



# Decision to make the Wireless Telegraphy (Limitations of Number of Licences) (Amendment) Order

Statement

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## About this document

This document advises that Ofcom has gone ahead and made the Wireless Telegraphy (Limitations of Number of Licences) (Amendment) Order 2015. The order 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 amendment rectifies minor errors identified in the principal order. This order comes into force on 17 April.

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## Section 1

# Executive summary

- 1.1 This document confirms that after consultation Ofcom has made the Wireless Telegraphy (Limitation of Number of Licences) (Amendment) Order 2015 (the “Amendment Order”). The Amendment Order makes minor changes to the Wireless Telegraphy (Limitation of Number of Licences) Order 2014 (S.I. 2014/774)<sup>1</sup> (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 Amendment Order rectifies certain errors identified in the Principal Order. The Amendment Order made the following changes:
  - inserted 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;
  - corrected a mistake in 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
  - included 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 Before deciding to make regulations, in accordance with the requirements of section 122(4) of the WT Act, we published the Notice setting out our proposals to make them. The Notice also contained a draft of the Amendment Order and invited comments from stakeholders on the drafting of the Amendment Order.
- 1.5 We received 2 non-confidential responses to the Notice. The both agreed with our proposals but did raise additional minor comments.
- 1.6 We considered these comments in accordance with section 122(4) (c) of the WT Act. After doing so, and for the reasons set out in this document, we have decided to adopt the Amendment Order. Copies of the Regulations can be obtained through the National Archives.<sup>2</sup>

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<sup>1</sup> <http://www.legislation.gov.uk/ukSI/2014/774/made/data.pdf>

<sup>2</sup> A link to the online version can be found at <http://www.legislation.gov.uk/>

## Section 2

# Background

## Introduction

- 2.1 Ofcom is responsible for authorising civil use of the radio spectrum and achieves this by granting wireless telegraphy licences under the Wireless Telegraphy Act 2006 (the “WT Act”). Under section 29(1) of the WT Act, Ofcom may limit the number of licences it issues for the use of particular frequencies where it considers it appropriate for the purpose of securing the efficient use of the electro-magnetic spectrum in the UK. Sections 29(6) and (7) of the WT Act require Ofcom to keep any order under review and to revoke or amend its provisions if necessary for the purpose of ensuring the efficient use of the radio spectrum.
- 2.2 Section 29 of the WT Act implements Article 7(1) (c) of the “Directive of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services 2002/20/EC” (the “Authorisation Directive”)<sup>3</sup> which places a requirement on all Member States to publish any decision that limits the granting of rights of use stating the reasons for doing so.

## Statutory Notice

- 2.3 Under sections 122(4) to (6) of the WT Act, we are required to publish a notice of any proposal to make regulations. The notice must state that Ofcom proposes to make the regulations in question, must set out their general effect, say where a copy may be obtained and give any person or party an opportunity to make representations about them.
- 2.4 We published the Notice, meeting the statutory requirements, on 1 December 2014. The Notice included a copy of the draft Amendment Order. The Notice gave any person or party who wished to do so until 16 January 2015 to make representations.
- 2.5 The Notice proposed to:
- 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.

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<sup>3</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:108:0021:0021:EN:PDF> as amended by Directive 2009/140/EC

- 2.6 We received two non-confidential responses to the Notice which agreed with our proposals but did raise additional comments. These are detailed in the next section of this document along with our response.

## Section 3

# Responses to the Notice

## Introduction

- 3.1 This section outlines the comments that we received to the Notice and our response to these. We also outline some further amendments that have been made.
- 3.2 We received 2 non-confidential responses. These responses are published in full on our website<sup>4</sup>. Following consideration of the responses as outlined below, we have decided to proceed with our proposal to make the Order.

## Stakeholders' responses to the Notice and Ofcom's response

- 3.3 Mr John Pink asked whether the Order would apply to Amateur Radio licensees.
- 3.4 The Principal Order applies to most licences products that Ofcom issues including those used by Amateur Radio. These are contained in Schedule 7. The Amendment Order makes no changes in regards to Amateur Radio.
- 3.5 Mr J Gilliver agreed with the drafting of Amendment Order but made two minor comments. The first concerned whether the amendment to T-DAB is a correction of an original error, or an amendment to take account of a revised band. Secondly that the term T-DAB was not defined.
- 3.6 In relation to the T-DAB change this was to correct an error in the frequency band listed and not a new allocation. T-DAB is not defined in the Orders as this is the name of the licensing product and therefore there is no need to define it. T-DAB stands for Terrestrial Digital Audio Broadcasting.

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<sup>4</sup> <http://stakeholders.ofcom.org.uk/consultations/wta-limitation/?showResponses=true>

## Section 4

# Scope of the regulations

4.1 This section describes the final scope of the Amendment Order. On 27 March 2015 Ofcom made the Amendment Order as proposed. The Amendment Order comes into force on 17 April 2015. They are summarised below.

### Extent of application

4.2 The Regulations will apply in the United Kingdom, the Channel Islands and the Isle of Man.

### Final scope of the Limitations Order

4.3 Regulation 1 sets out the date when the Amendment Order would come into force

4.4 Regulation 2 amends the Principal Order in accordance with the provisions of the Amendment Order.

4.5 Regulation 3 makes amendment to Regulation 6 of the Principal Order.

4.6 Regulation 4 makes amendment to the Transmission of National and Local Radio Broadcasting Services (T-DAB) frequency band; and

4.7 Regulation 5 inserts provision for the Fixed Wireless Access Licence product.



**Annex 1**

# Respondents

Mr J.P. Gilliver

Mr J Pink