

ROYAL YACHTING ASSOCIATION RESPONSE TO OFCOM CONSULTATION

Proposed measures to require compliance with international guidelines for limiting exposure to electromagnetic fields (EMF)

About the RYA

The RYA is the national governing body for all forms of sailing and power boating within the UK. Originally formed in 1875 to bring some form of organisation to yacht racing the organisation has evolved significantly since then and now covers a wide range of areas across both leisure and commercial boating. It is a not for profit members organisation with a membership in the region of 112,000 people who have interests in all forms of boating on the coast and inland waterways. We have nearly 1,500 affiliated clubs and classes.

The RYA manages the GB sailing Team and is responsible for one of the UK's most successful Olympic medal winning sports.

The RYA also sets and maintains an international standard for recreational boat training through a network of over 2400 RYA Recognised Training Centres in 58 countries. On average approximately 270,000 people per year complete RYA training courses. RYA training courses form the basis for the small craft training of lifeboat crews, police officers and the Royal Navy and are also adopted as a template for training in many other countries throughout the world.

The RYA is a Certifying Authority authorised by the Maritime and Coastguard Agency [MCA] to certificate Small Commercial Vessels in accordance with the SCV Codes of Practice.

The RYA is responsible for the delivery of training and examination of the UK Short-Range Certificate VHF Radio course through its network of RYA training centres on behalf of the MCA.

Ofcom invites comments on the following three questions

- 1. Do you agree with our proposal to take steps to mitigate risks related to EMF and be in a position to hold licensees, installers and users to account if issues are identified? Please explain the reasons for your response.*
- 2. Do you agree with our proposal (a) to include a condition in spectrum authorisations requiring compliance with the basic restrictions for general public exposure identified in the ICNIRP Guidelines; and (b) that this condition should apply to equipment operating at powers greater than 10 Watts?*
- 3. Do you agree with our proposed guidance on EMF compliance and enforcement? Please explain the reasons for your response.*

RYA response to the three questions

The RYA does not believe that the proposed steps will provide any additional mitigation to the risks related to EMF than the pre-existing measures that have been in place since 1998.

The RYA believes that any legislation or regulation should be transparent, accountable, proportionate and consistent and only targeted at cases where rigorous risk and evidence analysis demonstrates that such action is needed.

We do not believe that the proposals set out in the Ofcom consultation document satisfy these criteria, they will not achieve its stated objective and cannot, in practice, be readily enforced.

Our reasons are set out below:

Limited evidence

In the consultation document, Ofcom sets out the results of measurements of EMF levels from 16 5G-enabled mobile base stations. It concludes that:

3.12 Our measurements show that EMF emission levels from 5G-enabled mobile phone base stations remain at small fractions of the reference levels for general public exposure in the ICNIRP Guidelines, with the highest level recorded being approximately 1.5% of the reference level.

3.13 Our measurements also show that the contribution of 5G to the total emissions level observed is currently low – the highest level we observed in the band used for 5G was just 0.039% of the reference level.

In 3.12 & 3.13, Ofcom confirms that there is not an issue with non-compliance.

Ofcom has offered no evidence of non-compliance by maritime communication licensees to support these additional requirements. Therefore, without the provision of data, rigorous risk and evidence analysis, the RYA strongly objects to the proposed changes.

Safety of Life at Sea

Marine communications equipment, including, but not limited to, radios, radar, search and rescue transponders and emergency position indicating beacons are intrinsic elements of the marine safety environment.

The RYA believes that the imposition of additional regulatory burden may have the unintended consequence that some recreational mariners opt to dispense with essential life-saving equipment.

Ability to Police

Ofcom has not defined how it will monitor and enforce compliance. It is understood that Ofcom has significantly reduced its technical engineering capacity/ability in successive rounds of efficiency savings.

The RYA recognises that for any law to be effective, it has to be appropriately policed. Given the sheer number, geographic spread and often transient nature of UK leisure vessels, the RYA firmly believes that policing on this scale would be untenable and therefore wholly ineffective.

Proportionality of penalties

The Health Protection Agency, in its report *Health Effects from Radiofrequency Electromagnetic Fields*, concluded that: *In summary, although a substantial amount of research has been conducted in this area, there is no convincing evidence that RF field exposure below guideline levels cause health effects in adults or children.*

Currently, there is no training or guidance available to Marine Radio and equipment operators for the measurement and recording of EMF radiation.

Ofcom has offered no evidence of non-compliance by maritime communication licensees to support these additional requirements. However, without knowledge of the scope of the issue, they propose penalties including, but not limited to, fines, civil and criminal proceedings, revocation of licence.

The RYA believes the proposed penalties are grossly disproportionate to the likely harm caused due to exposure to EMF on board a vessel and in the marine environment.

