



# Notice of Ofcom's proposal to make Wireless Telegraphy Regulations relating to Satellite Services licences

Statutory  
Notice

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Closing Date for Responses: 14 December 2007

# Contents

Section		Page
1	Summary	1
2	Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations 2007	3
3	General Effect of the draft Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations 2007	8

Annex		Page
1	Responding to this Notice	9
2	Our consultation principles	11
3	Consultation response cover sheet	12
4	Regulatory Impact Assessment relating to the draft Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations	14
5	The draft Wireless Telegraphy (Licence Charges) (No. 2) Regulations 2007	19

## Section 1

# Summary

- 1.1 On 6 July 2006, we published a consultation document concerning modifications to Wireless Telegraphy Act licence charges (“the policy consultation”<sup>1</sup>). The policy consultation set out a number of proposals for modifying licence charges imposed in accordance with the powers granted to us under the Wireless Telegraphy Act 2006 (“the WT Act”). We carefully considered the responses to the policy consultation and on 10 January 2007 issued a statement, “Modifications to spectrum pricing” (“the policy statement”) <sup>2</sup>, explaining our decisions. On 6 August 2007, we made regulations which implemented some of the decisions set out in the policy statement. These regulations came into force on 27 August 2007.
- 1.2 This Statutory Notice relates to the making of The Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations 2007 concerning Satellite Services licences (“the draft pricing regulations”). It explains our intention to implement the associated decisions described in the policy statement.
- 1.3 These changes will update the fees payable for Satellite Services licences as follows:
  - adjusting Satellite (Transportable Earth Station) (TES) and Satellite (Permanent Earth Station) (PES) licence fees in order to introduce Administrative Incentive Pricing (AIP) at a rate comparable to that paid by other sectors (for example fixed links, which use the same or similar spectrum);
  - deregulating the Satellite (Earth Station on Board Vessel) licence class by removing it from the fees regulations;
  - introducing cost-based fees for Satellite (Aircraft Earth Station) and Satellite (Earth Station Network) licences; and
  - introducing fees for the Satellite (Transportable Very Small Aperture Terminal) and Satellite (Earth Station on Board Train) licence classes that have been created in response to demand for new services.
- 1.4 We intend to implement the decisions outlined in the pricing statement which relate to Business Radio reform in 2008.
- 1.5 Section 2 of this document provides a general background to the policy and regulatory framework for WT Act licence charges. It also explains the process by which we are providing notice of our intention to make the draft pricing regulations and describes the proposed changes to WT Act licence charges.
- 1.6 Section 3 of this document explains the general effect of the draft pricing regulations.
- 1.7 A Regulatory Impact Assessment (RIA) setting out the benefits, costs and risks of the draft pricing regulations is included at Annex 4.

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<sup>1</sup> <http://www.ofcom.org.uk/consult/condocs/pricing06/>

<sup>2</sup> <http://www.ofcom.org.uk/consult/condocs/pricing06/statement/>

- 1.8 The draft pricing regulations can be found at Annex 5. Further hard copies of the draft pricing regulations are available from us at 2a Southwark Bridge Road, London SE1 9HA from the contact specified in Annex 1 for responding to this Notice.
- 1.9 We invite written views and comments on the draft pricing regulations by 14 December 2007. Subject to any representations we receive, we intend to publish a statement and proceed with implementation of the regulations. We plan to bring the regulations into force no later than the end of January 2008. The consultation period is shorter than the standard 10 week consultation period because this statutory notice follows a policy consultation, issued in July 2006, which fully considered the policy impact of the proposals. All respondents should use the online form to respond to the statutory notice available at <http://www.ofcom.org.uk/consult/condocs/licencecharges/howtorespond/form>.

## Section 2

# Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations 2007

### Notice of proposals

- 2.1 Under section 3 of the Communications Act 2003 (“the Communications Act”), we have the general duty to secure the optimal use for wireless telegraphy of the electromagnetic spectrum. The WT Act not only enables us to recover the cost of managing WT Act licences but also permits the use of market mechanisms in spectrum management. These licence fees must be prescribed in regulations in the form of a statutory instrument.
- 2.2 Under section 403(4) to (6) of the Communications Act, we are required to publish a notice of our proposal to make any regulations setting out their general effect and consider any representations that are made to us before the time specified in the notice. That time limit must be at least one month from publication of the notice. Accordingly, this consultation document provides notice of our intention to make the draft pricing regulations, sets out their general effect and invites written views and comments by 14 December 2007.

