

For the attention of Mr Michael Richardson

Dear Mr Richardson,

Please find, attached, a response to the current (December 2009) consultation regarding the proposed application of spectrum pricing to the aeronautical sector together with a consultation cover sheet.

On behalf of the Guild of Air Pilots and Air Navigators (GAPAN) that has approved this submission, I trust that the comments and suggestions it contains will prove helpful to Ofcom's deliberations on this matter.

I would be most grateful if you would kindly acknowledge receipt of this submission.

With my regards,

Tim Sindall

Copy to: Captain C Hodgkinson, Technical Director (GAPAN)

**SUBMISSION BY THE GUILD OF AIR PILOTS AND AIR NAVIGATORS TO THE
SECOND (DECEMBER 2009) CONSULTATION ON THE PROPOSAL TO APPLY
SPECTRUM PRICING TO THE AERONAUTICAL SECTOR**

1 Introduction

1.1 In this paper the Guild of Air Pilots and Air Navigators (GAPAN) sets out its response to the second Consultation published in December 2009 on proposals for applying spectrum pricing to the aeronautical sector.

2 General Overview

2.1 Whilst recognising the objectives outlined in the Consultation for proposing to apply Administered Incentive Pricing (AIP) to certain aeronautical uses of the radio spectrum, the Guild asserts that insufficient account appears to have taken of the detrimental effects that this could have on the continued provision of VHF communications whose sole purpose is to enable the safety, regularity and efficiency of air navigation. Indeed, most VHF communications frequencies used in the aeronautical spectrum are employed for this purpose.

2.2 Operational flight safety has never been dependent solely upon meeting minimum standards prescribed by authorities, but upon maintaining sensible margins that protect practitioners from minor shortfalls in performance – both human and technical. Thus, the possible removal on cost grounds of many aeronautical channels of communication – including those used to broadcast highly important information for common usage (VOLMET and ATIS) and those employed to facilitate safe operations by general aviation aircraft – may erase those highly desirable safety margins that private and professional pilots rely upon to help them avoid incidents and accidents.

2.3 The Consultation would appear to place a high level of reliance upon the Civil Aviation Authority (CAA) to ensure the maintenance of the desired level of safety through regulation. However, the assertion that regulation by the CAA would be the preferred means by which safety could be assured in the face of AIP ignores the practicalities, for Directions cannot be applied unless a safety case is first proven – and this will necessarily be founded

upon what is deemed to be *essential*. Many discretionary uses of frequencies in the VHF aeronautical spectrum provides positive flight safety benefits that might only be described as *highly desirable*, and if service providers were to decommission such frequencies on grounds of cost it might not be possible for the CAA to direct that they be reinstated – operational flight safety would then suffer.

2.4 On the other hand, of all agencies in the United Kingdom, the CAA is best placed to form conclusions regarding the value in terms of operational flight safety concerning the allocation of frequencies to service providers. This Authority should be tasked by its sponsoring Department (the Department for Transport) on behalf of Government with managing the efficient allocation and management of VHF frequencies used for all purposes within the aeronautical sector. AIP could prove to be too blunt a tool for use and too liable to generate unforeseen consequences that could impact adversely upon the safety of flight operations. It should be remembered that the CAA derives its income from those it regulates, so tasking the Authority to manage the aeronautical spectrum in toto ought not to cause any financial burden to be borne by the Government or to be passed on to UK citizens at large through general taxation.

3 Specific Observations

3.1 The UK Met Authority's objective is to supply operators, flight crew members, ATS units, airport management and other civil aviation users with the meteorological information necessary for the performance of their respective functions. In the UK, aircraft can obtain aerodrome weather information from VOLMET and ATIS broadcasts, or by request made to an ATS unit. This Consultation contains proposals to apply AIP to stations that supply VOLMET and ATIS broadcasts.

3.1.1 **VOLMET** There are only four VOLMET stations in the UK (London Main, London North, London South, and Scottish). It does not appear obvious that NATS, which is the agency that provides VOLMET broadcasts, has any choice under the terms of its licence to discontinue this service (which is referenced in Annex 3 to the Chicago Convention as being determined by the relevant ICAO Regional Air Navigation Plan that specifies the four channels currently in use). It seems highly undesirable, therefore, that these four stations should be considered liable for AIP given that they would fail to satisfy either of the two key questions relating to fee setting: fees applied to VOLMET would do nothing to manage the demand for this facility and would do nothing to help influence optimal spectrum use.

3.1.2 **ATIS** Many of the 143 aerodromes currently listed in the UK AIP provide ATIS for arriving and/or departing aircraft. ATIS messages are intended to provide pilots with a range of information that will enable them to make a definite decision about their approach and landing or take-off (CAP 493) and to reduce ATC VHF air-ground communications workload (CAP 670). To the extent that, like radio navigation aids, ATIS functions by means of common-use transmissions that are available to any and all aircraft whose pilots require the details they contain, there is a powerful argument for declaring that they should be treated like navigation aids in relation to AIP proposals and exempted from AIP as a means of optimising spectrum use.

3.2 **Separation of Aircraft** Spectrum assignments to ground stations of frequencies other than those used for managing aircraft in distress, by the fire services, for the communication of aerodrome weather and information essential for planning approach and landing or take-off can be to facilitate the provision of an air traffic or flight information service. Where such services are provided, the primary use made by most of these frequencies will be to ensure the safe separation of aircraft on the ground and in the air. It can be argued that all frequencies employed for the purposes of providing safe separation can be described as being held already for the most valuable purposes. It is highly unlikely

that NATS and the licensed aerodrome operators would decommission any such frequencies following the application of AIP firstly because they are needed for the reason stated above and secondly because the CAA would not allow it (unacceptable weakening of the currently accepted safety cases). The application of AIP would therefore be of no discernable value.

