rig 'jaws' around a vessels mast and is Trademark protected.

Our comments are as follows beginning with the standard Consultation questions set out in Annex 4.

Question 1: How should Of com manage the process of taking advice from users, regulators and government on efficient apportionment of AIP fees in the maritime and aeronautical sectors? Are any new institutional arrangements needed?

We consider that the current process appears to be satisfactory to date. This is indicated by the levels of comment made to the writer in general conversation with a variety of leisure sailing people thus indicating an awareness in general of this spectrum pricing consultation. This is further supported by the traffic of responses to be found on leisure boating internet forum pages, most notably YBW (Yachting Monthly, Motor Boats Monthly etc. magazines).

Question 2: if you consider that our proposals for pricing ground station users for any spectrum would be likely to have a detrimental impact on safety, please let us know. In order for us to understand your assessment fully, it would be helpful if you could outline the mechanisms whereby this might happen.

We do consider that this would have a detrimental impact on safety. The cost implications have the potential to be considerable for many users, most notably the country wide emergency services for whom we would advocate nil pricing. Which in the case of the Royal National Lifeboat Institution (RNLI), who offer to society at large – and thus government – a totally cost free national maritime emergency service, to this institution it should be free of all charge and liabilities.

Other situations might concern yacht clubs where the pricing, particularly in the so called high usage areas, could result in abandonment of the use of the maritime VHF usage in favour of mobile phones. Paradoxically this is very likely with clubs that sail and race dinghies where there would be very few craft radio equipped. These being escort / rescue craft for whom use of Mobile phones in lieu of VHF could be very effective in that context – and pretty well cost free.

Similarly for clubs sailing bigger craft though we would concede that here the individual vessels would as a matter of course be fitted with VHF communication and would use them on a suitable ship to ship frequency for general participant communications. That said, even here mobile phones play an important part in on water event management, often to an almost exclusive degree, thus potentially negating the need for having a shore station at all. We would therefore expect to see considerable abandonment of this facility with consequent loss of revenue to government and substantial savings to the user – in no longer using it.

Question 3: Do you have any evidence which indicates that AIP charged to ground stations could have a material detrimental impact on UK competitiveness?

We do not have that evidence as such. However we would observe as a example that Pilotage services charges for use of base stations will have to be passed on to the end user, these being the ship owner requiring use of the pilotage services in ferrying pilots to and from their ships. In Ramsgate, where the writer lives, the pilot boats make extensive use of their communications systems in providing that essential maritime service in this commercially busy maritime corner of the UK. Those costs would have to be passed on, potentially encouraging shipping to use non UK ports like Rotterdam, and particularly so in these apparent global recessionary times. Such situations leading to increased land distribution and resultant cost of goods as well as an increased 'carbon footprint' needlessly.

Question 4 : Taking into account the information available in this document, including that set out in Annex 5, our initial views on VHF radio communication licence fees and on the reference rates for bands in other uses, and any information you have about the organisations to whom we are proposing to charge fees, please provide any evidence that you think is relevant to us in considering the financial impact of the fees we intend to propose for VHF radio communications, or for other uses.

Firstly we would suggest that this question 4 could be better worded for clarity!

Financial impact has been touched upon in questions 2 and 3 above. In Q2 we observe that added cost implications to leisure users could, and for many probably will, result in the abandonment of VHF usage in on water event management. In Q3 we outline the potential loss to UK ports of shipping traffic to other European ports in these competitive recessionary times.

Annex 5 is not titled as such on page 66. However we would conclude that the paragraph numberings beginning with A5 under the heading “How we will assess the impact of any fees” indicate this to be Annex 5 and respond accordingly.

Para A5.2 mentions fees for the use of spectrums. The electro magnetic spectrum is vast which includes, in a very small way indeed within it, the visible spectrum, infra red and of course the radio element. This is an entirely natural phenomena within the universe at large. We therefore find it strange that fees are charged for something that occurs naturally, rather like charging people for parts of the air that they breathe. It is our view therefore that the fee – if there is one at all - should be front loaded as a one off payment at the time of purchase of the equipment.

Para’s A5.42 to A5.46. We are encouraged to note the concerns alluded to in the general text about the effects on customers. Cost increases on this scale will indeed affect inflation impact (cost increases) contrary to government desire as the costs filter through to consumers and thus statistics.

