
Notice of Ofcom's proposal to make the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2017

Implementing a Commission Decision

CONSULTATION:

Publication Date: 23 October 2017

Closing Date for Responses: 24 November 2017

About this document

This consultation document concerns Ofcom's proposal to make new regulations by statutory instrument that would amend the existing Wireless Telegraphy licence exemption criteria for Ultra Wideband (UWB) devices.

UWB devices use very large bandwidth and are able to transmit high data rates over short distances, but transmit at very low power levels so do not interfere with other devices. UWB uses include wireless multi-media applications, such as streaming videos and connecting cameras to TVs, as well as radar and detection devices which can be used to sense objects behind walls.

These regulations intend to implement a recent decision by the European Commission on UWB devices, and they will amend UWB exemption regulations we made in 2015.

The deadline to submit responses for this consultation is 5pm on 24 November 2017.

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1. Executive Summary

- 1.1 This document consults on our proposal to implement the requirements of the European Commission (“EC”) Implementation Decision of 4 August 2017 (2017/1438 /EU) (the “2017 UWB Amending Decision”).¹ To do this, we intend to make Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2017 (the “Proposed Regulations”) which would amend the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2015 (the “Principal Regulations”).²
- 1.2 Ultra-wideband (“UWB”) is a generic term for technologies typically characterised by the emission of very low power radiation spread over a very large radio bandwidth. This is unlike other wireless systems, which use spectrum in discrete narrow frequency bands. UWB can transfer large amounts of data wirelessly over short distances, typically less than ten metres. Using mitigation techniques multiple pieces of UWB equipment are able to operate in the same area.
- 1.3 The 2017 UWB Amending Decision amends Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community (the “UWB Decision”).³ The UWB Decision harmonises the technical conditions for radio equipment using UWB technology in the European Union (“EU”).
- 1.4 The 2017 UWB Amending Decision updates some references to harmonised European standards developed by the European Telecommunications Standards Institute (“ETSI”) in the UWB Decision as regards UWB technology based short-range devices. As an EU Member State, the UK is bound by the terms of the 2017 UWB Amending Decision and the requirement to implement them by 4 February 2018.
- 1.5 Ofcom is responsible for authorising use of the radio spectrum. We permit the use of the radio spectrum either by granting wireless telegraphy licences under the Wireless Telegraphy Act 2006 (the “WT Act”) or by making statutory regulations exempting users of particular equipment from the requirement to hold such a licence. It is unlawful and an offence to install or use wireless telegraphy apparatus without holding a licence granted by Ofcom, unless the use of such equipment is exempted.
- 1.6 In order to meet the requirements of the 2017 UWB Amending Decision, we propose in this consultation to amend the current licence exemption arrangements for UWB devices by making the Proposed Regulations. We set out the general effect of the Proposed Regulations in Section 3 of this document. In summary, they are seeking to:
- i) amend the Principal Regulations; and
 - ii) update references to harmonised ETSI standards.
- 1.7 In accordance with the requirements of section 122(4) and (5) of the WT Act, this document gives statutory notice of our proposal to make the Proposed Regulations. Comments on the Proposed Regulations are invited by 5pm on 24 November 2017. Subject to our consideration of responses, we intend to bring the new Regulations into force in early 2018.
- 1.8 A regulatory impact assessment for the Proposed Regulations is available at Annex 1 to this document. The Proposed Regulations is included in this document at Annex 2. Further copies may be obtained from www.ofcom.org.uk or from Ofcom at Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D1438&from=EN>

² <http://www.legislation.gov.uk/ukSI/2015/591/made/data.pdf>

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:055:0033:0036:EN:PDF>

Document Structure

1.9 This document is structured as follows:

- i) Section 2 contains the background on proposals.
- ii) Section 3 sets out the general effects of the Proposed Regulations.
- iii) A regulatory impact assessment (“RIA”) for the Proposed Regulations is available in Annex 1. The RIA sets out the risks, costs and benefits of the proposals and the effects that the Proposed Regulations would have.
- iv) Annex 2 contains a draft of the Proposed Regulations.
- v) Annex 3 contains a copy of the 2017 UWB Amending Decision.

