

National Air Traffic Services

Question 1: Do you agree with our proposal to create a new innovation licence class?:

Only if they are very strictly controlled as with the T&D licences that used to be issued by the Radiocommunications Agency and very closely co-ordinated with the appropriate incumbent community. Additionally, any new innovation licence should not be limited to public sector spectrum. Most public sector spectrum is as congested as other spectrum (see general comments) and therefore we do not see why such a licence should rest solely with the users of public sector spectrum.

Question 2: Do you agree with our proposal to grant innovation licences on a first-come-first-served basis?:

As long as the aeronautical community can continue to secure its increasing airspace capacity requirements, then the method is immaterial.

Question 3: Do you agree with our proposal that innovation licences be service and technology neutral:

Surely this goes against why an innovation licence is required in the first place! We would expect somebody to approach Ofcom with a specific proposal for an innovation licence and therefore they should have an idea of the system to be developed or which part of spectrum is to be used. It will not be possible to agree use of a part of spectrum already in use, potentially by safety of life radiocommunications systems, without some knowledge of the ?system? to be deployed under the innovative licence and therefore it is not possible for the licence to be service and technology neutral. From an aeronautical perspective, it has been clearly demonstrated in the case of cable TV interference into aeronautical landing and communication systems, that any change in certain system parameters, such as modulation type, need to be agreed by all potentially affected parties before the change is made. Therefore any change of use of an innovation licence would need to be agreed with the appropriate community already using the spectrum for which it is intended / for which the innovation licence has been granted.

All of this potentially give an ?innovator? more freedom in the bands than the incumbent.

Question 4: Do you agree with our proposal that innovation licences should include a ?non-interference-non protected? licence condition:

Any innovation licence must include a ?non-interference non-protected? licence condition. The problem with using this approach however is that rectification of interference after the event may be too late. An example of this would be where interference occurs to an aeronautical service which results in a serious consequential incident. This is closely linked to our response to Question 3 where we could not support the idea of a service and technology neutral licence condition since it is then impossible to control the interference environment for a safety of life service.

Question 5: Do you agree with our proposal that, in general, innovation licences have an indefinite duration:

Innovation licences should only be issued in order to allow the initial development but not roll out and should therefore not have an indefinite duration. It is highly likely that current licensed users of the spectrum, such as the aeronautical community, need to have licences renewed on an annual basis and therefore this would create unfair access to the same piece of spectrum particularly for those who have legitimate allocations under the ITU Radio Regulations in order to meet their international obligations, such as is the case for the aeronautical community.

Question 6: Do you agree with our proposal that innovation licences have no initial period?:

We do not agree that innovation licences should have no initial period. An initial period is needed in order to ensure that the licence holder is focused on achieving an end result in a reasonable time. This could be reviewed at the end of an initial period to ensure that suitable progress had been made before issuing a licence again or deciding to withdraw it.

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Question 7: Do you agree with our proposal that innovation licences have a minimum notice period for variation or revocation on spectrum-management grounds of one year?:

A notice period of one year for the variation or revocation of the innovation licence on spectrum management grounds should be sufficient, in tandem with a requirement for immediate shutdown in the event of interference to any licensed ?non-innovation? use of the band in question.

Question 8: Do you agree with our proposals for varying or revoking innovation licences during the minimum notice period?:

In addition to revoke or vary an innovation licence on spectrum management grounds, we agree that the proposals in 5.23 should be the minimum set of reasons to varying or revoking a licence.

Question 9: Do you agree with our proposal to allow only outright total transfers of innovation licences:

We only agree that innovation licences should be allowed to be transferred if the licence is not service or technology neutral. If the licence meets this condition then we agree that only outright total transfers of innovation licences should be considered.

Question 10: Do you agree with our proposal to charge a fixed fee of £2,000 per innovation licence per year?:

We strongly disagree with a fixed fee of £2,000 per innovation licence per year. As has been stated in the consultation document the innovation licence is being aimed at the public sector all of which is being charged or is planned to be charged Administrative Incentive Pricing (AIP). AIP is likely to introduce higher licence fees per annum than those being suggested for innovation licences and therefore the cost of innovation licences should be at least equivalent to licences charged under AIP for access to the same piece of spectrum.

Additional comments:

It is mentioned in the consultation that the proposed innovative licence is only aimed at public sector spectrum, ?e.g. MoD?. As Ofcom classes aeronautical and maritime spectrum use to be ?public? or in publicly managed bands NATS is responding to this consultation from the view that we expect Ofcom to foresee the issue of this new licence product within bands used for safety of life purposes by civil aviation. We would again remind Ofcom that, for the most part in the aeronautical sector systems are operated by private sector organisations, yet it would appear from the Consultation Document that these organisations, for whom there is a requirement to have demonstrably safe systems, may have the spectrum on which they rely shared with ?innovative systems? without their prior knowledge. This potential outcome is of grave concern to NATS.

Additionally it is stated in a number of places that the ?supply of spectrum? for these types of ?licences? will exceed demand but this has been shown not to be the case for spectrum used by the aeronautical and maritime communities (classed as public sector spectrum by Ofcom) in the responses to the recent Ofcom consultation document ?Applying spectrum pricing to the Maritime and Aeronautical sectors?. This would suggest that innovative licences should therefore only be aimed at spectrum used by the MoD and then only where this is not shared by the (civil) aeronautical or maritime communities. We would welcome a clear statement by Ofcom on whether such licences are intended to be issued in bands internationally allocated to and used for safety of life services.