### Background

- 2.3 On 6 July 2006, we issued the policy consultation which detailed our plans to change WT Act licence charges. After carefully considering the responses, we published the policy statement on 10 January 2007. The policy statement explained our intention to go ahead with the proposals which related to Satellite Services largely unchanged except for some minor amendments to the factors used in the fee calculations for Satellite PES and Satellite TES licences to better reflect spectrum use and our decision to phase in the changes for Satellite PES licences owing to the significant increases for some licensees. These changes were made in response to comments received on the policy consultation.
- 2.4 Section 12 of the WT Act permits charging for WT Act licences by enabling us to prescribe in regulations sums payable for these licences. This power enables us to recover the cost of administering and managing WT Act licences. Section 13 of the WT Act permits us to recover sums greater than these if we think fit in the light (in particular) of the matters to which we must have regard under section 3 of the WT Act including promoting the efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy.

### Notice of proposal to amend the existing pricing regulations

- 2.5 Notice of the proposal to amend the Wireless Telegraphy (Licence Charges) Regulations 2005<sup>3</sup> (“the existing pricing regulations”) is given in accordance with section 122(4) of the WT Act and published in accordance with section 122(5) of that Act for a statutory consultation period of one month and one day, which ends on 14 December 2007.

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<sup>3</sup> S.I. 2005/1378 as amended by S.I. 2006/2894 and SI 2007/2326  
[http://www.opsi.gov.uk/si/si2005/ukSI\\_20051378\\_en.pdf](http://www.opsi.gov.uk/si/si2005/ukSI_20051378_en.pdf)

- 2.6 Section 122(5) of the WT Act provides that the notice must:
- a) state that we proposes to make the regulations in question;
  - b) set out the general effect of the regulations;
  - c) specify an address from which a copy of the draft regulations may be obtained;  
and
  - d) specify a time before any representations in respect of the proposal must be made to us. This time must be no earlier than the end of the period of one month beginning with the day after the latest day on which the notice is given or published.
- 2.7 Each of these procedural requirements is dealt with below.
- 2.8 The draft regulations will take effect as the Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations 2007 when they come into force. These draft pricing regulations are set out in Annex 5 for consultation. The final version of the regulations may change slightly in appearance but changes will not have any material effect on the content of the regulations without further consultation.
- 2.9 In line with our overall approach to spectrum pricing, (i.e. continuing and widening the application of AIP), we propose to modify the existing pricing regulations relating to certain licence classes in the Satellite Services sector. We also propose to introduce fees for new classes of licence and remove one existing licence class from the existing pricing regulations. This section of the document describes in detail the changes which are proposed. The policy reasoning for the changes was further described in detail in the policy consultation.

### **Specific changes to WT Act Satellite Services licences**

- 2.10 Following the policy consultation and the policy statement, we propose to amend the existing pricing regulations for various Satellite Services licence products. A summary of the changes is provided in the following paragraphs.
- 2.11 The licence charges for some WT Act Satellite Services licences are being updated to reflect the opportunity cost of spectrum. This will be introduced on the basis of AIP. We are bringing fees into line with other services currently charged according to AIP (e.g. fixed links) which use the same or similar spectrum.
- 2.12 We have made a notable but minor change to our policy since we published the policy statement. We intend to charge cost-based fees as opposed to AIP-based fees for Satellite (Earth Station Network), Satellite (Aircraft Earth Station) and Satellite (Earth Station on Board Train) licence classes. We explain this change in more detail in the following paragraphs.
- 2.13 The Satellite (Earth Station on Board Vessel (ESV)) licence class and corresponding fee will be removed from the existing pricing regulations following our decision on 23 October 2007 to remove the requirement for a Satellite ESV licence in the 14.0-14.25 GHz band. Existing Satellite ESV licensees will continue to be obliged to hold a Ship Radio licence<sup>4</sup>.

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<sup>4</sup> <http://www.ofcom.org.uk/radiocomms/ifi/licensing/classes/satellite/applications/esvlicensing.pdf>

## Satellite PES

- 2.14 The proposed fee structure for the Satellite PES licence is based on AIP. This will result in an increase in licence charges for these licences.
- 2.15 The AIP based charges for this class will be calculated according to the following algorithm that takes into account the input power, accessible bandwidth, frequency band and a constant value. The minimum fee payable for a licence will remain at £500. We propose to phase the introduction of revised fees for Satellite PES licences to reduce the financial impact of any large increases on licensees. The phased approach will be achieved by using modified band factor values (column 3 of the table below) that result in a fee that incorporates approximately 50% of the total increase. The full band factor values (column 4 of the table below) will not be introduced into wireless telegraphy licence charges regulations until 1 January 2009. The proposed charges are set out in Regulation 3 of the draft pricing regulations given in Annex 5.

$$AS = \sum_{band=1}^b \left[ 28 \times BF \times \sqrt{\sum_{ijk} (P_{ijk} \times BW_{ijk})} \right]$$

where:

$AS$  = appropriate sum;

$band$  = number corresponding to the range of frequency band (according to band factor table)