Question 5: Do you agree that there is little to be gained, in terms of economic efficiency, from charging AIP to WT Act licences for aircraft?

As a maritime organisation we do not comment on this question.

Question 6: Do you consider that we should discount fees for any particular user or type of user? Specifically, do you consider that there should be a discount for charities whose object is the safety of human life in an emergency?

Yes we do think discounts should be made. Please see Q2 response above in which we advocate no fees be charged to organisations connected with emergency responses and life saving. It could be further argued that boating clubs, in all their guises, in using marine radio communications, do so largely in connection with safety. True some elements are of a race management nature, most notably for the few minutes at the beginning and at the end of races, but in the intervening period traffic is almost exclusively for safety boat communications dealing with participant capsize, swamping, man overboard and a whole range of other safety related issues identified on the respective Risk Assessments.

These events and activities often take place in controlled waters such as the River Medway (Medway Ports) where those Risk Assessments are to be provided to the port management at least a month

beforehand. These are required to state what safety vessels are in use, call signs used, VHF channels used and telephone contact details of the principal officer of the race / event. From this requirement it can be seen that use of the maritime spectrum in this way is strongly allied to safety of life, and mitigation of emergency need, by the users which should therefore attract a heavy discounting of fees rather than an increase of them.

Question 7: Do you agree that Ofcom should apply AIP to ground stations' use of maritime and aeronautical VHF radiocommunications channels, to help manage growing congestion in current use and to ensure that the cost of denying access to this spectrum by potential alternative applications is faced by current users?

We do not agree this in principle as we do not believe that the congestion is proven. If we look at selected frequencies in selected areas where high usage (a rather overstated term) might be expected we can draw some conclusions to actual usage.

From the VHF Marine Channel List edited by Robert Maskill and 'The Shell Channel Pilot' we find the geographical area bounded by Lizard Point in the west and Start Point in the east – being part of the south coasts of Devon and Cornwall of some 60 miles in length – have eight users of Channel 12 and four users of Channel 14.

For Channel 12 the principle users are Falmouth Harbour Radio and Falmouth Harbour Commissioners along with Fowey Harbour Radio. Lesser users are Par Port Radio, St Mawes Port, Carrick Tree (Truro) and Fowey Harbour Taxi. With the Fal River at Falmouth being such a broad expanse of water there will be minimal small craft traffic for Falmouth Harbour Radio as compared to say Ramsgate where it is a requirement for all such vessels to contact Ramsgate Port Control (VHF 14) for permission to enter or exit. At Ramsgate, at times in season (June July and August), this radio traffic is virtually constant, but only at certain peak times of the day which are largely governed by the tides as vessels come and go according to tide. At other times traffic is considerably less raising concerns for boredom of the operators of the equipment. Falmouth by contrast, even with the minimal traffic of the lesser harbours in that area, will have no such intensity of activity yet that area is considered High or Medium according to the Annex 6 map. Ramsgate is defined as a Medium area on that Annex 6 map.

There is therefore clear conflict of evidence of congestion on port operations channels indicating the congestion is unproven. This is not the same however as channel assignments, also known as channel density. In the Falmouth area there is channel density with those eight users mentioned. However that does not imply difficulty of use by usage overlap / overspeaking to any degree since the minor users will be very intermittent in their usage, and even then mainly in season and certain daylight hours with added consideration of the geographic range. We therefore consider the assignment of this Falmouth area as being of High Density to be absurd and quite incorrect. Even the Dover Straight, with its high volume of shipping and cross channel ferry and leisure traffic only manages to score Medium Level inshore and Low Level offshore. This all gives concern for the accuracy of research that gives the conclusions illustrated in Annex 6. Inaccuracies such as this would lead to unfair and incorrect pricing for channel usage.

Question 8: Do you agree with our initial view that it would be appropriate to apply a pricing system similar to that already existing for Business Radio licences to maritime and

aeronautical VHF communications? If not, what are your reasons for proposing that we should develop a fee structure for maritime and aeronautical VHP channels which is distinct from that already established for Business Radio?

