

**Name and title under which you would like this response to appear:**

NATS

**Representing:**

Organisation

**Organisation (if applicable):**

NATS

**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

**Question 1: Do you agree with Ofcom's proposed overall approach to improving the management of public sector spectrum holdings and, in particular, with Ofcom's conclusion that it will generally be preferable for public sector bodies to interact directly with the market?:**

NATS does not agree that the way forward proposed by Ofcom will improve the management of spectrum for civil aviation use.

The safety of aircraft operations is dependent on global interoperability which is ensured through ICAO standardisation and the ITU spectrum allocations. It is essential that the spectrum used by aviation within the UK is free from interference effects.

Air Traffic Control is a State responsibility and the UK, through the DfT is a signatory to the Chicago Convention. UK spectrum management processes must fully respect the UK's international obligations.

This consultation is on a framework which contains a number of elements including AIP, bandsharing, trading and liberalisation. NATS will not agree to the Ofcom proposals until the details of these elements are fully defined, and we are able to validate the Ofcom statement (section 3.6) that 'such opportunities should not however come at the expense of unacceptable effects on national security, operational effectiveness of essential services or public safety?', all of which are NATS' responsibilities as an Air Navigation Service provider.

Within the context of this consultation, although NATS is a user of 'public sector spectrum holdings', NATS is not a public sector body and as such, NATS would prefer that the radio regulatory responsibilities remain with Ofcom.

**Question 2: What factors do you consider Ofcom should take into account in determining the programme of reform in the framework for managing public sector spectrum holdings?:**

Whilst this is a consultation on the Framework, NATS cannot ignore previous material which has been published by Ofcom, in particular the Indepen-Aegis report which assigns extremely high value to spectrum used to provide aviation services. NATS view is that this report does not present a balanced view as it fails to recognise the contribution to the UK economy that is derived from aviation use of spectrum.

The NATS en-route business currently operates within a revenue capped regulatory environment where the Regulator (The CAA) has not agreed that costs associated with AIP can be passed on to customers by NATS. If regulatory agreement can be secured to pass costs on to aircraft operators, the additional cost associated with AIP could be of a similar magnitude to the existing UK air navigation charges. Under its en-route operating licence, NATS is required to reduce the air navigation unit rate charges under an RPI-X regulatory regime.

Unless there is a level playing field on spectrum charges within Europe, the UK air transport industry will be placed at a competitive disadvantage, compared to near European competitors. In addition, large increases in navigation charges are likely to result in operators flying longer distances around UK airspace on less fuel efficient and less environmentally friendly routes.

**Question 3: Do you consider that the proposals should be phased in?:**

NATS does not agree that the proposals should be implemented.

However if the political decision is taken to implement, any changes must be introduced in such a manner that they do not uniquely prejudice the UK air transport industry.

**Question 4: Do you agree with Ofcom's proposals about the frequency bands that offer the greatest potential benefits from band sharing? Are there other frequency bands where the facility to trade or lease spectrum from public sector bodies would be particularly attractive?:**

NATS does not agree with the principle of bandsharing with commercial services in bands in which aviation Safety of Life services are operated unless it can be shown through full compatibility analysis including testing that sharing does not have an adverse impact on the safety of the aeronautical usage.

**Question 5: Do you agree with Ofcom's proposed approach to awarding public sector licences and RSA?:**

NATS agrees with the proposal to award public sector licences and RSA provided that these are limited to aeronautical services within the bands used for aeronautical purposes, and that they do not confer holders with additional protection from aviation services in those bands for which WT Act Licences would otherwise be issued. In a future environment, NATS envisages that RSA may be a useful means of protecting spaced based Communications, Navigation and Surveillance services.

NATS would disagree with the proposal if these public sector licences or RSA were tradable to non aeronautical applications within bands that are used for aeronautical safety of life applications.

**Question 6: Should public sector spectrum trading be introduced at this stage in the Channel Islands and Isle of Man?:**

NATS has air traffic management responsibilities throughout the London and Scottish Flight Information Regions (FIR), which include en-route traffic over the Isle of Man. As a result, NATS would be concerned at any changes in the Isle of Man which would compromise aircraft operations whilst under NATS responsibility in the vicinity of the IOM.

The Channel Islands are within one of the French FIRs, and the French Air Navigation Service Provider (DSNA) may therefore have a view on this issue.

**Question 7: Should there be additional grounds, eg safety-related, for Ofcom to refuse consent to a proposed trade in certain frequency bands or for certain applications?:**

Within the bands used by aviation safety services, NATS view is that safety is a fundamental requirement and is not simply ?an additional ground for refusal?

NATS considers that responsibility for spectrum liberalisation and trading must remain with Ofcom as the Radio Regulator and that it is not appropriate for these activities to be performed within the scope of Aeronautical Regulation under the Air Navigation Order.

**Comments:**