$BF$  = band factor, according to the following table

Band	Range of frequency band (GHz)	Band factor BF (from 1 February 2008)	Band factor BF (from 1 January 2009)
1	< 5	1.54	2.33
2	5 to < 10	1.23	1.72
3	10 to < 16	0.87	1.00
4	16 to < 24	0.70	0.70
5	$\geq 24$	0.60	0.60

$P_{ijk}$  = peak power (Watts) delivered to the antenna

$BW_{ijk}$  = transmit authorised bandwidth (MHz) for the assignment

$i$  = number of earth station terminals on a site in a band

$j$  = number of satellites to which earth station  $i$  can work

$k$  = number of transmissions over which earth station  $i$  works with satellite  $j$ , where a transmission can be made up of one or more emissions

## Satellite TES and Satellite (Transportable Very Small Aperture Terminal)

- 2.16 The proposed fee structure for these licence classes is based on AIP. In paragraph 4.22 of the policy consultation, we explained that the new charging algorithm for the Satellite PES licence is used as a basis for calculating the fees for the Satellite TES licence. This is appropriate because they both share the same frequency bands, which are also used by fixed services. The new Satellite (Transportable Very Small Aperture Terminal) licence class will also be available in the same frequency bands

as the Satellite TES licence and they will both share the same frequency co-ordination principles. It is therefore appropriate to charge the same level of fees for Satellite (Transportable Very Small Aperture Terminal). Charges are given in the following table. The charge for each earth station is based on the maximum input power and the widest accessible bandwidth of the transmission. Annex 9 of the policy consultation explains the factors used for deriving the appropriate fee. The proposed charges are set out in Regulation 3 of the draft pricing regulations at Annex 5.

Category	$F = P \times BW$	Fee
Category 1	$F \leq 100$	£ 300
Category 2	$100 < F \leq 2,500$	£ 1,400
Category 3	$F > 2,500$	£ 4,300

where:

$P$  = input power into antenna  
 $BW$  = accessible bandwidth of the emission  
 $F$  =  $P \times BW$

### **Satellite (Earth Station Network), Satellite (Aircraft Earth Station) and Satellite (Earth Station on Board Train)**

- 2.17 The fee for Satellite (Earth Station Network), Satellite (Aircraft Earth Station) and Satellite (Earth Station on Board Train) licences will be a flat-rate, cost-recovery charge of £200. An additional one-off charge of £200 will also be payable for each earth station requiring technical co-ordination by us. The £200 represents the minimum fee that we proposed in the policy statement for the Satellite (Earth Station Network) and Satellite (Earth Station on Board Train) licences.
- 2.18 The method of charging is a change to what we proposed in the policy consultation, which was to use AIP as a basis for setting fees. A number of respondents to the policy consultation encouraged us to move toward a licence-exempt regime as far as possible in the interests of promoting light-touch regulation. In the policy statement, we said that we would continue to consider ways of reducing regulation for satellite earth stations where appropriate. We now consider that the opportunity cost of spectrum use by these types of low-power satellite earth station in the frequency bands for which they are licensed is likely to be low and that therefore it is not appropriate to apply AIP-based fees.
- 2.19 The clearance and co-ordination arrangements for these low-power earth stations will also change, meaning that, in general, only those terminals transmitting with equivalent isotropically radiated power (e.i.r.p.) greater than 50 dBW will require technical co-ordination by us, attracting an additional one-off fee of £200 for each such station. This fee will only apply to new proposed terminals. It will not apply to any existing terminals, at specific locations, that have already been cleared. Only about 0.1% of existing terminals operate with e.i.r.p. greater than 50 dBW and therefore the impact of the additional one-off fee is expected to be small.
- 2.20 This change in policy supports our objective of minimising regulatory burdens and is particularly suitable for these services where flexible, rapid and ubiquitous deployment is required. A less intrusive regulatory regime will promote the availability, especially in rural areas, of broadband services by satellite.
- 2.21 The Satellite (Earth Station on Board Train) is a new licence class. Since the terminals operate within a network, which is similar to those requiring Satellite (Earth



Station Network) and Satellite (Aircraft Earth Station) licences, we propose to apply the same method of charging to all three licence classes.

- 2.22 The proposed charges are set out in Regulation 3 of the draft pricing regulations given in Annex 5.