2. Background

- 2.1 On 21 February 2007, the European Commission (“EC”) harmonised the technical conditions for ultra-wideband (“UWB”) equipment across the European Union (“the UWB Decision”).⁴ This was in order to eliminate barriers to the uptake of UWB equipment and created a single market that would allow manufacturers to benefit from economies of scale and allow consumers and citizens to benefit from new technologies and cheaper prices.
- 2.2 We implemented the UWB Decision into UK law by making the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2007.⁵ These Regulations were amended on 17 August 2007 to correct an error.⁶
- 2.3 Due to changes in technologies since the UWB Decision was adopted, the EC issued mandates to the European Conference of Postal and Telecommunications Administrations (“CEPT”), to undertake further compatibility studies of UWB technologies. This resulted in the EC amending decision (2009/343/EC) in 2009 (the 2009 UWB Amending Decision”).⁷ The 2009 UWB Amending Decision was implemented in the UK via the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2009 (the “2009 UWB Regulations”)⁸ ⁹ and the Amending Regulations in 2010.¹⁰
- 2.4 As part of the ongoing work on UWB the EC issued a Fifth Mandate, to CEPT on UWB technology, to clarify technical parameters in the light of a potential update to Decision 2007/131/EC. In response to this, CEPT Report 45¹¹ was produced and approved on 21 June 2013. CEPT advised the EC to take a more streamlined approach on subsequent amendments of the UWB Decision, taking into account the description of mitigation techniques with all the relevant detailed parameters within the harmonised European standards developed by the European Telecommunications Standards Institute (“ETSI”).
- 2.5 Based on CEPT Report 45, the EC decided to change the UWB Decision by making the European Commission Implementation Decision of 7 October 2014 (2014/702/EU) (the “2014 Amending Decision”)¹². We implemented the 2014 Amending decision by making the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2015 (the “Principal Regulations”) ¹³ which replaced the 2009 UWB Regulations.

The 2017 UWB Amending Decision

- 2.6 On 2 July 2014, the EC called on CEPT to review Decision 2007/131/EC for UWB technology based short-range devices. CEPT concluded that as regards UWB-technology based short-range devices some references to harmonised standards in Decision 2007/131/EC needed to be updated.
- 2.7 The EC adopted the CEPT recommendation by making the Commission Implementing Decision (EU) 2017/1438 of 4 August 2017 amending Decision 2007/131/EC on allowing the use of the radio spectrum for

⁴ <http://www.erodocdb.dk/docs/doc98/official/pdf/2007131EC.pdf>

⁵ http://www.legislation.gov.uk/uksi/2007/2084/pdfs/uksi_20072084_en.pdf

⁶ http://www.legislation.gov.uk/uksi/2007/2440/pdfs/uksi_20072440_en.pdf

⁷ <http://www.erodocdb.dk/Docs/doc98/official/pdf/2009343EC.PDF>

⁸ http://www.legislation.gov.uk/uksi/2009/2517/pdfs/uksi_20092517_en.pdf

⁹ This revoked the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2007 and the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2007

¹⁰ http://www.legislation.gov.uk/uksi/2010/2761/pdfs/uksi_20102761_en.pdf

¹¹ <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP045.PDF>

¹² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014D0702&from=EN>

¹³ <http://www.legislation.gov.uk/uksi/2015/591/made/data.pdf>

equipment using ultra-wideband technology in a harmonised manner in the Community (the “2017 UWB Amending Decision”).¹⁴ All European Member States are required to implement the 2017 UWB Amending Decision.

- 2.8 We propose to implement the 2017 UWB Amending Decision by making the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2017 (the “Proposed Regulations”). We set out the general effect of the Proposed Regulations in Section 3 of this document. In summary, they are seeking to:
- i) amend the Principal Regulations; and
 - ii) update references to harmonised ETSI standards.

