Title:

Mr

Forename:

Philip

Surname:

Baxter

Representing:

Self

Organisation (if applicable):

Email:

What do you want Ofcom to keep confidential?:

Keep nothing confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

You may publish my response on receipt

Additional comments:

Dear Sirs

I write to respond to your Consultation Document entitled 'Applying Spectrum Pricing to the Aeronautical Sector'. (Terms and abbreviations which I use have the same meaning as those defined in that Document). My interest in the matter arises because I hold a UK (Airline Transport) Pilot's Licence with an Instructor's 'Rating' and Examiner's Authority; and I teach people to fly.

I comment from the point of view, which does not seem to have been adequately recognised in the consultative document, that all communications used in the aeronautical sector are made for safety reasons, not only those that are used for distress and urgency (so-called 'May-Day' and 'Pan' calls). For this reason, in my opinion, no charges should be applied at all to usage of frequencies for aviation purposes. To apply charges is simply inappropriate.

You do not propose (your paragraph 1.3) to apply fees to distress and fire frequencies. These are obviously safety-related. It may be less obvious that radio calls from air to ground, and those in the opposite direction, are also always related to safety: they enable ground- and radar-controllers, and pilots (who are and who should be) maintaining a listening watch, to be aware of the positions of other aircraft in the sky and on the ground; and of the intentions of other pilots. This is clearly an essential aid to safety. Bearing in mind that the content of such radio calls is defined by the CAA so as to report aircraft type, one's intentions, where one is both in terms of location and altitude or height, the flight conditions being experienced, an estimated time at the next way-point and a request if necessary, it is hard to see that they could be regarded as anything other than safety-related. That is why it is also hard to see that any charges should be levied at all ? however finite a resource radio spectrum may be. (It is arguable that the frequency spectrum as a whole is, in fact, infinite; and that an infinite resource needs no limitation or control).

UK airspace is amongst the busiest, and therefore the most crowded, in the world. Without radio communications, and the ability of pilots to hear the transmissions of others as well as to talk to ground stations, pilots, ground-controllers and air-traffic controllers would be solely reliant on pilots' and controllers' eyesight for the safe separation of aircraft, both on the ground and in the air. That clearly cannot be satisfactory as a general proposition, even though there are some less busy aerodromes where movements are 'non-radio', considering the high number of aircraft movements in both environments and the relatively high speeds of aircraft in flight at all heights, altitudes and flight levels. In addition, the often adverse weather conditions experienced in the UK necessitate aircraft of all types frequently to fly solely by reference to instruments, whether or not in the vicinity of aerodromes. If your proposals succeed in reducing spectrum usage for such communications, that can be only at the expense of safety.

You assert (your paragraphs 1.7, 1.8 and 1.21 in particular) that there is excess demand for frequencies in the aviation sector and that AIP can improve the value that is obtained for society from a given amount of spectrum, compared with free licences or flat-rate fees even where such spectrum continues to be used for the same application but could be used by some other user who may value it more. That may be true for some ranges within the spectrum but it is my understanding that this is not so in the case of aviation frequencies ? not least because of the UK's international (ITU Convention, in particular) obligations. In that case, there is no clear advantage to releasing frequencies in the aeronautical band. The 'tool' of AIP (paragraph 1.22) will not be appropriate, despite increased 'granularity of charges' (Section 2); the speed of introduction (paragraph 1.24) is then irrelevant. If you accept this premise, neither of the questions set out in your paragraph 2.1 can, in fact, be answered in the affirmative.

I emphasise that aeronautical radio communications are not used for 'chit-chat'. 'Day-to-day' operational usage (your paragraph 5.44) is precisely how safety is achieved. In these circumstances, there can be no 'market disciplines' (paragraph 1.4). It is irrelevant that the emergency services choose to pay for their frequency usage ? they do not sell their services and they are provided with funds from the public purse, so it does not matter how much they are asked, or volunteer, to pay!

The document refers to the introduction of 8.33 kHz spacing (paragraph 1.11). I understand that such radio equipment will be mandatory in all new aircraft from 2012 and will be a Europe-wide required 'retrofit' from 2018. It follows that improved efficiency (paragraphs 1.31 and 1.32) through reduction of frequency usage will occur naturally in any case.

With this in mind, it is clear that the changes that you made to Ofcom's original proposals after the initial consultation (paragraphs 1.11 to 1.17) are inadequate. Charges for frequencies used for aeronautical communications will, I and many others believe, compromise aviation safety and the safety of General Aviation (GA) in particular.

Furthermore, the assumption seems to have been made that the frequencies currently used for aviation purposes are used in a profligate way, and that such use is unnecessary; and that some can be ceded to reduce congestion. Section 7 goes some way towards assessing that but, I believe, reaches the wrong conclusion. The so-called 'market discipline' of charging for frequencies cannot alone achieve change in frequency usage and will merely result in such charges being viewed as taxes. Change in usage depends upon international agreement, international commitments and ? not least ? on development and implementation of newer technology.

It is right that Ofcom should seek to promote more efficient usage of frequency spectrum ? but the better way to achieve that is to adjust necessary spectrum usage according to developments in radio technology as they become available and are introduced.