### **Satellite (Earth Station on Board Vessel)**

- 2.23 The Satellite (Earth Station on Board Vessel) licence class and corresponding fee will be removed. This is a change to what we proposed in the policy consultation because, in conjunction with a number of Government Departments, we have decided that site clearance for these types of terminal is no longer required.
- 2.24 Operators wishing to use satellite earth stations on UK registered ships are still required to hold a Ship Radio licence and will need to obtain a notification of variation to this. Visiting foreign registered vessels and ships continue to be covered by the provisions of The Wireless Telegraphy (Visiting Ships and Aircraft) Regulations (Statutory Instrument 1998 No. 2970).
- 2.25 This change also supports our objective of removing unnecessary regulatory burdens. A less intrusive regulatory regime will promote the availability of broadband services by satellite.
- 2.26 The removal of fees applicable to this licence class is shown in Regulation 3 of the draft pricing regulations given in Annex 5.

### **Conclusion**

- 2.27 Having considered the costs and benefits of introducing the proposed changes, we believe that the benefits of amending the satellite pricing regime, in some cases bringing AIP rates in line with fixed links licences which use the same or similar spectrum, outweigh the costs of making the change. The removal of regulatory burdens in the Satellite Services sector will benefit stakeholders by simplifying the licensing process.
- 2.28 To give legal effect to the policy decisions we have taken and published in the policy statement, we must make regulations using our powers explained at the beginning of this section. The statutory notice will be open for comments until 14 December 2007. Subject to considering any representations, we anticipate that these regulations will be made in January 2008 in order that they can come into force no later than the end of January 2008.

### Section 3

## General Effect of the draft Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations 2007

- 3.1 The draft pricing regulations (copy at Annex 5), once they come into force, will amend the existing legal framework for the spectrum pricing arrangements that apply to some WT Act Satellite Services licence classes. In making the draft pricing regulations, we have had regard to the matters specified in section 3 of the WT Act and are exercising our powers under sections 12 and 13 of the WT Act and section 403 of the Communications Act.

### Extent of application

- 3.2 The draft pricing regulations will apply in the United Kingdom, Guernsey, Jersey and the Isle of Man.

### Proposed changes to the existing pricing regulations

- 3.3 The draft pricing regulations will set out the relevant licence charges for Satellite Services licence classes. They will amend the existing pricing regulations.

### Regulations 1 and 2

- 3.4 Regulation 1 sets out the citation and commencement of the draft pricing regulations.
- 3.5 Regulation 2 provides for the amendment of the existing pricing regulations.

### Regulation 3

- 3.6 Regulation 3 amends Schedule 2 to the existing pricing regulations.
- 3.7 Regulation 3(2) removes the Satellite (Earth Station on Board Vessel) licence class and inserts new licence classes for Satellite (Earth Station on Board Trains) and Satellite (Transportable Very Small Aperture Terminal). This change has effectively resulted in the removal of Part 1 of Schedule 8 to the existing pricing regulations.
- 3.8 Regulation 3(3) provides for the interpretation of Regulation 3.

### Regulation 4

- 3.9 Regulation 4 replaces Schedule 8 to the existing pricing regulations.
- 3.10 Regulation 4(1) and 4(2) insert a new algorithm for the Satellite PES licence class.
- 3.11 Regulation 4(3) inserts a fee table to be used for the calculation of the Satellite TES licence and the Satellite (Transportable Very Small Aperture Terminal) licence.

## Annex 1

# Responding to this Notice

### How to respond

- A1.1 We invite written views and comments on the issues raised in this document, to be made **by 5pm on 14 December 2007**.
- A1.2 Please email response in Microsoft Word format, together with a consultation response coversheet (available at annex 3) to [Diana.Kennedy@ofcom.org.uk](mailto:Diana.Kennedy@ofcom.org.uk)
- A1.3 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Diana Kennedy  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

Fax: 020 7981 3000

- A1.4 Note that we do not need a hard copy in addition to an electronic version. We will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.

### Further information

- A1.5 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Diana Kennedy on 020 7783 4201.

### Confidentiality

- A1.6 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.
- A1.7 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.8 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to us to use. Our approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/account/disclaimer/>

## Next steps

- A1.9 Following the end of the consultation period, Ofcom intends to make the Regulations in January 2008 in order that they can come into force no later than January 2008.
- A1.10 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see:  
[http://www.ofcom.org.uk/static/subscribe/select\\_list.htm](http://www.ofcom.org.uk/static/subscribe/select_list.htm)

## Ofcom's consultation processes

- A1.11 We seek to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.12 If you have any comments or suggestions on how we conducts our consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk) . We would particularly welcome thoughts on how we could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.13 If you would like to discuss these issues or our consultation processes more generally you can alternatively contact Vicki Nash, Director Scotland, who is our consultation champion:

Vicki Nash  
Ofcom  
Sutherland House  
149 St. Vincent Street  
Glasgow G2 5NW

Tel: 0141 229 7401  
Fax: 0141 229 7433

Email [vicki.nash@ofcom.org.uk](mailto:vicki.nash@ofcom.org.uk)

## Annex 2

# Our consultation principles

- A2.1 We have published the following seven principles that we will follow for each public written consultation:

### Before the consultation

- A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

### During the consultation

- A2.3 We will be clear about who we are consulting, why, on what questions and for how long.
- A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
- A2.5 We will normally allow 10 weeks for responses to consultations on issues of general interest. In this case we are carrying out a statutory consultation that lasts for the one month and one day.
- A2.6 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (whom we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.
- A2.7 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

### After the consultation

- A2.8 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

## Annex 3

# Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk).
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore we would encourage respondents to complete their coversheet in a way that allows us to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at [www.ofcom.org.uk/consult/](http://www.ofcom.org.uk/consult/).
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

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 we 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)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

We seek to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

☐

Name

Signed (if hard copy)

## Annex 4

# Regulatory Impact Assessment relating to the draft Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations

## Introduction

- A4.1 In accordance with Government practice, where a statutory regulation is proposed, a Regulatory Impact Assessment (“RIA”) must be undertaken. The analysis presented here, when read in conjunction with the rest of this document, represents an RIA as defined by section 7 of the Communications Act 2003 (“the Communications Act”) for amending the Wireless Telegraphy (Licence Charges) Regulations 2005.
- A4.2 RIAs 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 will carry out impact assessments where 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. In accordance with section 7 of the Communications Act, in producing this RIA, we have had regard to such general guidance as we consider appropriate including related Cabinet Office guidance. 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: [http://www.ofcom.org.uk/consult/policy\\_making/guidelines.pdf](http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf).

## Background

- A4.3 In the UK, we are responsible for the authorisation of civil use of the radio spectrum and achieve this by granting licences under the Wireless Telegraphy Act 2006 (“the WT Act”). Section 12 grants us the power to recover charges, as determined by us and prescribed by regulations, for the grant of a WT Act licence. This power enables us to recover the cost of administering and managing WT Act licences. However, we also have a range of duties under section 3 of the WT Act which require us to promote the efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy. Accordingly, in order to provide incentives to licensees to use their spectrum more efficiently, section 13(2) of the WT Act permits us to prescribe and recover sums for WT Act licences greater than those necessary to recover the costs that we incur in undertaking our spectrum management functions. This is known as Administrative Incentive Pricing (AIP).
- A4.4 We issued a consultation document (“the policy consultation”)<sup>5</sup> and subsequent statement (“the policy statement”)<sup>6</sup> concerning modifications to spectrum pricing on

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<sup>5</sup> <http://www.ofcom.org.uk/consult/condocs/pricing06/>

<sup>6</sup> <http://www.ofcom.org.uk/consult/condocs/licencecharges/statement/wtstatement.pdf>



6 July 2006 and 10 January 2007 respectively. The policy consultation concerned changes to a number of WT Act licence charges and categories, namely those applicable to Broadcasting, Business Radio, Community Radio, Fixed Links, Fixed Wireless Access, Maritime, Programme Making and Special Events, Public Wireless Networks, Satellite Earth Stations and Science and Technology. The majority of these changes were implemented by the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2007<sup>7</sup> which came into force on 27 August 2007. This RIA relates to the decisions made in relation to Satellite Services licences. The decision made in relation to the Business Radio sector will be implemented via a separate statutory notice to be issued in 2008.

## Proposal

A4.5 This RIA relates to the decisions we set out in the policy statement to update and modify WT Act licence charges for Satellite Services licences, introduce new licence products for new services and remove a service where deregulation is desirable. The modifications are to be effected by way of an amendment to the Wireless Telegraphy (Licence Charges) Regulations 2005<sup>8</sup> ("the existing pricing regulations") in the form of the Wireless Telegraphy (Licence Charges) (Amendment) Regulations (No. 2) 2007 ("the draft regulations"). The nature of the changes proposed fall into the following three categories:

- adjusting WT Act licence charges in order to introduce AIP at a comparable rate paid by other sectors (for example fixed links, which use the same or similar spectrum);
- simplifying and deregulating licence classes; and
- introducing licence classes in response to demand for new services.

## The citizen and/or consumer interest

A4.6 We take account of the impact of our decisions on both citizen and consumer interests in the markets we regulate. In proposing changes to the existing pricing regulations we have considered the wider impact beyond immediate stakeholders in the radiocommunications community. We believe that the proposals will be of benefit to citizens and consumers for the following reasons:

- i) extended application of AIP will encourage more efficient use of the radio spectrum, potentially making more available to potential new uses and users;
- ii) simplified licence charges will facilitate fee payment and reduce costs to licensees by reducing the number and complexity of transactions; and
- iii) the introduction of new licence classes will improve choice for consumers and industry.