Notice of Proposal

- 2.9 We are responsible for authorising use of the radio spectrum. We permit the use of the radio spectrum either by granting wireless telegraphy licences under the WT Act or by making regulations exempting users of particular equipment from the requirement to hold such a licence.
- 2.10 Under section 8(1) of the WT Act, it is unlawful to establish or use a wireless telegraphy station or install or use wireless telegraphy apparatus without holding a licence granted by us, unless the installation or use of such equipment is exempted. We can exempt the installation or use of wireless telegraphy apparatus by making statutory regulations under section 8(3) of the WT Act. Such exemption may be absolute or subject to such terms, provisions and limitations as may be so specified.
- 2.11 Under section 8(4) of the WT Act, we have to make regulations to exempt equipment if its installation or use is not likely to:
- a) involve undue interference with wireless telegraphy;
 - b) have an adverse effect on technical quality of service;
 - c) lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
 - d) endanger safety of life;
 - e) prejudice the promotion of social, regional or territorial cohesion; or
 - f) prejudice the promotion of cultural and linguistic diversity and media pluralism.
- 2.12 In accordance with the requirements of section 8(3B) of the WT Act, the terms, provisions and limitations specified in the regulations must be:
- a) objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus to which they relate;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what they are intended to achieve; and
 - d) transparent in relation to what they are intended to achieve.
- 2.13 We make exemption regulations by means of a statutory instrument. Before making any such regulations, we are required by section 122(4) of the WT Act to give statutory notice (the “Notice”) of our proposal to

¹⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D1438&from=EN>

do so. Under section 122(5), the Notice must state that we propose to make the regulations in question, set out their general effects, specify an address from which a copy of the proposed regulations or order may be obtained, and specify a time period of at least one month during which any representations with respect to the proposal must be made to us.

Next Steps

- 2.14 The deadline for responses to this Notice is on 5pm 24 November 2017. Having taken account of any comments received on the Proposed Regulations, we expect to publish a statement on this Notice in January 2018 and subsequently to make and bring into force the new exemption regulations.

3. General effects of the Proposed Regulations

Introduction

- 3.1 We have summarised in Section 2 of this document the legal framework that is relevant to the Proposed Regulations, including our role in exempting the use of wireless telegraphy apparatus by Ofcom making regulations under section 8(3) of the WT Act.
- 3.2 In this Section 3, we set out the general effects of the Proposed Regulations as required by section 122(5) of the WT Act. We are proposing to make the Proposed Regulations as set out in Annex 2 to this document.

Extent of application

- 3.3 The Proposed Regulations will apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal agreement of the Crown Dependencies.

The Proposed Regulations

Overall general effect

- 3.4 The overall general effect of the Proposed Regulations is to implement the 2017 UWB Amending Decision. The Proposed Regulations propose to amend the Principal regulations as set out in the section below.

Interpretation

- 3.5 The Proposed Regulations would amend the Principal Regulations in order to implement the 2017 UWB Direction. We are to replace the references to ETSI standards EN302 435-1 and EN302 498-1 and EN302 498-2 with the new replacement ETSI standard EN302 065-4. This will result in amendments to the definition of “total radiated power spectral density”. In addition regulations 25, 26, 27, 28, 30 and 31 would also be updated.
- 3.6 When reviewing the Principal Regulations we noticed that they still contained some text that was removed by 2014 Amending Decision. This related to references to transmissions “that are radiated into the air” which was replaced by the the definition of “total radiated power density”. Given the changes introduced in 2014 we are proposing to remove the text “that are radiated into the air” from regulations 26 and 30.

Do you have any comments on the drafting of the Proposed Regulations?

