



Notice of proposal to make the
Wireless Telegraphy (Limitations
of Number of Licences)
(Amendment) Order

Consultation

Publication date: 1 December 2014

Closing Date for Responses: 16 January 2015

About this document

This consultation document relates to minor amendments to the existing Wireless Telegraphy licence principal order, which came into force on 9 April 2014.

The principal order details the UK's arrangements for spectrum authorisation, particularly the limitations imposed on the number of licences to be granted. This includes the criteria applied by Ofcom in deciding limits on the number of licences and who they are granted to.

This proposed amendment rectifies minor typographical errors identified in the principal order, on which we are inviting stakeholders to provide feedback.

The deadline to submit responses for this consultation is 16 January 2015.

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Section 1

Executive summary

- 1.1 This document consults on Ofcom's proposal to make the Wireless Telegraphy (Limitation of Number of Licences) (Amendment) Order 2015 (the "Proposed Amendment Order"). The Proposed Amendment Order would amend the Wireless Telegraphy (Limitation of Number of Licences) Order 2014 (S.I. 2014/774)¹ (the "Principal Order") which came into force on 9 April 2014.
- 1.2 The Principal Order details key aspects of the UK's arrangements for spectrum authorisation, particularly the limitations imposed on the number of licences to be granted. This includes the criteria to be applied by Ofcom in determining the limit on the number of licences and the persons to whom licences will be granted. The Principal Order was made under section 29 the WT Act. Section 29(1).
- 1.3 The Proposed Amendment Order rectifies certain errors identified in the Principal Order. The Proposed Amendment Order would make the following changes:
 - insert the word "shall" in place of "will" in regulations 6 of the Principal Order. In the Principal Order, Regulation 6 should have employed the word "shall" as the provision was meant to denote an obligation upon Ofcom;
 - amend the frequency band for Transmission of National and Local Radio Broadcasting Services licence product in Schedule 1 from between 217.5 MHz to 230 MHz (T- DAB) to the new frequency band 210.792 MHz to 230 MHz (T- DAB); and
 - include details of the 5.8 GHz Fixed Wireless Access licence product which had been omitted in error from the Principal Order. This licence product is already issued to licensees to allow point-to-multipoint equipment for Wireless Internet Service Provider (WISP) Solutions, broadband internet access, and Internet protocol (IP) video surveillance.
- 1.4 In accordance with the requirements of section 122(4) and (5) of the WT Act, this document gives notice of our intention to make the Proposed Amendment Order. Following the publication of this consultation document, stakeholders are invited to provide their feedback on the proposed amendment order. The deadline to submit responses to us is **5pm on 16 January 2015**. We expect to release a statement on this consultation in **March 2015**, having taken into account the stakeholder responses to our proposals and bring into force.
- 1.5 A draft of the Proposed Amendment Order is attached at Annex 5. 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://www.legislation.gov.uk/ukxi/2014/774/made/data.pdf>

Section 2

General effect of the Wireless Telegraphy (Limitation of the number of Licences) (Amendment) Order

The legislative framework

- 2.1 Ofcom must make an order imposing limitations on the use of particular frequencies, if they consider it appropriate for the purpose of securing the efficient use of the electromagnetic spectrum in the UK (section 29 (1)).
- 2.2 Under section 29(2), an order may specify frequencies or uses on specified frequencies, for which Ofcom will grant only a limited number of wireless telegraphy licences. Where Ofcom makes an order under this section, the order must set out the criteria which Ofcom will apply in determining the limit on the number of licences and the persons to whom licences will be granted. Those criteria must be objectively justifiable, not unduly discriminatory, proportionate and transparent (section 29(4)).
- 2.3 Sections 29(6) and (7) of the WT Act require Ofcom to keep the Limitations Order under review and to revoke or amend its provisions as appropriate to reflect changes made to the frequencies, uses and criteria specified in it as part of its duty to secure the efficient use of the radio spectrum.
- 2.4 A draft of the Proposed Amendment Order is included in Annex 5 of this document.

Extent of application

- 2.5 The Proposed Amendment Order will apply in the United Kingdom, the Channel Islands and Isle of Man subject to formal agreement of the Island Authorities.

The Proposed Amendment Order

- 2.6 Regulation 1 sets out the date when the Proposed Amendment Order would come into force.
- 2.7 Regulation 2 amends the Principal Order in accordance with the provisions of the Proposed Amendment Order.
- 2.8 Regulation 3 makes amendment to Regulation 6 of the Principal Order.
- 2.9 Regulation 4 makes amendment to the Transmission of National and Local Radio Broadcasting Services (T-DAB) frequency band;
- 2.10 Regulation 5 inserts provision for the Fixed Wireless Access Licence product

Question: Do you have any comments on the drafting of the Proposed Amendment Order?

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 16 January 2015**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/wta-limitation/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email Paul.Chapman@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Paul Chapman
Floor 3
Spectrum Policy Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Paul Chapman on 020 7981 3069.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in March 2015
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. 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

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 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 to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

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)

Annex 4

Consultation question

- A4.1 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 Limitation of the number of Licences) (Amendment) Order 2015.

Do you have any comments on the drafting of the Proposed Amendment Order?

Annex 5

Draft Wireless Telegraphy (Limitations of the Number of Licences) (Amendment) Order

STATUTORY INSTRUMENTS

2014 No.

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Limitation of Number of Licences) (Amendment) Order 2015

Made - - - - - ***

Coming into force - - - - - ***

The Office of Communications (“OFCOM”), make the following Order in exercise of the powers conferred by sections 29 (1) to (3) of the Wireless Telegraphy Act 2006 (the “Act”)(¹).

Before making the Order, 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 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. This Order may be cited as the Wireless Telegraphy (Limitation of Number of Licences) (Amendment) Order 2015 and shall come into force on [].

Amendment of the Wireless Telegraphy (Limitation of Number of Licences) Order 2014

1. The Wireless Telegraphy (Limitation of Number of Licences) Order 2014(²) (“the principal Order”) shall be amended in accordance with the following provision of this Order.

Amendment of Regulation 6

2. In Regulation 6 of the principal Order for “will” substitute “shall”.

Amendment of Schedule 1, Part 1

(1) 2006 c.36. section 29(1) to (3) of the Act was extended to the Bailiwick of Guernsey by article 2 of the Wireless Telegraphy (Guernsey) Order 2006 (S.I. 2006/3325); 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).

(²) S.I. 2014/774.

3. In Schedule 1, Part 1, of the principal Order for “214.5-230.0 MHz (T-DAB)” substitute “210.792-230.0 MHz (T-DAB)”.

Amendment of Schedule 3, Part 1

4. In Schedule 3, Part 1, of the principal Order insert “Fixed Wireless Access 5725-5850 MHz” below “457.50-464.00 MHz”.