

<p><b>Title:</b> The Authorisation of Frequency Use for the Provision of Mobile Satellite Services (European Union) (Amendment) Regulations 2013</p> <p><b>PIR No:</b></p> <p><b>Original IA/RPC No:</b></p> <p><b>Lead department or agency:</b> DCMS</p> <p><b>Other departments or agencies:</b> Ofcom</p> <p>Contact for enquiries: <b>Rob Griffiths DCMS</b> <a href="mailto:robert.griffiths@culture.gov.uk">robert.griffiths@culture.gov.uk</a></p>	<b>Post Implementation Review</b>
	<b>Date:</b> 21/02/2018
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 22/02/2013
	<b>Recommendation:</b> Keep
	<b>RPC Opinion:</b> n/a

### 1. What were the policy objectives of the measure?

The purpose of the original 'Authorisation of Frequency Use for the Provision of Mobile Satellite Services (European Union) Regulations 2010 (2010/672) was to implement the requirements of:

- a) Decision 626/2008/EC of the European Parliament and the Council of 30 June 2008, which authorised selected applicants to use radio spectrum within the 2GHz band for the operation of mobile satellite services in the European Union; and
- b) Decision 2009/449/EC of the Commission of 13 May 2009, which confirms the two selected applicants of mobile satellite services.

Commission Decision 2011/667/EU of 10 October 2011 subsequently amended Decision 626/2008/EC and these changes were transposed into UK law by the Authorisation of Frequency Use for the Provision of Mobile Satellite Services (European Union) (Amendment) Regulations 2013. These provided for:

- a) a new enforcement procedure for the enforcement of the common conditions, which requires the European Commission to be notified if there are contraventions of the common conditions in the UK. The Decision requires that there be consultations at the EU level before any enforcement action is taken in a Member State;
- b) the penalties Ofcom may impose on the two selected operators in the event that they are found in contravention of the common conditions;
- c) obligations on Ofcom in the event that Ofcom are notified of a breach being found in another Member State;
- d) an enforcement regime to replace the prior regime in relation to the contravention of the information provision requirements in the Regulations; and
- e) a requirement that Ofcom should pay any monetary penalty levied by them into the Consolidated Fund.

Decision 626/2008/EC outlines the relevant 'common conditions' (detailed separately for the satellite component and Complementary Ground Component (CGC)) that Member States are required to include in the relevant authorisation for the selected applicants. These conditions are monitored and enforced by Ofcom in the UK.

### 2. What evidence has informed the PIR?

In line with BRE guidance the level of evidence used is proportionate to the scale of the regulation and its expected impact. There are only two organisations directly affected by the Authorisation of Frequency Use for the Provision of Mobile Satellite Services (European Union) (Amendment) Regulations 2013. The 2010 Impact Assessment outlines a financial impact of £10,000 one off setup costs to Ofcom, and £5,000 a year to Ofcom for routine monitoring and enforcement. The evidence that has informed the PIR is therefore:

- a) the relevant Decisions and transposing regulations in the UK, and
- b) documents associated with Ofcom's enforcement action commenced under the regulations in 2013 (e.g. the letter from DCMS asking Ofcom to undertake an investigation following a notification from German authorities; Ofcom's notifications under regulation 5B(3) to the operators and accompanying explanatory statements; correspondence with operators in relation to the enforcement action).

### **3. To what extent have the policy objectives been achieved?**

Commission Decision 2011/667/EU of 10 October 2011 has been implemented in the UK. To the extent that the objective was to ensure and incentivise compliance with the common conditions, enforcement action was commenced in 2013 due to both operators' non-compliance with the common conditions. The enforcement action has not yet been concluded. Under regulation 5B(8), the maximum penalty Ofcom can impose is £2,000,000. Given that a further review of this legislation needs to be undertaken within a further 5 year period, it may be possible to provide a further update then.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: ***Margot James MP, Minister for Digital and the Creative Industries; Paul Crawford, DCMS Chief Economist***

Date: 21/02/2018

## Further information sheet

Please provide additional evidence in subsequent sheets, as required.

### **4. What were the original assumptions?**

The potential economic benefits to UK citizens and consumers could be reduced if the Mobile Satellite Services (MSS) operators are unable to meet their obligations under the EU Decision and selection and authorisation process. If MSS operators choose to take out a CGC licence the potential benefits may be increased.

### **5. Were there any unintended consequences?**

None that we are aware of. We do not have specific knowledge of how the UK's implementation compares with that of other Member States. This legislation is likely be reviewed as part of the Brexit legislative review.

### **6. Has the evidence identified any opportunities for reducing the burden on business?**

None that we are aware of.

### **7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?**

We do not have specific knowledge of how the UK's implementation compares to that of other Member States. However, the regulations by and large implement procedural steps which were specifically prescribed in the 2011 Decision. Therefore, it is unlikely that other member states will have implemented these procedural steps in a less onerous manner. Article 3(5) of the 2011 Decision gives member states discretion as to penalties for non-compliance. Under regulation 5B(8), the maximum penalty Ofcom can impose is £2,000,000. We are not aware of the maximum penalty in other member states. We also note that there are only two operators which would be likely to incur costs as a result of the regulations.