A1. Impact Assessment

Introduction

- A1.1 Ofcom acts in accordance with Government practice that, where a statutory regulation is made, a Regulatory Impact Assessment (“RIA”) must be undertaken. We also comply with our duty under section 7 of the Communications Act 2003 (the “2003 Act”) to undertake impact assessments.
- A1.2 The analysis in this document is a regulatory impact assessment relating to the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2017 (the “Proposed Regulations”). It is consistent with the Government practice on RIAs and Ofcom’s duty under the 2003 Act.
- A1.3 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the 2003 Act, which imposes a duty on Ofcom to carry out impact assessments where our decisions would be likely to have a significant effect on businesses or the general public, or when there is a major change in our activities.
- A1.4 As a matter of policy we are committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom’s approach to impact assessment, which are on our website: http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf.
- A1.5 This RIA relates to our proposals with regards to Ultra-Wideband (UWB) Equipment. Ultra-wideband (“UWB”) is a generic term for technologies typically characterised by the emission of very low power radiation spread over a very large radio bandwidth. This is unlike other wireless systems, which use spectrum in discrete narrow frequency bands. UWB can transfer large amounts of data wirelessly over short distances, typically less than ten metres. Using mitigation techniques multiple pieces of UWB equipment are able to operate in the same area.

Legislative background

- A1.6 In the UK, we are responsible for authorising use of the radio spectrum. We permit the use of the radio spectrum either by granting wireless telegraphy licences under the Wireless Telegraphy Act (the “WT Act”) or by making regulations exempting users of particular equipment from the requirement to hold such a licence.
- A1.7 Under section 8(1) of the WT Act, it is unlawful to establish or use a wireless telegraphy station or install or use wireless telegraphy apparatus without holding a licence granted by us, unless the installation or use of such equipment is exempted. We can exempt the installation or use of wireless telegraphy apparatus by making statutory regulations under section 8(3) of the WT Act. Such exemption may be absolute or subject to such terms, provisions and limitations as may be so specified.
- A1.8 However, under section 8(4) of the WT Act, we have to make regulations to exempt equipment if its installation or use is not likely to:
- a) involve undue interference with wireless telegraphy;
 - b) have an adverse effect on technical quality of service;
 - c) lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
 - d) endanger safety of life;

- e) prejudice the promotion of social, regional or territorial cohesion; or
- f) prejudice the promotion of cultural and linguistic diversity and media pluralism.

- A1.9 In accordance with the requirements of section 8(3B) of the WT Act, the terms, provisions and limitations specified in the regulations must be:
- a) objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus to which they relate;
 - b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - c) proportionate to what they are intended to achieve; and
 - d) transparent in relation to what they are intended to achieve.

Proposal

- A1.10 It is our intention to implement the requirements of the European Commission (“EC”) Implementing Decision (EU) 2017/1438 of 4 August 2017 (the “2017 UWB Amending Decision”).¹⁵ To do this, we propose to make the Proposed Regulations which would amend the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2015 (the “Principal Regulations”).¹⁶
- A1.11 The 2017 UWB Amending Decision amends Decision 2007/131/EC (the “UWB Decision”).¹⁷ The UWB Decision harmonises the technical conditions for radio equipment using UWB technology in the European Union (“EU”).
- A1.12 The 2017 UWB Amending Decision updates some references to harmonised European standards developed by the European Telecommunications Standards Institute (“ETSI”) in the UWB Decision as regards UWB technology based short-range devices. As an EU Member State, the UK is bound by the terms of the 2017 UWB Amending Decision and the requirement to implement them by 4 February 2018.
- A1.13 In summary, in order to meet the requirements of the 2017 UWB Amending Decision, we propose to make the Proposed Regulations. They are seeking to:
- i) amend the Principal Regulations; and
 - ii) update references to harmonised ETSI standards.

The citizen and/or consumer interest

- A1.14 Our principal duty under section 3 of the 2003 Act is to further the interests of citizens in relation to communications matters; and of consumers in relevant markets, where appropriate by promoting competition.
- A1.15 We take account of the impact of our decisions upon both citizen and consumer interests in the markets we regulate. We must, in particular, secure the optimal use for wireless telegraphy of spectrum and have regard to the principle under which all regulatory activities should be targeted only at cases in which action is needed.

