

Name Withheld 1

Do you have any comments on the proposed statutory instrument set out in this notice?

Sir,

I am the Managing Director of Packet Media Ltd. and one of the claimants in the Recall Support Services and Others v Secretary of State for Culture Media and Sport. Packet Media Ltd. is also a supplier of single use self use and would like to operate COSUG. My response is regarding the consultation process in terms of the proposed changes to the Wireless Telegraphy (Exemption) Regulations 2003 as outlined in the Ofcom proposal.

Timing

First I would like to put on record that the changes to the regulation are very late indeed and should have been in place since the original changes and clarification in 2003. More frustratingly, it has taken Ofcom a further 2 years to act on the Judgment handed down by Justice Rose.

What is a COSUG or Gateway

A COSUG was described in both the Floe and Recall cases as a device which may be used to deliver service to a single customer even though serving that customer involves the provision of services to a number of individual end users. As an example:

- a) A Transport Company might send and receive calls or messages on behalf of its customers when delivering a parcel. The demand is created by, for example, an online retailer, transmitted by the parcel company and received by the 'customer'.
- b) A Healthcare Services Company providing patient reminder services for the NHS. Several hospital may originate a request which is routed by the company to the patient and the management and transmission of the message is provided by the Healthcare services company.
- c) An Outsource Call Centre may make marking calls or send SMS on behalf of a third party. I would ask that the revision reflects the current lawful use of gateway technology example of which are provided above and defines COSUG appropriately.

Body

Having taken advice the use of the term body seems to have no legal basis or meaning other than being linked in some way to a deceased person. In reality the equipment is procured by sole trader, partnership, organisation of limited liability status and the public sector. The definition of 'body' should reflect this or a different term used.

Wireless Telegraphy Act 2006

The WTA 2006 Section 8 requires the regulator to liberalise COMUG and COSUG and by doing so remove the requirement for a license on both types of apparatus. The reality is that they are one and the same device, and defined as such in European Law.

Specifically, the only difference is the source or originator of the SMS message, call or data packet to be transmitted. COMUG traffic would be routed from other telecommunications operators to many customers, where as a COSUG routes traffic from a single organisation or from several organisations as a component part of delivering a wider proposition to a particular market as described in the examples above. Therefore, I request that the restriction should be controlled by Section 5 of the 2003 Communications Act which carves out in Section 5(3)a and 5(6)a controls for Security.

Gateways - Voice, Text, Data, MMS, Video

As the mobile networks and the technology that underpins them have evolved companies like Packet Media have worked to devise solutions for particular markets which make wider use of the technology available. Markets by their very definition are driven by companies innovating new products and services to deliver short or longer term competitive advantage. GSM Gateways are no different and have continued to evolve to route Voice, SMS, Data or all three services at the same time

According to the dictionary: A gateway could be: an opening that can be closed by a gate or a device used to connect two different networks, especially a connection to the Internet.

The consultation description:

"A gateway is a device incorporating one or more SIM cards created and issued by a mobile network operator (MNO), which allows the device on which the SIM card is installed, to originate calls on that MNO's network. As a result, calls from fixed lines to mobile networks are treated by the recipient's network as if they were made by a mobile phone using that SIM card in the gateway"

Furthermore the term 'SIM Gateways' or 'GSM Gateways' is also suggested as a description. Could you please add SIM Router, Mobile Router, SMS Gateway, Fixed Cellular Transceiver, SIM Farm. Voice Gateway, Mobile Router and Premicell.

All the terms are unhelpful and seek to confuse suppliers and customers. No other equipment on the market is discriminated against based on its generic or brand name. All other equipment is defined in terms of the current UK and European Regulation. It does not need to have and should not have a separate 'special' definition.

A GSM Gateway is the same device used for IOT in devices such as traffic lights and electric meters. Furthermore, the devices are also able to use 3G (UMTS) and 4G (HSPDA) technologies also it is therefore not just a GSM Gateway.

Innovation is legislated for in the RTTE 1999 5 EC and it actively encourages 'free movement and putting into service in the Community of radio equipment and telecommunications terminal equipment. Ofcom have a duty to implement the regulations set out by UK and Europe and to liberalise the market for communications products and services.

It should not be discriminating against a device or technology used in a particular way. Subject to that use being lawful.

Summary:

Provide an appropriate definition of a COSUG

Define or replace the term 'body'.

Regulate via the 2006 WTE and liberalise both COMUG and COSUG

Do not discriminate against GSM Gateways by creating 'special definitions' and confusing terms.