We are informed that the template for Business Radios is deemed unsuitable for use in the maritime sector – see para 1:14 of the document . If the template is unsuitable then it follows that the pricing is equally unsuitable.

Question 9: Are there any short term reasons specific to the sector why it would be inappropriate to apply fees from April 2009?

In the case of yacht clubs and their like it would be unrealistic to levy charges in April 2009, greater than those applying at the present time, as clubs will not have the time to prepare for this in their fee gathering structure. Clubs funded mainly by income from membership fees often need upwards of two years in which to change their fee levels – the need for increased fees has to be identified, proposals made at Annual General Meetings and the implementation made at the next years gathering of fees. It is therefore quite possible that some clubs etc will have to fund added expense out of two years of lower income. In the present climate this could be disastrous for some less able clubs, some of which make worthwhile contribution to youth training and sport provision.

Question 10: Ofcom would welcome stakeholders' views on the factors which should be taken into account when apportioning fees between individual users of radars and racons.

We are unable to comment on this aspect of spectrum provision.

Question 11: Do you agree with our initial view that a reference rate of £126k per 1MHz of national spectrum for L band and S band radar spectrum would achieve an appropriate balance between providing incentives to ensure efficient use of spectrum while guarding against the risks of regulatory failure in setting the reference rate too high? If you consider a different rate would be more appropriate, please provide any evidence that you think we should take into account.

As in Question 10 we are unable to comment on this aspect of spectrum provision.

Question 12: Do you agree with our initial view that a reference rate of £25k per single MHz of national spectrum would be appropriate for deriving fees for licences to use X band radar?

We are unable to comment on this question.

Question 13: Do you agree that, generally, spectrum used by aeronautical radio navigation aids is currently uncongested? Do you believe that this may change during the next few years and, if so, approximately when?

As a maritime organisation we are not qualified to comment on this question.

Question 14: Do you agree with the basis on which Ofcom has arrived at its initial view on reference rates for aeronautical radio navigation aids?

As a maritime organisation we are not qualified to comment on this question.

Concerning the consultation document in general we would make further comment as set out below.

1. Paragraph 1:14 talks about use of templates, specifically using the Business Radio template for the maritime sector which is stated to be suitable. Consultation reveals to us that this template is not really suitable for the maritime sector and would need to be modified.
2. Paragraphs 1.19 to 1.21 make reference to the DfT, being the government department responsible, *...could usefully face some incentives...* and *...make payments ...* That cost liability will have to be passed on in one form or another to the user, or the general tax payer, by way of cost offset. This comment also applies to Paragraph 1.22 in that costs are inevitably passed on until they eventually arrive, often with added interim administrative cost, to the user.
3. Page 5 under “The parties who may face AIP fees – Regulators and Government” we find mention of a suggestion that government consider the option of DfT facing the opportunity cost of unused spectrum reserved for the civil maritime and aeronautical sectors. We would enquire what unused spectrum is being referred to in this consideration?
4. Page 6 – at the top right states: *1. We are also proposing that we should not apply AIP fees to aircraft WT Act licences. 2. We are consulting on whether we should apply a discount to any users, such as charities whose object is the safety of human life in an emergency. 3. We are not proposing to charge training schools for the use of VHF transmitters modified to limit output to within the classroom.*
We, The Old Gaffers Association, would observe that we find this to be an already in place long term agreement. It is therefore untruthful to describe it as a (new) proposal.
5. On page 7 we find: *We also propose to vary maritime VHP licence fees to reflect the relative density of channel assignments at the particular location. Our current view is that those 50km x 50km geographic grid squares with more than 125 assignments (international, UK coastal and marina combined) should be considered "High density", those with between 125 and 20 assignments should be considered "Medium density" and those with fewer than 20 assignments should be considered "Low density". Our proposal for applying this classification across the UK is set out on the map at Annex 6.*
We consider it is wrong to mix CSR International, which is used for the general safe navigation of all sizes and types of vessels, with CSR UK. CSR UK is a closed user group being made up of private channels in use by a variety of commercial maritime organisations such as P&O, tug operators, salvage companies etc. for their own commercial use.

We thank you for the opportunity to contribute in this consultation and trust our views are of use.

Yours faithfully

Robert Holden

Hon Secretary

For the Old Gaffers Association