¹⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D0191&from=EN>

¹⁶ <http://www.legislation.gov.uk/ukxi/2015/591/made/data.pdf>

¹⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:055:0033:0036:EN:PDF>

- A1.16 In proposing changes to the existing regulations we have considered the wider impact beyond immediate stakeholders in the radiocommunications community. We believe that the proposals will be of benefit to consumers for the following reasons:
- a) the measures proposed all concern the use of radio equipment on a licence-exempt basis, which reduces the regulatory and administrative burden on our stakeholders and helps to secure the optimal use of spectrum;
 - b) the proposed amendments to existing licence exemptions support the introduction of new and innovative technologies that will be of benefit to consumers and citizens in general; and
 - c) licence exemption is proposed only in areas where use of equipment is unlikely to have an impact on technical quality of service and cause undue interference to other spectrum users.

Our policy objective

- A1.17 We seek wherever possible, to reduce the regulatory burden upon our stakeholders, in this instance users of the radio spectrum. One way in which we can do this is to remove the need for spectrum users to apply for individual licences to authorise the use of radio equipment. Exemption is realised by describing the details of equipment and the parameters under which it may be used in a Statutory Instrument (secondary legislation called Regulations) that exempts users of such equipment from the need to hold a licence provided they comply with the terms of the regulations.
- A1.18 In accordance with the WT Act, we must exempt from licensing the use of specified equipment that meet the requirements of sections 8(4) and 8(5) of the WT Act. We are also required by law to implement EU legislation relating to radio spectrum and from time to time this requires licence exemption arrangements to be changed.
- A1.19 As a Member State, the UK is bound by the terms of the 2017 UWB Amending Decision and the requirement to implement it.

Options considered

- A1.20 The options open to us in relation to compliance with the 2017 UWB Amending Decision are as follows:
- i) to make the Proposed Regulations that are in line with the 2017 UWB Amending Decision; or
 - ii) to do nothing.

Analysis of options

Make new regulations

- A1.21 EU harmonisation decisions are binding on all Member States and we are therefore legally required to implement them.
- A1.22 When considering the authorisation of devices Ofcom can either licence them or make regulations to exempt them from licensing. Section 8(4) of the WT Act requires that if Ofcom is satisfied that the criteria set out in section 8(5) of the WT Act are met, Ofcom must make regulations to licence-exempt the equipment. If the equipment does not meet all of the requirements of section 8(5) this does not prevent us still going ahead with exemption but any decision would need to consider the impacts versus the benefits of any such decision.

- A1.23 Generally, licence exemption presents the lowest barrier to entry compared with other forms of authorisation, such as individual licences. Our analysis takes this proposition as a starting point and then assesses concerns over harmful interference or congestion to existing users (if any) or potential new users of the band. Harmful interference or congestion could negate the benefits of any reductions in the regulatory burden gained from exemption.
- A1.24 Overall we believe that costs to business are likely to be lower under a licence-exempt approach than the requirement for users to obtain individual licences. Licence exemption represents the least cost regulatory approach to authorisations on the use of spectrum. For example if use of spectrum is authorised through a licence, businesses face administrative costs associated with applying for the licence and the cost of the licence itself.
- A1.25 The measures set out in the Proposed Regulations would enable the development of a harmonised market across Europe for UWB devices. This brings with it many benefits from the free circulation and use of devices. Manufacturers benefit from economies of scale which drive down prices for consumers. Citizens are able to benefit from continued access to devices when travelling to other European countries.
- A1.26 We consider that implementing the Proposed Regulations is likely to generate a net benefit for UK businesses, citizens and consumers and at worst would have a neutral outcome (to the extent that benefits may depend on the uptake of the new opportunities afforded by the proposal). We consider it is unlikely to impose costs on other users. Therefore the effect of implementing the Proposed Regulations would be likely to be positive overall.
- A1.27 There are one-off administrative costs associated with making Statutory Instruments. We consider the implementation costs to be low, both in absolute terms and in comparison to licensing alternatives that might require an auction or the maintenance of a licence scheme. Moreover, the costs such as they are will also be offset by the benefits to businesses and consumers outlined above. There may also be a slight reduction in spectrum management costs in certain areas through licence exemption.