## Ofcom's policy objective

A4.7 Given our statutory duties and powers described above, we are amending charges for specified WT Act licence products in order either to recover our increased costs of administering and managing those licences or to encourage more efficient use of

<sup>7</sup> <http://www.opsi.gov.uk/SI/si2007/20072326.htm>

<sup>8</sup> S.I. 2005/1378 as amended by S.I. 2006/2894

the radio spectrum. Additionally, we seek wherever possible, to reduce the regulatory burden on our stakeholders, in this instance users of the radio spectrum. One way in which we can do this is to simplify and rationalise WT Act licence products available to users. We are simplifying certain categories of licence and charging mechanisms in order to further this objective.

## **Options considered**

A4.8 The options open to us in relation to the categories of WT Act licence offered generally fall into the following categories:

- i) maintain existing licence classes and categories of licence products;
- ii) create new licence classes and products in order to satisfy demand; or
- iii) licence exempt the equipment.

A4.9 The options open to us in relation to the charges for WT Act licences generally fall into the following categories:

- i) not charge for licences;
- ii) maintain existing charges for licences;
- iii) charge for licences on a cost recovery basis only;
- iv) charge for licences based on AIP; or
- v) adopt a mixture of these options.

## **Analysis of the different options in relation to the categories of WT Act licence offered**

### **Maintain existing licence classes and categories of licence products**

A4.10 By maintaining existing licence classes and products we may not be acting to reduce regulatory burdens in areas where it is possible for us to do so. In addition, we may be failing to consider whether existing licence classes and products are adequate or necessary to meet the needs of stakeholders.

### **Create new licence classes and products in order to satisfy demand**

A4.11 By creating new licence classes we are seeking to ensure that licence products are adequate to satisfy stakeholder demand.

### **Licence exempt the equipment**

A4.12 It is not appropriate to make equipment licence exempt where that would create a significant risk of harmful interference. Licences have only been proposed where such a risk exists.

## **Analysis of the different options in relation to the charges for WT Act licences**

### **Not charge for licences**

- A4.13 By issuing free licences we may not be complying with our duty to promote efficient use and management of spectrum. Further, in not, at the very least, recovering our costs of undertaking our spectrum management functions, we may indirectly impose additional costs on other stakeholders.

### **Maintain existing charges for licences**

- A4.14 By maintaining existing charges for licences we may not be complying with our duty to promote the efficient use and management of spectrum. Further, where our costs of undertaking our spectrum management functions have increased and we do not seek to recover these costs, we may indirectly impose additional costs on other stakeholders.

### **Charge for licences on a cost recovery basis only**

- A4.15 In relation to some classes of licence it may be appropriate to recover from licensees those costs incurred by us in undertaking our spectrum management functions. However, this approach may not be appropriate for all licence classes as it does not necessarily reflect the value of spectrum as a scarce resource and may not promote the efficient use and management of spectrum.

### **Charge for licences based on AIP**

- A4.16 It may be appropriate to charge some licensees on the basis of AIP, in order to reflect the value of spectrum as a scarce resource and promote efficient use and management of spectrum.

### **A mixture of these options**

- A4.17 We consider that it is appropriate to recover costs from licensees on the basis of either cost recovery principles or AIP, as appropriate in the circumstances.

## **The preferred options**

- A4.18 In relation to the categories of WT Act licence available to licensees and the charges associated with these categories, our preferred options are to:
- adjust licence charges in order to introduce AIP at a comparable rate paid by other sectors (for example fixed links, which use the same or similar spectrum) specifically in relation to Satellite (Permanent Earth Station) (PES), Satellite (Transportable Earth Station) (TES) and Satellite (Transportable Very Small Aperture Terminal) licences;
  - simplify some licence charges and classes and categories of licence product as necessary, specifically in relation to Satellite (Aircraft Earth Station), Satellite (Earth Station on Board Train) and Satellite (Earth Station Network); and
  - introduce charges for new licence classes, specifically in relation to Satellite (Transportable Very Small Aperture Terminal) and Satellite (Earth Station on Board Train), to satisfy demand for new services.

- A4.19 Holders of Satellite PES and Satellite TES licences will pay increased licence charges as a result of the introduction of the draft pricing regulations. These licence charges, as well as charges for the new Satellite (Transportable Very Small Aperture Terminal) licence class, are based on the AIP rate identified by Indepen in the 2004 Spectrum pricing report.<sup>9</sup>
- A4.20 The holders of licences in the Satellite (Aircraft Earth Station), Satellite (Earth Station on Board Train) and Satellite (Earth Station Network) licence classes will pay WT Act licence fees which are based on the costs incurred by us in undertaking our spectrum management functions related not just to issuing and administering these licences but also enforcement and other indirect costs associated with the licences.

