



Ofcom's decision to amend the  
Wireless Telegraphy (Automotive  
Short Range Radar) (Exemption)  
(No.2) Regulations 2005

Statement

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## Section 1

# Executive summary

- 1.1 This statement confirms that, following a formal consultation, the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2010 (the “Amendment Regulations”) were made by us on 25 May 2010, and are coming into force on 16 June 2010. The Amendment Regulations can be obtained through the Office of Public Sector Information (OPSI).<sup>1</sup>
- 1.2 The Amendment Regulations change the existing technical parameters for the establishment, installation or use of Automotive Short Range Radar (SRR) in the 21.65 to 26.65 GHz band. For the purpose of this statement the word “use” in the context of SRR equipment also includes establishing or installing such equipment.
- 1.3 Specifically, the Amendment Regulations impose a restriction on the power for emissions within the 23.6 to 24.0 GHz band that appear 30° or greater above the horizontal plane. These shall now be attenuated by at least 30 dB instead of the previous limit of 25 dB.
- 1.4 The Amendment Regulations implement the European Commission Decision (2005/50/EC) (the “Decision”) on the harmonisation of the 24 GHz range radio spectrum band (21.65 to 26.65 GHz) for the time-limited use by automotive short range radar equipment (“SRR equipment”) in the community<sup>2</sup>. All Member States are required to implement the Decision.
- 1.5 Before deciding to make the Regulations, in accordance with the requirements of section 122(4) of the Wireless Telegraphy Act 2006 (the “WT Act”), we published a Statutory Notice<sup>3</sup> (the “Notice”) on 19 February 2010 containing a draft of the Amendment Regulations (the “Proposed Regulations”) and invited comments from stakeholders.
- 1.6 We received one response to our consultation. Having carefully considered the response to the Notice we decided to proceed with making the amendment Regulations. This statement confirms that we have made the Amendment Regulations which will come into force on 16 June 2010.

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<sup>1</sup> A link to the online version can be found at <http://www.opsi.gov.uk/>

<sup>2</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:021:0015:0020:EN:PDF>

<sup>3</sup> <http://www.ofcom.org.uk/consult/condocs/asrr/asrr.pdf>

## Section 2

# Background

- 2.1 Information communications technologies and intelligent road safety systems such as SRR equipment have been identified by the EC eSafety initiative<sup>4</sup> as a significant tool for the improvement of road safety in Europe and as one of a number of measures that could address the overall transport policy goal for reducing road fatalities in Europe by half by 2010<sup>5</sup>.
- 2.2 In January 2005, as part of its eSafety initiative to improve road safety in Europe, the EC adopted a Decision (2005/50/EC) (the “Decision”) on the harmonisation of the 24 GHz range radio spectrum band (21.65 to 26.65 GHz) for the time-limited use by automotive short range radar equipment (“SRR equipment”) in the community<sup>6</sup>. The Decision requires that the 24 GHz band be designated and made available for SRR equipment until 30 June 2013. We implemented the Decision by making the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (No.2) Regulations 2005 (the “Principal Regulations”) <sup>7</sup>.
- 2.3 The Decision also included a number of future changes to the technical criteria for SRR. This included that from 30 June 2007 manual deactivation of equipment when entering an exclusion zone would no longer be permitted for new units. We implemented this requirement by making the Wireless Telegraphy Automotive Short Range Radar) (Exemption) (No.2) (Amendment) Regulations 2008<sup>8</sup>.
- 2.4 The second change in the Decision is for emissions within the 23.6 to 24.0 GHz band that appear 30° or greater above the horizontal plane shall be attenuated by at least 30 dB (previously 25 dB). The Amendment Regulations have implemented this requirement.

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<sup>4</sup> [http://europa.eu.int/information\\_society/programmes/esafety/index\\_en.htm](http://europa.eu.int/information_society/programmes/esafety/index_en.htm)

<sup>5</sup> Commission Communication on a European Road Safety Action Programme, COM(2003)311, June 2nd, 2003 at [http://europa.eu.int/comm/transport/road/library/rsap/com\\_2003\\_0311\\_en.pdf](http://europa.eu.int/comm/transport/road/library/rsap/com_2003_0311_en.pdf), and Council Conclusions on the European Road Safety Action Programme, June 5th, 2003

<sup>6</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:021:0015:0020:EN:PDF>

<sup>7</sup> <http://www.opsi.gov.uk/si/si2005/20051585.htm>

<sup>8</sup> [http://www.opsi.gov.uk/si/si2008/pdf/uksi\\_20080237\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/uksi_20080237_en.pdf)

## Section 3

# Scope of regulations

## Responses to the Notice

- 3.1 We received one response to the Notice.
- 3.2 The Radio Society of Great Britain responded to the Notice and supported the proposals to restrict the emissions of SRR in the 23.6 to 24.0 GHz band. They also highlighted their concern at current discussions taking place on the review of the Decision. In particular they have stated that they have an issue with a possibility that the end date of 30 June 2013, by which no new authorisations in the band would be allowed, may be extended.
- 3.3 We would like to thank the Radio Society of Great Britain for their response. The review of the Decision is being run by the European Communications Office<sup>9</sup> and is currently out for public consultation. We will be involved in analysing the responses to the review once the consultation closes in May. It is our view that the long term allocation for SRR lies in the 77 to 81 GHz band as designated by the European Commission Decision (2004/545/EC) on the harmonisation of radio spectrum in the 79 GHz range for the use of automotive short-range radar equipment ("SRR equipment") in the Community.