Do nothing

- A1.28 The alternative to making the Proposed Regulations would be to do nothing. By doing nothing, we mean not making the Proposed Regulations and not taking advantage of the technological and market developments in the area of short-range devices.
- A1.29 Citizens and consumers would not be able to benefit from the new opportunities that these devices could provide as a result of advances in technology. If the UK did not participate in this approach, it might be argued that UK businesses and consumers would be disadvantaged in not having access to these innovative technologies.
- A1.30 More importantly, if we did not implement an EU decision, the EC could begin legal proceedings against the UK, the costs of which we deem to be potentially very high both quantitatively and qualitatively, outweighing any costs we consider to be associated with correct implementation.

The preferred option

- A1.31 Our preferred option is to go ahead and make the Proposed Regulations. This would be consistent with European law.

Equality Impact Assessment

- A1.32 Following an initial assessment of our policy proposals, we consider that it is reasonable to assume that any impacts on consumers and citizens arising from the Proposed Regulations would not differ significantly between groups or classes of UK consumers and citizens, all of whom would have access to these services, potentially at end-user prices reflective of all general input costs, including opportunity costs of spectrum used.
- A1.33 We do not consider that there is evidence to suggest that the proposal to make the Proposed Regulations would have a significantly greater direct financial impact on groups including based on gender, race or disability or for consumers in Northern Ireland relative to consumers in general.
- A1.34 We have not carried out a full Equality Impact Assessment in relation to race equality or equality schemes under the Northern Ireland and disability equality schemes at this stage. This is because we are not aware that the proposals being considered here are intended (or would, in practice) have a significant differential impact on different gender or racial groups, on consumers in Northern Ireland or on disabled consumers compared to consumers in general.

A2. Proposed Regulations

2017 No. 0000

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Ultra-Wide Equipment) (Exemption) (Amendment) Regulations 2017

Made - - - - [xxxx]

Coming into force - - [xxxx]

The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred by sections 8(3) and 122(7) of the Wireless Telegraphy Act 2006⁽¹⁸⁾ (the “Act”).

Before making these Regulations, OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the Act, and have considered the representations made to them before the time specified in the notice in accordance with section 122(4)(c) of the Act.

Citation and commencement

1. These Regulations may be cited as the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2017 and shall come into force on [xxx].

Amendment of the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2015

2. The Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) Regulations 2015⁽¹⁹⁾ (the “principal Regulations”) shall be amended in accordance with the following Regulations.

Amendment of regulation 3

3. In regulation 3 of the principal Regulations—

¹⁸ 2006 c. 36. Section 8(3) was extended to the Bailiwick of Guernsey by article 2 of the Wireless Telegraphy (Guernsey) Order 2006 (S.I. 2006/3325); and to the Bailiwick of Jersey by article 2 of the Wireless Telegraphy (Jersey) Order 2006 (S.I. 2006/3324); and to the Isle of Man by article 2 of the Wireless Telegraphy (Isle of Man) Order 2007 (S.I. 2007/278).

¹⁹ S.I. 2015/591.

(a) in the definition of “total radiated power spectral density”, for the words “contained within harmonised standard EN302 435-1(8)” substitute “contained within harmonised standard ETSI EN302 065-4(8)”; and

(b) insert the following footnote (8)—

“(8) ETSI EN 302 065-4 (version 1.1.1) published in July 2017.”.

Amendment of regulation 25—

4. In regulation 25(2)(b) of the principal Regulations, for the words “as described in harmonised standard EN 302 498-2(12)” substitute “as described in harmonised standard ETSI EN 302 065-4 for material sensing devices”.

