



Decision to make the
Wireless Telegraphy
(White Space Devices)
(Exemption) (Amendment)
Regulations 2016

Statement

Publication date:

3 June 2016

About this document

This document confirms that Ofcom has made the Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016. This amends the the Wireless Telegraphy (White Space Devices) (Exemption) Regulations 2015 to include additional organisations which have qualified to provide white space database services.

'White spaces' are gaps in the radio spectrum in frequency bands, which can be used to offer new wireless applications to benefit consumers and businesses.

The white spaces covered by the regulations are in frequencies currently used for digital terrestrial TV and wireless microphones, among other services, in the 470 - 790 MHz spectrum band.

The regulations come into effect on 9 June 2016.

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Section 1

Executive summary

- 1.1 This document confirms that after consultation Ofcom has made the Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016 (the “Amendment Regulations”) which amend the Wireless Telegraphy (White Space Devices) (Exemption) Regulations 2015 (the “2015 Regulations”) ¹. The 2015 Regulations implement Ofcom’s decision, as set out in our statement published on 12 February 2015 entitled “*Implementing TV White Spaces*” (the “TVWS Statement”) ², to allow white space devices access to unused frequencies in the UHF TV Band under a licence exemption regime, provided that the devices meet certain minimum technical requirements.
- 1.2 The Amendment Regulations make a minor change to the 2015 Regulations to include additional organisations in Schedule 1 which lists the organisations that are qualified by Ofcom to provide master operational parameters and slave operational parameters to white space devices. No other changes to the 2015 Regulations have been made.
- 1.3 Before deciding to make regulations, in accordance with the requirements of section 122(4) and 122(5) of the Wireless Telegraphy Act 2006 (“WT Act”), we published the Notice ³ setting out our proposals to make them. The Notice also contained a draft of the Amendment Regulations and invited comments from stakeholders on the proposal to add Council for Scientific and Industrial Research (CSIR) and Google UK Limited to the list of organisations in Schedule 1. In addition we proposed that if Microsoft Ireland Operations Limited were to satisfactorily complete the Qualification Assessment prior to the final regulations being made we would also include this organisation in the Amendment Regulations.
- 1.4 We can confirm that Microsoft Ireland Operations Limited has now completed the Qualification Assessment to our satisfaction and is therefore included in the Amendment Regulations.
- 1.5 We received two non-confidential responses to the consultation. We have considered these responses in accordance with section 122(4)(c) of the WT Act. After doing so, and for the reasons set out in this document, we have decided to amend the 2015 Regulations. The details of the changes made to the draft regulations can be found in section 3. Copies of the Regulations can be obtained through the legislation.gov.uk website ⁴. A link to the Regulations will also be available on our website ⁵.
- 1.6 We have published the Regulatory Impact Assessment (RIA) in respect of the Amendment Regulations alongside this Statement on our website.

¹ S.I. 2015/2066, available at: <http://www.legislation.gov.uk/id/ukSI/2015/2066>

² <http://stakeholders.ofcom.org.uk/binaries/consultations/white-space-coexistence/statement/tvws-statement.pdf>

³ <http://stakeholders.ofcom.org.uk/consultations/TVWS-amendment-regulations-apr16/>

⁴ A link to the online version will be available at <http://www.legislation.gov.uk/>

⁵ <http://stakeholders.ofcom.org.uk/spectrum/information/licence-exempt-radio-use/wireless-telegraphy-regulations/>

Section 2

Background

Legal framework

- 2.1 Ofcom is responsible for authorising civil use of the radio spectrum and achieves this by granting wireless telegraphy licences under the WT Act and by making regulations exempting users of particular equipment from the requirement to hold such a licence.
- 2.2 In particular, under section 8(1) of the WT Act, it is an offence to establish, install or use wireless telegraphy equipment in the UK except where such use is authorised either by the issue of an appropriate wireless telegraphy licence or where the use of such equipment is exempted from the need to hold such a licence by regulations (i.e. a statutory instrument) made under section 8(3) of the WT Act.
- 2.3 Under section 8(3) of the WT Act, Ofcom may by regulations exempt from the requirement to hold a licence the establishment, installation or use of equipment of such class as may be specified in the regulations, either absolutely or subject to such terms, provisions and limitations as may be so specified.

