



Licensing in the 71-76 GHz, 81-86 GHz and 64-66 GHz bands

Statement of Ofcom's decision to amend the Wireless
Telegraphy (Register) Regulations and the Wireless
Telegraphy (Spectrum Trading) Regulations

Statement

Publication date:

1 March 2007

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Section 1

Executive Summary

- 1.1 This Statement confirms that following a formal consultation process¹, regulations in connection with the introduction of a new class of licence, Self Coordinated Links, have been made by Ofcom and will come into force on 8 March 2007.
- 1.2 Notice of Ofcom's proposal to make regulations in connection with Self Coordinated Links (the "Statutory Notice") was published on 20 December 2006 and is available electronically on Ofcom's website <http://www.ofcom.org.uk/consult/condocs/licensing7176/>. The Statutory Notice arose from Ofcom's statement dated 8th November 2006 setting out a light licensed approach for broadband fixed wireless systems. The statement is available at <http://www.ofcom.org.uk/consult/condocs/71-86ghz>.
- 1.3 The consultation period for the Statutory Notice closed on 22nd January 2007.
- 1.4 The Statutory Notice contained two draft statutory instruments to reflect the creation of the new licence class. The statutory instruments have now been made and enter into force on 8th March 2007.
- 1.5 (The statutory instruments when made (for convenience) also included other provisions which Ofcom had consulted on separately in relation to different projects. These other provisions related to Ofcom's spectrum award programme and the development of Recognised Spectrum Access. The Ofcom website contains details of these separate consultations.)
- 1.6 The statutory instruments will be published soon by the Stationery Office and will also be available online at Office of Public Sector Information's website at www.opsi.gov.uk/.

¹ <http://www.ofcom.org.uk/consult/condocs/licensing7176/>

Section 2

Responses to the Consultation

- 2.1 Ofcom received two responses to the consultation. The respondents are listed in Annex 2 and the non-confidential content of the responses has been placed on Ofcom's website.
- 2.2 Both respondents supported the proposals to make changes to the Trading Regulations and the Register Regulations. Ofcom has therefore decided to proceed with the revisions to the Register and Trading Regulations as proposed in the Statutory Notice.
- 2.3 Comments were also made by both respondents regarding Ofcom's intended fee for registering fixed wireless links in these bands. Fees were outside the scope of this consultation and were the subject of a previous consultation which can be accessed at <http://www.ofcom.org.uk/consult/condocs/pricing06/statement/>.

Section 3

Explanation of the changes

- 3.1 Ofcom has decided to make changes, following consultation, to the Wireless Telegraphy (Spectrum Trading) Regulations 2004 and the Wireless Telegraphy (Register) Regulations 2004. The following regulations have been prepared in order to reflect the substance of the changes. These are:
- The Wireless Telegraphy (Register) (Amendment) Regulations 2007 (SI 2007/381), amending the Wireless Telegraphy (Register) Regulations 2004 (SI 2004/3155) (“the Register Regulations”); and
 - the Wireless Telegraphy (Spectrum Trading) (Amendment) Regulations 2007 (SI 2007/380), amending the Wireless Telegraphy (Spectrum Trading) Regulations 2004 (SI 2004/3154) (the “Trading Regulations”).
- 3.2 The regulations referred to above reflect the creation of a new class of tradable wireless telegraphy licence which will be added to the wireless telegraphy register established and maintained by Ofcom under the Register Regulations (the “Register”). The proposed regulations are brought together in a single statement because the both relate to the creation of that new licence class.
- 3.3 These regulations are intended to enable point to point broadband fixed wireless systems under the new licence class ‘Self coordinated links’ in the 64-66 GHz, 71.125-75.875 GHz, and 81.125-85.875 GHz bands to be tradable and to publish information to facilitate self coordination within these bands.

The Register Regulations

- 3.4 The Register Regulations provide for the establishment and maintenance of a register of relevant information relating to wireless telegraphy licences of certain classes which apply to a station or apparatus operating within certain specified frequency bands.
- 3.5 The Register Regulations specify the relevant information which Ofcom must maintain on the Register. Such information relates to the issue, renewal or variation of a wireless telegraphy licence of a range of specified classes which applies to a station or apparatus operating within any specified frequency bands.
- 3.6 The current Register Regulations were made by Ofcom under section 170(1) and (2) of the Communications Act 2003² and came into force in December 2004.
- 3.7 In addition to the amendments required to put in place the Self Coordinated Links licence class, the amendments to the Register Regulations also include two other sets of amendments that are not connected to Self Coordinated Links and that were the subject of separate Statutory Notifications consultations at the end of 2006. The reason for combining two additional unrelated amendments in the one statutory instrument was to avoid the need to publish three separate statutory instruments,

² With effect from 8th February 2007, this provision has been repealed and replaced with section 122 Wireless Telegraphy Act 2006. This does not affect the validity of anything done under the old provision before 8th February 2007.

each making minor amendments to the Wireless Telegraphy Register at around the same time.