## **Benefits**

- A4.21 The benefits of these preferred options are a reduction in the regulatory burden on stakeholders arising from the simplification of licence charges and removal of the Satellite (Earth Station on Board Vessel) licence class. The introduction of new licence classes will also benefit stakeholders by allowing them to respond to demand for new services. The draft pricing regulations will also provide incentives for licensees to use spectrum more efficiently.

## **Costs to business**

- A4.22 While the cost of certain WT Act licences will increase as a result of the introduction of the draft pricing regulations, these costs are likely to be offset against the benefits to the UK economy as a whole from more efficient use of spectrum.

## **Costs to Ofcom**

- A4.23 There are one-off administrative costs associated with making regulations. We consider the implementation costs to be low and offset by the benefits outlined in section 2 of the policy consultation. There may be a slight reduction in spectrum management costs in certain areas.

## **Conclusion**

- A4.24 We consider that promoting more efficient use of spectrum and reducing the regulatory burden on some licensees brought about by the introduction of the draft pricing regulations outweigh the costs of their introduction. We therefore propose to amend the existing pricing regulations. We will continue to monitor the effect of the draft pricing regulations as part of our ongoing review of spectrum pricing policy. We usually review the pricing regulations themselves every two years.

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<sup>9</sup> [http://www.independ.co.uk/panda/docs/spectrum\\_pricing\\_review.pdf](http://www.independ.co.uk/panda/docs/spectrum_pricing_review.pdf)

## **Annex 5**

# **The draft Wireless Telegraphy (Licence Charges) (No. 2) Regulations 2007**

**2007 No. 0000**

**ELECTRONIC COMMUNICATIONS**

**The Wireless Telegraphy (Licence Charges) (Amendment) (No. 2) Regulations 2007**

*Made* - - - - - \*\*\*

*Coming into force* - - - - - \*\*\*

The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred by sections 12, 13(2) and 122(7) of the Wireless Telegraphy Act 2006(a), (“the Act”).

Before making these Regulations OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the Act, and have considered the representations made to them before the time specified in the notice in accordance with section 122(4)(c) of the Act.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Wireless Telegraphy (Licence Charges) (Amendment) (No.2) Regulations 2007 and shall come into force on [date] December 2007.

(2) In these Regulations “the principal Regulations” means the Wireless Telegraphy (Licence Charges) Regulations 2005(b).

**Amendment of the Wireless Telegraphy (Licence Charges) Regulations 2005**

**2.** The principal Regulations shall be amended in accordance with the following provisions of these Regulations.

**Amendment of Schedule 2**

**3.**—(1) Schedule 2 (licence charges and payment intervals) shall be amended in accordance with the following paragraphs of this regulation.

(2) Under the heading “Satellite Services”, for all entries in Columns 1 to 4, substitute the following entries—

“Satellite (Aircraft Earth Station)		(a) For the issue of a licence, £200.	12 months
		(b) For each terminal requiring technical co-ordination by Ofcom resulting in the variation of	

(a) 2006 c.36

(b) S.I. 2005/1378 as amended by S.I. 2006/2894 and S.I. 2007/2326

		a licence, £200.	
Satellite (Earth Station Network)		(a) For the issue of a licence, £200.	12 months
		(b) For each terminal requiring technical co-ordination by Ofcom resulting in the variation of a licence, £200.	
Satellite (Earth Station on Board Train)		(a) For the issue of a licence, £200.	12 months
		(b) For each terminal requiring technical co-ordination by Ofcom resulting in the variation of a licence, £200.	
Satellite (Earth Station – Non-Fixed Satellite Service)	£500		12 months
Satellite (Earth Station – Non-Geostationary)	£500		12 months
Satellite (Permanent Earth Station)		For each site (the area contained within a circle of a radius of 500 metres centred on a point defined by the licensee), the appropriate sum calculated in accordance with the formula set out in Part 1 of Schedule 8.	12 months
Satellite (Transportable Earth Station)		For each earth station operating in the 13.78-14.5 GHz band, the appropriate sum payable in accordance with Part 3 of Schedule 8 as determined by the power and bandwidth of the earth station.	12 months
Satellite (Transportable Very Small Aperture Terminal)		For each earth station operating in the 13.78-14.5 GHz band, the appropriate sum payable in accordance with Part 3 of Schedule 8 as determined by the power and bandwidth of the earth station.	12 months"

(3) In this regulation—

- (a) the column headed “Class of licence” in Schedule 2 to the principal Regulations shall be designated as “Column 1”;
- (b) the column headed “Fixed sums” in Schedule 2 to the principal Regulations shall be designated as “Column 2”;
- (c) the column headed “Variable sums” in Schedule 2 to the principal Regulations shall be designated as “Column 3”;
- (d) the column headed “Prescribed payment interval” in Schedule 2 to the principal Regulations shall be designated as “Column 4”; and

- (e) where the amendments to Schedule 2 to the principal Regulations prescribed in the preceding paragraphs of this regulation are set out within a four column grid, the four columns of that grid are to be inserted as Columns 1 to 4 of that Schedule.