Amendment of regulation 26—

5. In regulation 26 of the principal Regulations—

(a) in paragraph (4), omit the words “that are radiated into the air”; and

(b) in paragraph (4)(b), for the words “(as defined within Annex D of harmonised standards EN 302-435-1 (13) and EN 302 498-1 (14))” substitute “(as defined within ETSI EN 302 065-4)”.

Amendment of regulation 27—

6. In regulation 27(d)(i)(bb) of the principal Regulations, for the words “described in harmonised standard EN 302 435-1” substitute “described in harmonised standard ETSI EN 302 065-4”.

Amendment of regulation 28—

7. In regulation 28 of the principal Regulations—

(a) in paragraph (d)(i)(bb), for the words “described in harmonised standard EN 302 435-1(15)” substitute “described in harmonised standard ETSI EN 302 065-4”; and

(b) in paragraph (g)(i)(bb), for the words “described in harmonised standard EN 302 435-1” substitute “described in harmonised standard ETSI EN 302 065-4”.

Amendment of regulation 30—

8. In regulation 30 of the principal Regulations—

(a) in paragraph (4), omit the words “that are radiated into the air”; and

(b) in paragraph (4)(a), for the words “(as defined within Annex D of harmonised standard EN 302 435-1(16))” substitute “(as defined within harmonised standard ETSI EN 302 065-4)”.

Amendment of regulation 31—

7. In regulation 31 of the principal Regulations—

(a) in paragraph (b)(i)(bb), for the words “described in harmonised standard EN 302 435-1” substitute “described in harmonised standard ETSI EN 302 065-4”;

(b) in paragraph (e)(i)(bb), for the words “described in harmonised standard EN 302 435-1” substitute “described in harmonised standard ETSI EN 302 065-4”; and

(c) in paragraph (g)(i)(bb), for the words “described in harmonised standard EN 302 435-1” substitute “described in harmonised standard ETSI EN 302 065-4”.

[xxx]

For and by the authority of the Office of Communications

A3. 2017 UWB Amending Decision

8.8.2017

EN

Official Journal of the European Union

L 205/89

COMMISSION IMPLEMENTING DECISION (EU) 2017/1438

of 4 August 2017

amending Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community

(notified under document C(2017) 5456)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) ⁽¹⁾, and in particular Article 4(3) thereof,

Whereas:

- (1) Commission Decision 2007/131/EC ⁽²⁾ harmonises the technical conditions for radio equipment using ultra-wideband ('UWB') technology in the Union. It ensures that the radio spectrum is available across the Union under harmonised conditions, eliminates barriers to the uptake of UWB technology and creates an effective single market for UWB systems with significant economies of scale and benefits to the consumer.
- (2) Pursuant to Decision No 676/2002/EC, the Commission issued a permanent mandate to the European Conference of Postal and Telecommunications Administrations ('CEPT') on short-range devices, to update the Annex to Commission Decision 2006/771/EC ⁽³⁾ in response to technological and market developments in the area of short-range devices. On 2 July 2014, in its sixth guidance letter ⁽⁴⁾ in the context of this mandate, the Commission called on CEPT to also review other existing Decisions pertaining to short-range devices such as Decision 2007/131/EC for UWB-technology based short-range devices.
- (3) CEPT concluded that as regards UWB-technology based short-range devices some references to harmonised standards in Decision 2007/131/EC needed to be updated.
- (4) Decision 2007/131/EC should therefore be amended.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Radio Spectrum Committee,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Decision 2007/131/EC, point 11 is replaced by the following:

'11. "total power spectral density" means the average of the mean power spectral density values measured over a sphere around the measurement scenario with a resolution of at least 15 degree. The detailed measuring setup is contained within ETSI EN 302 065-4;'

The Annex is amended in accordance with the Annex to this Decision.

⁽¹⁾ OJ L 108, 24.4.2002, p. 1.