Statutory Notice

- 2.4 We published the Notice of proposals to make the Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016, meeting the statutory requirements set out under sections 122(4) to (6) of the WT Act, on 8 April 2016. The Notice included a copy of the amended WSD Regulations. The Notice gave any person or party who wished to do so until 9 May 2016 to make representations.
- 2.5 We received two non-confidential responses. A summary of these responses along with our response is presented in the next section of this document.

List of databases in the Regulations

- 2.6 The 2015 Regulations require a licence-exempt white space device to contact a database listed in Schedule 1. In the draft of the Amendment Regulations included at Annex 5 of the Notice, we had included in the draft of Schedule 1 the names of the databases that had completed qualification since the 2015 Regulations had come into force, the Council for Scientific and Industrial Research (CSIR) and Google UK Limited. In the Notice we said that if Microsoft Ireland Operations Limited satisfactorily completed the qualification process within the required period, we also intended to list this organisation as offering a database from which white space devices may obtain operational parameters in Schedule 1 of the 2015 Regulations.
- 2.7 Since publishing the Notice, Microsoft Ireland Operations Limited has completed qualification. Therefore the following organisations will be added to Schedule 1 of the 2015 Regulations:
 - Council for Scientific and Industrial Research (CSIR);
 - Google UK Limited; and
 - Microsoft Ireland Operations Limited.

Section 3

Responses to the Notice

Stakeholder's response to the Notice and Ofcom's response

- 3.1 We received two non-confidential response from J P Gilliver and Nominet which are published on our website⁶. The responses agreed with our proposal to amend Schedule 1 of the 2015 Regulations to include the two organisations which had qualified and Microsoft Ireland Operations Limited if it qualified within the qualification period.
- 3.2 Nominet added that the increasing number of geo-location database providers indicates the growing interest of the industry sector in dynamic access to spectrum resources.
- 3.3 J P Gilliver questioned the rationale for needing to amend the 2015 Regulations to update Schedule 1 to add newly qualified organisations or remove organisations from the list should the need arise. The respondent suggested that Ofcom could maintain an "authorised list" of qualified organisations which could be referenced in the regulations.
- 3.4 The purpose of this Notice was to consult on proposals to amend the licence exemption regulations for white space devices and not on the legislative process. In order to include the additional organisations in the list at Schedule 1 of the 2015 Regulations such that white space devices would be able to obtain operational parameters from the databases operated by the those organisations, it was necessary to amend the 2015 Regulations to include those additional organisations in that list. As noted above, prior to making regulations under section 8(3) of the WT Act, we are required under section 122(4) of the WT Act to publish a notice of proposals and consider responses to the notice of proposals. Accordingly, we have done so.

⁶ <http://stakeholders.ofcom.org.uk/consultations/TVWS-amendment-regulations-apr16/?showResponses=true>

Section 4

The Amendment Regulations and their general effect

4.1 This section describes the final scope of the Amendment Regulations. On 2 June 2016 Ofcom made the Amendment Regulations as proposed. The Amendment Regulations will come into force on 9 June 2016. They are summarised below.

General effect of the Amendment Regulations

Extent of application

4.2 The 2015 Regulations apply to the United Kingdom and the Isle of Man. They do not extend to the Channel Islands. The Amendment Regulations will have the same territorial extent.

Regulation 1 – citation and commencement

4.3 Regulation 1 sets out the full citation of the regulations ('the Wireless Telegraphy (White Space Devices) (Exemption) (Amendment) Regulations 2016') and date when they will come into force, namely 9 June 2016.

Regulation 2 – Amendment to the 2015 Regulations

4.4 Regulation 2 provides that Schedule 1 of the 2015 Regulations will be amended in order to include the Council for Scientific and Industrial Research (CSIR), Google UK Limited and Microsoft Ireland Operations Limited in a revised list of organisations operating databases from which white space devices may obtain master operational parameters and slave operational parameters.

4.5 The full list of those organisations as set out at Schedule 1 of the 2015 Regulations will be the following:

- The Council for Scientific and Industrial Research (CSIR), a statutory body established under South African legislation;
- Fairspectrum Oy, a company registered in Finland with company number 2372718-1;
- Google UK Limited, a company registered in the United Kingdom with company number 03977902;
- Microsoft Ireland Operations Limited, a company registered in the Republic of Ireland with company number 256796;
- Nominet UK, a company registered in the United Kingdom with company number 03203859;
- Sony Europe Limited, a company registered in the United Kingdom with company number 02422874; and

- Spectrum Bridge Incorporated, a company incorporated in the State of Delaware, United States of America.

Annex 1

Respondents

J P Gilliver

Nominet