#### **Amendment of Schedule 8**

4. For all of the entries in Schedule 8, substitute the following entries—

### **“SCHEDULE 8**

#### **FEES PAYABLE FOR THE SATELLITE (PERMANENT EARTH STATION), (TRANSPORTABLE EARTH STATION) AND (TRANSPORTABLE VERY SMALL APERTURE TERMINAL) LICENCES**

##### **PART 1**

##### **FORMULA FOR CALCULATING THE APPROPRIATE SUM FOR THE SATELLITE (PERMANENT EARTH STATION) LICENCE**

4. In this Part, subject to paragraph 6, “the appropriate sum” means the amount in pounds sterling, which is payable for a Satellite (Permanent Earth Station) Licence, calculated in accordance with the formula set out in paragraph 5.

5. The formula is –

$$AS = \sum_{band=1}^5 \left[ 28 \times BF \times \sqrt{\sum_{ijk} (P_{ijk} \times BW_{ijk})} \right]$$

where –

“AS” means the appropriate sum;

“band” means the number corresponding to the range of frequency band, as prescribed in Part 2, for the uplink frequencies as declared by the licensee on application for a licence;

“BF” means band factor, being the number in Column 3 of the table set out in Part 2 as determined by the range of frequency (in MHz), if any, of the earth station set out in Column 2 of that table in which the licensee’s band falls as declared by the licensee on application for a licence;

“BW<sub>ijk</sub>” means the number corresponding to the number of the transmit authorised bandwidth (in MHz) as declared by the licensee on application for a licence;

“i” means the number corresponding to the number of earth station terminals on a site in a band as declared by the licensee on application for a licence;

“j” means the number corresponding to the number of satellites as declared by the licensee on application for a licence;

“k” means the number corresponding to the number of transmission paths as declared by the licensee on application for a licence; and

“P<sub>ijk</sub>” means the number corresponding to the number of the transmit peak power (in Watts) at the flange of the antenna of the earth station as declared by the licensee on application for a licence.



6. Where the amount in pounds sterling calculated in accordance with the formula set out in paragraph 5 is less than £500, the appropriate sum shall be £500.

## PART 2

### BAND FACTOR FOR CALCULATING THE APPROPRIATE SUM FOR THE SATELLITE (PERMANENT EARTH STATION) LICENCE

<i>Column 1: band</i>	<i>Column 2: Range of frequency band (fb) (in MHz)</i>	<i>Column 3: Band factor</i>
1	$fb < 5$	1.54
2	$5 \leq fb < 10$	1.23
3	$10 \leq fb < 16$	0.87
4	$16 \leq fb < 24$	0.70
5	$fb \geq 24$	0.60

## PART 3

### FEES PAYABLE FOR THE SATELLITE (TRANSPORTABLE EARTH STATION) AND (TRANSPORTABLE VERY SMALL APERTURE TERMINAL) LICENCES

7. The appropriate sum is the amount in pounds sterling, which is payable for each earth station of a Satellite (Transportable Earth Station) and a Satellite (Transportable Very Small Aperture Earth Station) Licence, specified in Column 2 of the table below as determined by the range of  $p$  specified in Column 1 of that table in which the licensee's network falls.

8. In this Part –

- (a) “OMP” means the number corresponding to the number of the Operational Maximum Power (in Watts) as declared by the licensee on application for each earth station licence;
- (b) “ $p$ ” means the total sum of OMP multiplied by WBW; and
- (c) “WBW” means the number corresponding to the number of the widest bandwidth (in MHz) as declared by the licensee on application for a licence.

<i>Column 1: Range of <math>p</math></i>	<i>Column 2: Fee (£) per earth station</i>
$0 < p \leq 100$	300
$100 < p \leq 2,500$	1,400
$p > 2,500$	4,300

Date

Chief Executive of the Office of Communications  
For and by the authority of the Office of Communications

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Wireless Telegraphy (Licence Charges) Regulations 2005 (S.I. 2005/1378 as amended by S.I. 2006/2894 and S.I. 2007/2326) (the “Principal Regulations”).

For the Satellite sector, the Regulations introduce fixed fees for some existing licence classes, introduce fees for two new licence classes, and increase existing fees for other licence classes.

A full regulatory impact assessment of the effect that these Regulations will have on the costs to business is available to the public from the OFCOM Library at Riverside House, 2A Southwark Bridge Road, London SE1 9HA (Tel: 020 7981 3000) or on OFCOM’s website at [www.ofcom.org.uk](http://www.ofcom.org.uk). Copies of this assessment have also been placed in the libraries of both Houses of Parliament.

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