

Gordon Drake  
Spectrum Policy Group  
Ofcom  
3rd Floor  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

17 December 2008  
Ref DAP/HdS&SM/Ofcom/Consult/Innovation

Dear Mr Drake

**OFCOM CONSULTATION ON INNOVATIVE USES OF SPECTRUM - CAA RESPONSE**

Thank you for the opportunity to respond to your subject consultation. I have the following comments to make:

1. Notwithstanding the numerous statements regarding protection for authorised users from harmful interference,

(a) At Table 1, it is stated that licence revocation could occur with less than a year's notice in the event of harmful interference. It is considered essential that revocation takes place with minimum delay in these circumstances to avoid aviation safety issues and to protect authorised users' investments.

(b) At Table 1, the technical conditions require that the risk of harmful interference is minimised. For aeronautical safety-of-life services we consider that this risk must be wholly mitigated. For this reason we do not support use of innovation licences in bands allocated to safety-of-life services assuming technology neutrality. However if an application can be considered on a case-by-case basis then we could support innovation licences in safety of life bands provided we have sufficient control to avoid harmful interference.

(c) There are numerous references to rapid resolution of harmful interference but no proposed service levels are proffered. We need the ability to request immediate cessation of use if harmful interference is caused until the source has been identified.

(d) In the event of loss of revenue to the authorised user as a result of interference from an innovation licence holder, what reimbursement mechanisms are proposed?

2. Para 1.6, amongst others, states that applications would be considered on a case-by-case basis and consultation with the relevant public body. It is unclear who would conduct and fund the necessary studies to ensure the risk of harmful interference is minimised. Can this be clarified? Is there an implied responsibility on the public body/authorised user in this respect? The CAA is not in a position to make available the necessary resources for compatibility studies. I assume that the applicant should pay but that we would provide relevant information and guide the work required as in similar circumstances.

3. Recognising the desirability of making regulations technology neutral, the CAA wishes to highlight the challenges of assessing and mitigating against harmful interference to authorised users. It is also difficult to envisage technology neutral applications being assessed on a case-by-case basis. Technology neutral proposals are of particular concern:

(a) Where the spectrum concerned has a developing authorised user base. For example, when there is an increasing number of authorised users and consequent increased spectrum utilisation as a result of sector growth.

(b) Where there are emerging technologies authorised under existing regulatory arrangements yet to be deployed.

(c) Where there are several innovation licences allowed in a specific portion of spectrum. How does Ofcom envisage the cumulative effects will be assessed? How will any subsequent interference be mitigated?

(d) Technology neutrality implies generic protection criteria, which are more complicated to develop and test. I suggest any application should be tested on the basis of the system

4. In addition to the issues raised at para 2 above, a major concern is the potential burden these proposes could potentially impose on others – the process of ensuring the necessary work is conducted, the assessment of proposals and the determination of the necessary criteria to be included in conditions will require significant resources. How these are provided and funded will be a key issue and must be considered in determining how the Ofcom proposals are taken forward.

5. Turning to the specific questions:

Q1. We support the general principle of innovation licences but would urge severe caution in respect of proposed licence conditions and the protection of safety of life services.

Q2. We agree with the proposal to grant innovation licences on a first-come, first-served basis.

Q3. We are concerned with the proposal that innovation licences should be technology neutral for the reasons stated above. We would wish to understand how Ofcom propose to mitigate against these perceived risks.

Q4. We agree that innovation licences should be granted on a non-interference non-protected basis with the additional caveat of the ability of CAA to ask for immediate cessation of service.

Q5. We are not in favour of issuing innovation licences of indefinite duration partly because this may infer some security of tenure and partly because the non-interference non-protection status imparts significant long-term risk on the innovation licence holder. It would seem more appropriate for the licence holder to seek long-term spectrum access through regulatory means.

Q6. We agree that innovation licences should have no initial period.

Q7. We are concerned that there will be an expectation of a 1-year notice of variation in the event of harmful interference or increased demand by authorised users.

Q8. We agree with the proposals for varying or revoking the licence at any time.

Q9. We support this method of transfers for technology neutral licences but would not agree where an application has been considered on a case-by-case basis.

Q10. The proposed fee structure could affect the price CAA (or whoever) could charge for a piece of spectrum that we allow to be used under such a licence which may not reflect the price aviation is paying for that spectrum. The cost of the licence should reflect the cost of the spectrum.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy Knill', written in a cursive style.

Andy Knill  
Head Surveillance and Spectrum Management