⁽²⁾ Commission Decision 2007/131/EC of 21 February 2007 on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community (OJ L 55, 23.2.2007, p. 33).

⁽³⁾ Commission Decision 2006/771/EC of 9 November 2006 on harmonisation of the radio spectrum for use by short-range devices (OJ L 312, 11.11.2006, p. 66).

⁽⁴⁾ RSCOM 13-78rev2.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 4 August 2017.

For the Commission

Mariya GABRIEL

*Member of the
Commission*

ANNEX

The Annex to Decision 2007/131/EC is amended as follows:

(1) point 5.1 is amended as follows:

- the second indent of the first indent of the first sub-paragraph is replaced by the following:

‘— The transmitter shall implement a TPC with a dynamic range of 10 dB, as described in the harmonised standard ETSI EN 302 065-4 for material sensing devices;’;

- the second sub-paragraph is replaced by the following:

‘Emissions radiating from material sensing devices permitted under this decision shall be kept to a minimum and in any case not exceed the e.i.r.p. density limits within the following Table. The compliance with the limits of the following Table for non-fixed installations (application B) has to be ensured with the device on a representative structure of the investigated material (e.g. representative wall as defined in ETSI EN 302 065-4).’;

- footnote (1) to the table is replaced by the following:

‘⁽¹⁾ devices using a Listen Before Talk (LBT) mechanism, as described in the harmonised standard ETSI EN 302 065-4, are permitted to operate in frequency ranges 2,5 to 2,69 and 2,9 to 3,4 GHz with a maximum mean power spectral density of – 50 dBm/MHz.’;

(2) point 5.2 is amended as follows:

- paragraph 2 is replaced by the following:

‘2. Emissions radiating from BMA devices shall be kept to a minimum and in any case not exceed the maximum power limits within the table below with the BMA device on a representative wall as defined within ETSI EN 302 065-4.’;

- footnote (1) to the table is replaced by the following:

‘⁽¹⁾ Devices using a Listen Before Talk (LBT) mechanism described in the harmonised standard ETSI EN 302 065-4 are permitted to operate in frequency range 1,215 to 1,73 GHz with a maximum mean power spectral density of – 70 dBm/MHz and in the frequency ranges 2,5 to 2,69 and 2,7 to 3,4 GHz with a maximum mean power spectral density of – 50 dBm/MHz.’.

A4. Responding to this consultation

How to respond

- A4.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 24 November 2017.
- A4.2 We strongly prefer to receive responses via the online form at <https://www.ofcom.org.uk/consultations-and-statements/category-3/ultra-wideband-equipment>. We also provide a cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>) for responses sent by email or post; please fill this in, as it helps us to maintain your confidentiality, and speeds up our work. You do not need to do this if you respond using the online form.
- A4.3 If your response is a large file, or has supporting charts, tables or other data, please email it to eniola.awoyale@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).
- A4.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Eniola Awoyale
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A4.5 If you would like to submit your response in an alternative format (e.g. a video or audio file), please contact Eniola Awoyale on 020 7783 4680, or email eniola.awoyale@ofcom.org.uk.
- A4.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A4.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A4.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A4.9 If you want to discuss the issues and questions raised in this consultation, please contact Eniola Awoyale on 020 7783 4680, or by email to eniola.awoyale@ofcom.org.uk.

Confidentiality

- A4.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or

familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.

- A4.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A4.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A4.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A4.14 Following this consultation period, Ofcom plans to publish a statement in January 2018.
- A4.15 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A4.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex x.
- A4.17 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A4.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A5. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A5.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A5.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A5.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A5.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A5.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A5.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A5.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A6. Consultation coversheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A7. Consultation questions

- A7.1 As required by section 122 of the WT Act, we must give notice of proposals that we intend to make and consider any representations that we receive. This document gives notice of our proposal to make the Wireless Telegraphy (Ultra-Wideband Equipment) (Exemption) (Amendment) Regulations 2017.

Question 1: Do you have any comments on the drafting of the Proposed Regulations?