

Your response

Question	Your response
<p>Question 1: Please provide feedback on the additions, amendments and clarifications we have made to the wording of the licence condition to implement our decisions on the scope of the licence condition in our October 2020 Statement, giving reasons for your response.</p>	<p>Confidential? – Y / N</p> <p>Your proposed clarification of the definition of “general public” is, I respectfully submit, fundamentally flawed. A person working under a contract of employment may be pregnant. Yet you also seek to define that person as a member of the public.</p> <p>I employ a young woman to conduct rooftop surveys of radio base stations, including health and safety, rf and equipment audits. Operators are now designing their sites in such a manner that large exclusion zones are created across rooftops and sometimes into the rooms below the roof or into plant rooms. My experience is that we are now refusing to provide site owners with copies of drawings showing the ICNIRP exclusion zones created across a roof. How am I as an employer, going to be able to protect my employee when she accesses a rooftop base station site? She may be pregnant. She may not even know this herself for a few weeks. I cannot ask her to take a pregnancy test every time that she carries out such work for me. I cannot sack her and employ only males from now on.</p> <p>ICNIRP themselves consider roofers, scaffolders, window cleaners etc as being members of the public UNLESS they have been specifically trained to occupational levels. As the name suggests, occupational is someone working in the industry. A window cleaner is not trained in radio base station design. How would that person know what technologies are installed on a rooftop adjacent? What knowledge would that person have of the shape or size of an exclusion zone? Working at height courses often include and “RF overview” lasting 2 or 3 minutes and basically tell the trainee not to touch anything and to obey signage. If rf exclusion zones are not marked, or if the antennas are hidden behind GRP fake chimneys or walls, how would they know if there is an exclusion zone? Would workers in an office adjacent to a rooftop be expected, like</p>

the window cleaner, to wear an rf monitor all day (expensive) and if it alarms, what can that person do about getting the antennas switched off? Nothing. ICNIRP refer to the EU case studies 1999.35.EU which refers on numerous occasions to pregnant workers and:- Chapter II Obligations of Employers, Article 4 of this document also refers to the duty of an employer as follows:-

Assessment of risks and determination of exposure

1. *In carrying out the obligations laid down in Articles 6(3) and 9(1) of Directive 89/391/EEC, the employer shall assess all risks for workers arising from electromagnetic fields at the workplace and, if necessary, measure or calculate the levels of electromagnetic fields to which workers are exposed.*

The employer must therefore have an understanding of what the risks are. How is the employer to do this when he does not know the location of rooftop base stations? Is the employer now expected to become a radio engineer?

✂, a recently retired member of the Commission (ICNIRP) informed us when he was still working, directly that “We consider that awareness of exposure is key in order to allow training and understanding of the risks. A person who is paid to do roofing, say, near a mobile phone base station may be no better informed about the risks of exposure than someone who works at home. In the new guidelines, we also add the proviso that workers are considered to be healthy, to differentiate them further from the general public (who will most certainly contain some people who are ill). Thus without explicit training or understanding, even paid employees should be considered members of the public, and be exposed to RF fields less than those considered acceptable for workers.”

Mr ✂ also referred us to the EU Non-binding guide to good practice for implementing Directive 2013/35/EU Electromagnetic Fields Volume 2: Case Studies which states:

“Workers are required to access the rooftop to carry out a variety of building inspection and maintenance tasks. These may include: window cleaners, roofing contractors, air conditioning engineers, insurance inspectors and antenna riggers. The latter groups may have received extensive training in radiofrequency radiation safety and may be equipped with personal exposure alarms, while the former groups are likely to have received no training and accordingly have little knowledge of the issues. Good practice would be for the operators to adopt a ‘safe by position’ principal when installing antennas. This means that the antennas are located so that workers at normal roof standing level cannot inadvertently enter an antenna exclusion zone. The antenna exclusion zone is the area near the antenna where the exposure could exceed the reference levels given in the Council Recommendation (1999/519/EC).

An antenna exclusion zone should only be accessible to workers with climbing aids such as ladders or scaffolds. Where workers need to access an exclusion zone then it may be necessary to shut down the antenna. If an antenna exclusion zone must impinge upon the rooftop standing area then the rooftop area should be demarcated.”

Therefore, it is clear that both ICNIRP and the European Union distinguish between workers employed within the radio industry, such as riggers, and other workers who may need to access plant located on rooftops, street lighting maintenance contractors, members of fire services.

Should Ofcom retain their definition of “general public” then I suspect that many employers who have various duties in relation to health and safety all of which involve criminal sanctions, will be placed in an impossible situation. I refer you to the:-

- Health & Safety at Work Act 1974
- Management of Health & Safety at Work Regulations 1999
- Control of Electromagnetic Fields at Work Regulations 2016

Question 2: Please provide feedback on the additions and clarifications to our 'Guidance on EMF Compliance and Enforcement', giving reasons for your response.

Landlords with telecoms operators on their rooftops have a duty of care to the other occupiers of the building and visitors and contractors. Operators should provide relevant details and information that might alleviate genuine concerns about the risk to the building, employees, contractors and tenants created by the operators works.

In a recent ruling where the operator was refusing to provide relevant information ~~✗~~, Judge Cooke stated:

“Disputes would be avoided if material can be shared, as a matter of courtesy and helpfulness even where there is no legal obligation to do so”

Question 3: Please provide feedback on the trial version of our EMF calculator, giving reasons for your response.

Not considered.