- 3.8 The first of the non-Self Coordinated Links amendments included in the Register Regulations is the insertion of new wording and a new Part 8 to reflect the establishment of Recognised Spectrum Access (“RSA”) in connection with Radio Astronomy and the addition of RSA to the Register. The general effect of this amendment and other accompanying Regulations were set out in Ofcom’s original consultation and statement on RSA for radio astronomy, both published in 2005³. A Statutory Notice of Ofcom’s proposal to make regulations in connection with Recognised Spectrum Access for radio astronomy was published on 10 November 2006 and is available electronically on Ofcom’s website <http://www.ofcom.org.uk/consult/condocs/rsa/>.
- 3.9 The second of the non-Self Coordinated Links amendments included in the Register Regulations is the insertion of a new row in Part 4 of the Schedule to allow for the inclusion on the Register of a licence in the 1785 – 1805 MHz frequency band due to be awarded at auction later this year. The general effect of this amendment and other accompanying Regulations relevant to the forthcoming award by auction of that licence were set out in a statement “Award of Available Spectrum: 1785 – 1805 MHz” published by Ofcom in conjunction with ComReg on 14 December 2006⁴. The Statutory Notice of Ofcom’s intention to make regulations in connection with this award of available spectrum was also published on 14 December and closed on 19 January 2007⁵. The information to be published on the Register relating to this licence will be the same categories of information already provided in relation to other licences on the existing Register. As mentioned above, the statutory instrument when made (for convenience) also included other provisions which Ofcom had consulted on separately in relation to different projects. These other provisions related to Ofcom’s spectrum award programme and the development of Recognised Spectrum Access. The Ofcom website contains details of these separate consultations

Comments on the Register Regulations and Ofcom’s decision

- 3.10 No specific comments were received in response to Ofcom’s proposal to add Self-Coordinated Links to the Register and Ofcom has therefore made the Register Regulations in the form proposed in the Statutory Notice without modification.

The Trading Regulations

- 3.11 The Trading Regulations authorise, subject to Ofcom’s consent, the transfer of all rights and obligations arising by virtue of a wireless telegraphy licence in a class specified which applies to a station or apparatus operating within any of the frequency bands specified.

³ <http://www.ofcom.org.uk/consult/condocs/astronomy/statement/statement.pdf> and http://www.ofcom.org.uk/consult/condocs/astronomy/main/radio_astronomy.pdf

⁴ The Statement is at <http://www.ofcom.org.uk/consult/condocs/availspec/statement/statement.pdf> and the original consultation can be found at

http://www.ofcom.org.uk/consult/condocs/availspec/1785_1805.pdf

⁵ <http://www.ofcom.org.uk/consult/condocs/award1785/award1785.pdf>.

- 3.12 The current Trading Regulations were made by Ofcom under sections 168(1) and (3) of the Communications Act 2003⁶ on 30th November 2004 and came into force on 23 December 2003⁷.

Amendments

- 3.13 The amending regulations are intended to reflect the creation of the new class of tradable wireless telegraphy licence which will be added to the Register. The regulations to amend the Trading Regulations set out the name and frequency bands of the new class of licence which will be tradable.
- 3.14 In addition to the amendments required to reflect the creation of the new tradable licence class, the amendments to the Trading Regulations to also include one other amendments not connected to Self Coordinated Links (but related to Ofcom's spectrum awards programme) and that was the subject of a separate Statutory Notification consultation at the end of 2006. The reason for combining this additional unrelated amendment in the same statutory instrument was to avoid the need to publish separate statutory instruments, each making minor amendments to the Trading Regulations at around the same time.
- 3.15 This extra change to the Trading Regulations is the insertion of a new row in Part 4 of the Schedule to allow for spectrum trading of licences in the 1785 – 1805 MHz frequency band due to be awarded at auction later this year. The general effect of this amendment and other accompanying Regulations relevant to the forthcoming award by auction of that licence were set out in a statement "Award of Available Spectrum: 1785 – 1805 MHz" published by Ofcom in conjunction with ComReg on 14 December 2006⁸. The Statutory Notice of Ofcom's intention to make regulations in connection with this award of available spectrum was also published on 14 December and closed on 19 January 2007⁹.

Comments on the Trading Regulations and Ofcom's decision

- 3.16 No specific comments were received in response to Ofcom's proposal make Self-Coordinated Links tradable and Ofcom has therefore made the Trading Regulations in the form proposed in the Statutory Notice without modification.

Next Steps

- 3.17 Ofcom made the Regulations on 14 February 2007 and they will come into force on 8 March 2007. The Regulations will be officially published on the Office of Public Sector Information's website in due course at www.opsi.gov.uk. Regulatory impact assessments were prepared for each of the statutory instruments. They are available on Ofcom's website (www.ofcom.org.uk).

⁶ With effect from 8th February 2007, this provision has been repealed and replaced with section 30 Wireless Telegraphy Act 2006. This does not affect the validity of anything done under the old provision before 8th February 2007.

⁷ For Ofcom's Statement on Spectrum Trading, see http://www.ofcom.org.uk/consult/condocs/spec_trad/statement/

⁸ The Statement is at <http://www.ofcom.org.uk/consult/condocs/availspec/statement/statement.pdf> and the original consultation can be found at

http://www.ofcom.org.uk/consult/condocs/availspec/1785_1805.pdf

⁹ <http://www.ofcom.org.uk/consult/condocs/award1785/award1785.pdf>.

Annex 1

Regulatory Impact Assessments

The Regulatory Impact Assessment is available at:

<http://www.ofcom.org.uk/consult/condocs/licensing7176/consultation.pdf>

Annex 2

List of Respondents

A2.1 The following non-confidential submissions were received in response to Ofcom's Notification which ran from 20 December 2006 to 22 January 2007.

- Mr Brian Copsey; and
- One respondent who wished his name to remain confidential.

A2.2 The responses may be viewed on the Ofcom website at <http://www.ofcom.org.uk/consult/condocs/licensing7176/responses/>