Competing responsibility for enforcement

Currently, the Health and Safety Executive has a statutory responsibility for policing compliance with The Control of Electromagnetic Fields at Work Regulations 2016. The RYA believes that the introduction of a second body, Ofcom, to enforce compliance with similar objectives, will cause confusion and result in the undesirable conflict of double-regulation.

Product safety legislation

Current product safety legislation ensures that radio equipment meets the essential requirements of the Radio Equipment Regulations 2017.

Article 10 (8) of the DIRECTIVE 2014/53/EU states: Manufacturers shall ensure that the radio equipment is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned. Instructions shall include the information required to use radio equipment in accordance with its intended use. Such information shall include, where applicable, a description of accessories and components, including software, which allow the radio equipment to operate as intended. Such instructions and safety information, as well as any labelling, shall be clear, understandable and intelligible.

In Annex 2 of the consultation document, Ofcom advises that the process for assessing compliance is as follows:

A2.9 An EMF assessment may include one or more of the following:

- *physical measurements;*
- *tests;*
- *calculations;*
- *following manufacturers' guidance/instructions.*

All of the assessment methods referred to in A2.9 require a significant level of knowledge and technical expertise. This includes '*following manufacturers' guidance/instructions*', as this is qualified in A2.10.

A2.10 In cases where manufacturers' guidance/instructions are followed, it is the responsibility of the licensee, installer or user to ensure that these are adequate and appropriate for their particular circumstances.

By using compliant equipment installed to the manufacturers' instructions, licensees will by default remain below the accepted guideline levels.

Ofcom has provided no evidence to suggest that the current arrangements are failing to meet their stated objectives.

The RYA firmly believes that the current product safety legislation is sufficient to manage the limited risks of exposure to EMF within recreational and commercial boating.

The RYA supports the current guidelines to follow manufacturers' instructions and guidelines, however, we reject the necessity for the inclusion of the proposed clause A2.10, as SRC radio operators are not equipped with this level of technical expertise. It should not be incumbent on the operators or licence holders of relevant equipment to determine that manufacturers' guidelines *are adequate and appropriate for their particular circumstances*.

Training

To ensure that users can effectively gain sufficient knowledge to comply with A2.9 – A2.11, appropriate training would need to be provided.

Ofcom has not proposed how Short-Range Certificate [SRC] VHF Radio licence holders would gain sufficient technical knowledge to achieve all of the stated objectives of A2.9.

SRC VHF Radio courses are conducted by RYA Recognised Training Centres on behalf of the Maritime & Coastguard Agency (MCA) and the syllabus conforms to the requirements of the International Telecommunications Union (ITU)/The European Conference of Postal and Telecommunications (CEPT).

The current SRC syllabus, agreed by the MCA, ITU/CEPT, covers the need to follow equipment manufacturers' instructions and guidelines.

Any changes to incorporate additional subject matter into the training syllabus would have to be formally agreed and authorised by both the MCA and ITU/ CEPT.

Any changes made to the UK syllabus would expose UK SRC holders to the distinct possibility that other European nations may choose to no longer accept UK issued licences. This would have a significant impact on freedom of navigation and vessel safety.

The RYA believes that the current SRC syllabus equips licence holders with the ability to follow manufacturers' guidance/instructions. Training licensees to check that manufacturers' guidelines *are adequate and appropriate for their particular circumstances* would be disproportionate to the essential safety training that is the focus of the current syllabus.

Measurement Equipment

To perform physical measurements and tests, would require specialist test equipment. Basic Triple Axis EMF strength testing equipment ranges in cost from £100-£400, however at this price range they would likely be uncalibrated and may lead to inaccurate readings resulting in false tests and potential fines or criminal action for failure to comply with the proposed scheme.

Calibrated equipment, whilst more accurate, would require regular recalibration and could cost in excess of £2,000.00

The cost of specialist equipment that may be required to test for EMF emissions, would be prohibitive to recreational boaters. Furthermore, the technical knowledge required to operate such equipment would be out with the skill set of recreational and commercial boaters.

Time scale for implementation

Ofcom is proposing that if they decide to proceed with these proposals, they expect to issue a policy statement and start the process of varying licences in the second half of 2020. It would not be possible to provide training or meaningful guidance to vessel owners within this timescale.

Whilst the RYA opposes these changes, it firmly believes that if changes are implemented they should be introduced in a phased and timely manner in order that licensees can familiarise themselves in preparation of any changes. It would be inappropriate for a new regime to be implemented without the availability of proper training and guidance being in place.

Conclusion

The RYA believes that, in the absence of rigorous risk and evidence analysis, the proposed regulatory changes could adversely affect the safety of recreational and commercial boating and that the proposed method of monitoring and enforcement would be disproportionate, ineffective and unenforceable.