## Final scope of the Regulations

### The Legislative Framework

- 3.4 We can exempt the establishment, installation and use of wireless telegraphy equipment by making Regulations under section 8(3) of the WT Act. Under section 8(1) of the WT Act, it is an offence to establish, install or use equipment to transmit without holding a licence granted by us unless the use of such equipment is exempted. Under section 8(4) of the WT Act, we must make regulations to exempt equipment if its installation or use is unlikely to cause undue interference.

### Extent of application

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

### The Regulations

- 3.6 The Amendment Regulations will implement the Decision as closely as possible.
- 3.7 Regulation 2 introduces the new emission limits within the 23.6 – 24.0 GHz band that appear 30° or greater above the horizontal plane. The regulation changes the attenuation from 25 dB to at least 30 dB. This aligns with paragraph 3 of Article 4 of the Decision.

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<sup>9</sup> <http://www.ero.dk/>

## Annex 1

# Impact Assessment

## Introduction

- A1.1 In accordance with Government practice, where a statutory regulation is proposed, a Regulatory Impact Assessment (“RIA”) must be undertaken. The analysis presented here, when read in conjunction with the rest of this document, represents an RIA as defined by section 7 of the Communications Act 2003 (“the Communications Act”) for the Wireless Telegraphy Automotive Short Range Radar (Exemption) (No.2) (Amendment) Regulations 2010 (the “Amendment Regulations”).
- A1.2 RIAs 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 and are commonly used by other regulators. This is reflected in section 7 of the Communications Act, which means that we will generally carry out impact assessments where proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in our activities. However, 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. In accordance with section 7 of the Communications Act, in producing this RIA, we have had regard to such general guidance as we consider appropriate including related Cabinet Office guidance. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom’s approach to impact assessment<sup>10</sup>.

## **Implementing the Commission Decision 2005/50/EC on harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community**

- A1.3 This RIA relates to the decision to make amendment regulations in order to implement the Commission Decision 2005/50/EC on harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community (the “Decision”)<sup>11</sup>.
- A1.4 In the UK, we are responsible for the authorising of civil use of the radio spectrum and achieve this by granting wireless telegraphy licences under the Wireless Telegraphy Act 2006 (the “WT Act”) and by making Regulations exempting users of particular equipment from the requirement to hold such a licence. Under section 8(1) of the WT Act, it is an offence to install or use equipment to transmit without holding a licence granted by us, unless the use of such equipment is exempted. Section 8(3) enables Ofcom to make regulations exempting equipment from the requirement to hold a licence subject to specified terms, provisions and limitations and under Section 8(4) of the WT Act we must make regulations to exempt equipment if it is unlikely to cause undue interference.

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<sup>10</sup> Available at [http://www.ofcom.org.uk/consult/policy\\_making/guidelines.pdf](http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf).

<sup>11</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:021:0015:0020:EN:PDF>

## **The citizen and/or consumer interest**

A1.5 We took into account of the impact of our decision had upon both citizen and consumer interests in the market we regulate. In making the changes to the existing regulations we considered the wider impact beyond immediate stakeholders in the radiocommunications community. We believe that the decision will be of benefit to consumers for the following reasons:

- i) It supports measures to improve road safety and may assist in reducing the number of road traffic accidents in the UK;
- ii) The measures all concern the use of radio equipment on a licence-exempt basis which reduces the regulatory and administrative burden on our stakeholders; and
- iii) Licence-exemption is proposed only in areas where use of equipment is unlikely to cause harmful interference to other spectrum use.

3.8 We are required by statute to assess the impact of all our functions, policies, projects and practices on race, disability and gender equality – an Equality Impact Assessment (EIA) is our way of fulfilling these obligations. The findings of our EIA initial screening showed that there is no relevance to equality in this decision.

## **Ofcom's policy objective**

A1.6 As a Member State, the UK is bound by the terms of the Decision and the requirement to implement them.

## **Options considered**

A1.7 The options open to us in relation to the implementation of the Decision were as follows:

- to make the Amendment Regulations that are compliant with the Decision; or
- to do nothing.

## **Analysis of options**

### Make new regulations

A1.8 The most efficient route to mandatory compliance was to make the Amendment Regulations that are consistent with the Decision as closely as possible.

### Do nothing

A1.9 By doing nothing, we would have been in breach of the Decision and could be open to infraction proceedings initiated by the European Commission.

## **The preferred option**

A1.10 The preferred option therefore was to make the Amendment Regulations as indicated in order to comply with the Decision. The benefits of this option were that the UK remains compliant with European Community law.



## **Evaluation**

- A1.11 Article 5 of the Decision requires that that the continued availability of this spectrum for the listed devices be kept under active scrutiny to ensure that the main premise of the opening this band to such systems remains valid.
- A1.12 We will assist the Commission in carrying out these reviews as required.

**Annex 2**

# List of respondents

**Radio Society of Great Britain**