The GA sector already operates in a very high-cost environment and will seek to avoid frequency charges. So, no doubt, will the commercial sector (the airlines and business aviation) but that sector has a much greater opportunity than GA to pass-on costs to the customer who, arguably, has a choice of whether or not to pay.
The charges that Ofcom recommends for frequency usage are substantial, 'granularity' notwithstanding. Even supposing that commercial aviation operators will be able, and willing, to absorb these charges or to pass them on to airlines and others, it is clear that the cost to General Aviation operators will not be insignificant ? some say that in many cases, they will simply not be tenable. It is not therefore sufficient for Ofcom to say (paragraph 1.15) that it believes that its proposals should give the sector and its regulator sufficient time to respond to changes efficiently and safely. That takes no account of the costs of new radios (e.g., those designed to operate at 8.33 kHz spacing) and seems to assume that the costs can be absorbed by all owners and/or pilots over five years. Such assumption is not warranted.

Moreover, aerodromes that of necessity use several frequencies, each for different but essential purposes, may feel obliged to seek to reduce the number of frequencies that

they use to limit costs. This will force more radio traffic onto already crowded frequencies and so, increase congestion of those frequencies.

Unlicensed aerodromes may be forced to operate as 'non-radio' aerodromes, similarly to try to avoid increasing costs. One can deduce from the document that, should this be so, the Civil Aviation Authority would introduce legislation to force aerodromes to provide radio services and to pay the new charges. Whether or not Ofcom intended that inference is not clear; and whether or not the CAA will regulate in that way remains to be seen ? but the idea does not sit well with the CAA's duty to the aviation industry as a whole, or its desire to promote safety.

It may be that, in general, there is a competitive market for radio frequencies where the end user has a choice, such as at major airports like Heathrow where all movements are of a commercial nature and principally operated by airlines. However, such market disciplines are inappropriate elsewhere in the aeronautical sector and will not encourage the universal adoption of 8.33 kHz spacing. The only safe way to achieve that is by national regulation and phasing-in so that all aircraft and all ground stations use the same equipment ? but gradually because of the extremely high costs involved.

As to the availability, or otherwise, of frequencies for aviation use I would draw your attention to the work undertaken by the International Aircraft Owners' and Pilot's Association-Europe (IAOPA-Europe) which shows that there would be more frequencies available than would ever be likely to be needed if the 27 frequency allocation offices within Europe were to be centralised. I do not mean to imply that all control should be the responsibility of a European entity ? heaven forefend ? we are in general already over-regulated in that respect. Rather, we should use the best examples to hand: NATO is said to have done this as a way to manage the frequencies that it uses; and it is reported that many European countries favour this approach. I understand that Germany, France and Britain are refusing to do this because they see control of their frequencies as a matter of national sovereignty. Indeed it is ? but that does not mean that co-ordination and co-operation cannot be achieved without ceding sovereignty.

Ofcom's first proposals that included plans to charge the emergency services for use of distress frequencies, were ? quite rightly ? changed after public objection. The proposals to charge for other aviation frequencies, which are no less a matter of safety and which are certainly needed in circumstances of distress, must also be withdrawn (or 'zero-rated' as is now proposed for the fire and distress frequencies).

Ofcom's plans to impose reduced charges on 8.33 kHz technology to provide an incentive for the spread of reduced frequency spacing do not acknowledge that many GA pilots, flying schools and clubs, would have to discard perfectly serviceable navigation/communication systems and spend hundreds, possibly thousands, of pounds on new equipment to put themselves in a position to pay the charges which will ultimately fall on them. This cannot be fair when, as Ofcom admits, in many rural areas of Britain there is no frequency congestion.

There is a perception in general that the costs of flying are high and prohibitive to would-be entrants to the sector. The cumulative impact of AIP and other costs that are

a consequence of regulation, is making private flying even more expensive overall and not only discouraging people from flying as a pastime but also from acquiring professional flying qualifications.

In light of these comments, I hope that you will agree that charging for use of frequencies in the aviation sector is inappropriate and that the proposals to do so should be withdrawn.

Yours faithfully

Philip S Baxter

Question 1: Do you consider that our proposed fee rates for licences in the aeronautical VHF frequencies are appropriate?:

No.

Question 2: In devising our revised proposals, have we identified all of the aeronautical uses of VHF communications frequencies which require a distinct approach to fee setting, as set out in tables 5 and 6?:

None requires a fee-setting approach, for the reasons that I have expressed in my 'additional comments' letter.

Question 3: Do you agree with our proposal not to charge any fees for Fire assignments?:

Yes.

Question 4: Do you agree with our proposal to set a £75 fee for licences in any of the sporting frequencies?:

No.

Question 5: Do you agree with our proposal to set an annual fee of £19,800 per ACARS or VDL assignment, with no variation related to the number of transmitters?:

No.

Question 6: Do you consider that our proposed approach to phasing in fees for use of the aeronautical VHF communications channels are appropriate? If there are particular reasons why you consider that any user or group of users would need longer phasing-in periods, please provide any supporting evidence for us to consider. Specifically, do you have any evidence for us to consider that would support either of Options 1 and 2 for the highest proposed fee in this sector?:

No - see my 'additional comments' letter.

Question 7: Do you have any further quantified information to contribute to the analysis of financial impacts of the proposed fees on particular spectrum users, as set out in Annex 5? We would like to publish all responses, but will respect the confidentiality of any material which is clearly marked as such.:

No.

Question 8: Do you consider that our assessment of the impacts of our proposals has taken full account of relevant factors? If you consider that there is additional evidence that would indicate particular impacts we should take into account, we would be grateful if you could provide this.:

No - for the reasons expressed in my 'additional comments'.