

Providing spectrum information

Response to the Ofcom consultation issued on 10 August 2009

From Federation of Communication Services

Introduction

The Federation of Communication Services, FCS, is the communications services trade association representing 300 companies in the UK. A list of our members may be found on the website www.fcs.org.uk

FCS welcomes the opportunity of responding to the consultation and is doing so on behalf of its members that are spectrum licensees or deliver or use business radio products and services.

Ofcom is asking for stakeholders views on publication of information under its interpretation of the Environmental Information Regulations 2004 (EIR) and information it holds more generally. Ofcom is clearly also seeking to facilitate more spectrum trading.

Environmental information

Guidance on the EIR on the Information Commission website states:

Regulation 2 of the EIR provides the interpretation of terms in the EIR and in regulation 2(1) states:

“Environmental information” has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on –

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);

It is not clear from the guidance above how licensed radio spectrum information falls into any of the relevant categories and it would be helpful if Ofcom were to publish its legal advice supporting Ofcom's assertion.

Wireless Telegraphy Register

Ofcom has already made available a significant amount of data on Business Radio licences via its website. We have already raised our concerns that licence information for sensitive radio sites is included in the Wireless Telegraphy Register, with possible security issues. This is of particular concern to our

Critical National Infrastructure (CNI) members. Ofcom stresses that all licence information it holds has to be shown but there seem to be exceptions for some larger public operators.

This asymmetry is unfortunate.

Ofcom's proposal to place an increased amount of data in the public domain would appear to be purely for spectrum trading purposes which we contest should be secondary in national importance to the security of CNI. If these CNI organisations and other secure services decide they want to trade their frequencies there could be a separate section on the Ofcom website and or the FCS website where the channels for trade could be detailed.

Some items in the list of over 40 pieces of information listed in figure 3.1 relate to the competitive offering that a licensee may have in the market place.

Data on the WT Register identifies the frequency, licensee and base station location of a licence. We are concerned that placing such data about CNI sites in the public domain will make it easier for terrorists or those with malicious intent such as protestors and saboteurs to attack critical infrastructure.

The ability of protestors to easily discover the radio channels used for security at CNI sites and the opportunity to jam the channels prior to an assault is a real possibility.

The danger with putting site, frequency and link data on a public database is that it enables a potential terrorist (or saboteur) to identify key nodes in the network. For example, attacking a site which acts as a concentrator for 80 links is potentially far more disruptive than a radio site which only relays data onward to a single site.

Ofcom mentions, in section 4.7, that FCS has raised concerns about publication of base station information for sensitive sites related to defence and national security. Ofcom "sees no evidence that there is such a threat". However, any evidence would be after an event, where potentially real harm would have been the result. Therefore surely common sense should prevail and either Ofcom or national Government should question the doubtful benefits of spectrum trading compared to the very real risks to CNI.

We recommend that as the spectrum regulator, Ofcom should once again seek to engage with the relevant Government departments, such as DECC, Department for Transport and the Home Office, to undertake risk assessments associated with terrorist or saboteur scenarios, and then revisit where disclosure of sensitive licence information should be withheld.

Spectrum trading

Ofcom's proposals to increase the volume of data it places in the public domain may perversely mitigate against spectrum trading. Licensees seeking to trade need to know which licensees in any particular spectrum band or geographical location wish to trade. Cold calling on thousands of listed licensees in order to find one willing to do business, which is taking place at the moment, can be irritating for all concerned. It might be better for Ofcom to list those licensees that are willing to trade instead.

Consultation questions

Question 1: Is there information that we are planning to release that would be covered under one of these exceptions and if so what is the supporting evidence?

Question 2: Is there information that we are planning to release that would not be in the public interest to do so looking at each exception individually and then in aggregate and if so what is the supporting

We believe that following a review of risk assessments proposed above that the Critical National Infrastructure, including transport, and sensitive sites such as mines, quarries, petrochemical plants, pharmaceutical sites and ports should be placed within the exceptions to disclosure.

We are concerned that proposals in a parallel consultation on “improving spectrum trading” might unwittingly lead to more information on licensees’ customers being held by Ofcom, which under the current proposals Ofcom might release to the public domain.

Question 3: We would welcome comments and views on the information we already make available, in particular areas where stakeholders believe this could be improved.

As noted above we believe there is a continuing risk associated with placing licence details of CNI and other sensitive locations in the public domain and that urgent risk assessment should take place and data made confidential

Question 4: We are interested in the views of stakeholders on what information in addition to that contained in Annex 8 they think would help to ensure optimal use of the electro-magnetic spectrum, and on the impact the disclosure of this information might have on licence

We do not believe that any more information than is currently on the WT Register should be made available and the CNI information should be removed

Question 5: We are interested in views regarding the areas where we should look towards focusing future research and studies on, and the benefits this will bring to industry, citizens and consumer? What information could we provide to encourage innovation and research?

We encourage Ofcom to undertake studies demonstrating the social value of spectrum usage by CNI and Business Radio to balance the monetary value that Ofcom places on spectrum, which is only relevant for commercial undertakings. The support that CNI and Business Radio provide generally to the Citizen /consumer is not clearly acknowledged and the proposed study would provide a more comprehensive perspective.

Question 6: Would stakeholders find information on the price paid for a traded spectrum licence useful and believe that we should make the provision of this mandatory?

No.

Provision should not be mandatory

Question 11: We would welcome any further views on whether there are other areas of non-price information that could be published to the benefit of citizens or consumers

As noted above, information on licensees willing to trade might assist the process. Spectrum trading between licensees with larger blocks of spectrum such as public mobile operators would demonstrate the market more fully than relying on trading in the business radio community.

FCS would be pleased to discuss any aspects of our response if that would be helpful

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