3.3 Loss of Discretionary VHF Communications There is a risk that the application of AIP on operators of unlicensed aerodromes where the use of ground-based VHF radio is discretionary will, having regard to the proposed increased costs, quite possibly cause such operators to decommission their equipment and thereby remove the safety benefits such facilities currently provide. Relying then upon the CAA to intervene in order to uphold an adequate level of safety is a situation that can and should be avoided since the time and effort the Authority will need in each case to identify a safety shortfall before a Direction can be made will be costly also in resources and money. Indeed, the fact that the provision of VHF communications in such places is discretionary implies that their use is not *essential* (arguably the foundation for making a Direction). Rather, it is the case that having such a facility can be described as *highly desirable* (which may not be sufficient grounds for making a Direction) and that the Authority may not in consequence feel able to require reinstatement of that facility. There should be no doubt that the removal of air/ground frequencies at such aerodromes, where sport and recreational flying are most likely to be the most numerous operations, will deprive pilots of valuable information needed both to obtain separation from other aircraft and to ensure that flights are neither planned nor conducted in weather conditions that are beyond the competency of the aircraft commander or the capability of the aircraft. If AIP is applied in circumstances where air/ground frequencies are employed for the highly desirable purpose of promoting safe operations by general aviation aircraft, any subsequent decommissioning of frequencies will in turn increase the risk that incidents and accidents could occur.

4 Conclusion

4.1 GAPAN urges Ofcom to revisit its proposals regarding the application of AIP as a means by which to suppress any inefficient use of the VHF communications spectrum in the aeronautical sector. Administered Incentive Pricing is not an appropriate tool to apply generally within this sector and its application risks degrading the safe conduct of flight operations – general aviation in particular.

4.2 **Specifically, GAPAN suggests that the Government** (in this context the Department for Transport) **should manage the efficient use of the aeronautical spectrum by tasking the CAA to manage frequency allocations**, since the Authority is most suitably placed to assess necessities and priorities, already holds delegated powers to issue Directions (where necessary) and controls safety standards by means of assessing and reviewing licence applications. As noted in the Consultation, ‘safety in the aeronautical sector is ultimately a matter for the CAA’.

Captain T H Sindall
For the Guild of Air Pilots and Air Navigators
30 March 2010

APPENDIX: Responses to Consultation Questions

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

Response 1: Subject to the Guild's primary response that **AIP ought not to be applied to any station whose function is to facilitate the safety, regularity and efficiency of air navigation**, the charges proposed for Fire and Distress frequencies (£ zero) are deemed appropriate and should be extended to include at least all VOLMET and ATIS broadcast stations.

Question 2: Has Ofcom identified all aeronautical uses of VHF communications frequencies that require a distinct approach to fee setting?

Response 2: No comment.

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

Response 3: Yes.

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

Response 4: GAPAN asserts that AIP should not be applied to frequencies used at any aerodromes/airstrips where sport and recreational flying predominate and where such frequencies are employed for the purpose of communicating aircraft movement, aerodrome information and weather conditions to pilots operating at that aerodrome/airstrip or in its vicinity.

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

Response 5: Subject to the Guild's primary response (above) that AIP ought not to be applied to any station whose function is to facilitate the safety, regularity and efficiency of air navigation, it is agreed that no variation should be applied related to the number of transmitters.

Question 6: Do you consider that the proposed general approach to phasing-in fees for use of the aeronautical VHF communications channels are appropriate?

Response 6: Subject to the Guild's primary response (above) that AIP ought not to be applied to any station whose function is to facilitate the safety, regularity and efficiency of air navigation, it is agreed that the proposed general approach to phasing-in fees is appropriate.

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?

Response 7: No comment.

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

Response 8: Experience held generally within GAPAN whose members have contributed to this response paper include current and former commercial air transport, public transport and general aviation pilots, air traffic service providers, and senior managers employed within the CAA to develop and enforce safety regulation pertaining to flight operations. Drawing upon this experience, the Guild opines that it is essential to ensure that operational flight safety is maintained at a level no lower than exists at present, and is extremely

concerned that the proposed application of AIP to VHF communications whose sole purpose is to enable the safety, regularity and efficiency of air navigation could result in its impairment. Spectrum pricing is too crude a mechanism for application in the aeronautical sector: **efficient use of spectrum can and should be managed by the CAA, which is the only UK agency that can be expected to understand fully all factors that need to be considered in the allocation of frequencies to be used in VHF communications.**

--- END ---

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: **Applying spectrum pricing to the Aeronautical sector – a second consultation**

To (Ofcom contact): **Mr Michael Richardson**

Name of respondent: **Captain Timothy Sindall**

Representing (self or organisation/s): **The Guild of Air Pilots and Air Navigators**

Address (if not received by email):

CONFIDENTIALITY

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

| | | | |
|----------------------|-------------------------------------|---|--------------------------|
| Nothing | <input checked="" type="checkbox"/> | Name/contact details/job title | <input type="checkbox"/> |
| Whole response | <input type="checkbox"/> | Organisation | <input type="checkbox"/> |
| Part of the response | <input type="checkbox"/> | 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 **T H Sindall**

Signed (if hard copy)