

Rt Hon Jeremy Hunt MP,
Secretary of State,
Department of Culture, Media and Sport,
2-4 Cockspur Street,
London SW1Y 5DH

26th June 2011

Dear,

A Communications Review for the Digital Age

The Radio Society of Great Britain (www.rsgb.org) is grateful for the opportunity to respond to your open letter 16th May 2011. The RSGB represents the UK's licensed radio amateurs, of which there are approximately 60,000, many of whom are members of the Society. The RSGB also has had historically a wider interest in the use of the radio spectrum and we work in conjunction with other spectrum user representative groups and Government Departments.

RSGB is recognised as one of the leading organisations in the world in the field of amateur radio. It collaborates with its fellow national societies via the International Amateur Radio Union (IARU) through IARU Region-1 (www.iaru-r1.org).

Amateur radio is a science based technical hobby enjoyed by over three million people worldwide. From a statutory point of view it is fully recognised by the International Telecommunication Union (ITU) as a service and is listed in the ITU Radio Regulations as the Amateur Service and the Amateur-Satellite Service.

The RSGB is pleased that the Government is keeping an open mind about future regulatory structures, but at the same time we are concerned that there is a stated wish to keep independent regulation as the corner stone. Our responses to the questions, below, in particular questions 3, 7 and 8, challenge this approach so far as spectrum is concerned because we believe the current structure has worked to the detriment of spectrum users. Our view can be summarised as that while independent (from Government) and converged regulation may be appropriate for telecoms and the broadcast media, it is not so for spectrum. The opportunity should now be taken to reverse the independent management of spectrum. We hope that the Government's proposal to bring forward primary legislation to effect changes, so soon (in regulatory structure terms) after setting up Ofcom in 2003, shows that it is in fact open minded about such changes.

Q1. What could a healthier communications market look like? How can the right balance be achieved between investment, competition and services in a changing technological environment?

No comment

Q2. What action can be taken to facilitate greater innovation and growth across the wider competition regime, and how can deregulation help achieve this?



The amateur service and amateur satellite service, which for the purposes of this response I will term the amateur services, enjoy significant benefit in that in many countries in the world, including the UK, as the license conditions allow freedom to experiment with novel forms of communication, without the need for type approval and other formal testing against standards. This level of deregulation allows significant creativity and innovation. The main control is the proviso that interference is not caused to other parts of the radio spectrum, or where spectrum is allocated by the ITU on a secondary basis or shared with other services to these other user(s). The amateur services have shown that it can be compliant with this requirement.

Whilst this level of deregulation works well in terms of the amateur services' ability to innovate and develop communication techniques, the equivalent freedoms enjoyed by other ITU services do not necessarily afford the same protection to the radio spectrum in terms of the other users. The amateur services have noted a significant and growing noise floor across the radio spectrum over recent years. Whilst this only affects radio communications that rely on weak signals, there is a fundamental issue that radio pollution needs to be kept in check and not allowed to continue to increase. Deregulation can therefore provide the platform for innovation and creativity, but there need to be perhaps stronger controls in place to stem the decline in the radio spectrum noise floor.

Government support for the amateur services is limited to the licensing and enforcement remit of Ofcom and also their role in representing the UK at ITU-R and CEPT. BIS also represents UK interests on ITU-T. We note that in some European countries their governments provide more direct support for the increasingly popular competitive side of the hobby. This competitive aspect is termed Radio Sport and covers a range of interests from contests between different stations to Direction Finding competitions, where radio skill is combined with map reading and a form of cross-country running to locate a hidden transmitter. UK participants often find themselves disadvantaged in multi-national competitions as amateurs in some former Eastern European countries still seem to benefit from financial support and encouragement from their government that was a part of their culture at that time. The benefit from this Government initiative is broad; since it helps to drive a different cultural attitude to the amateur radio hobby, support recreational activity, and encourage technical self-learning that has benefits to the wider science and engineering base.

Q3. Is regulatory convergence across different platforms desirable and, if so, what are the potential issues to implementation?

Q7. How should spectrum be managed to deliver our growth objectives whilst also meeting our policy objectives of furthering the interests of citizens and consumers in relation to communications matters?

We would like to take these two questions together.

The establishment of Ofcom and the powers given to it under the Communications Act 2003 were intended to create a converged regulator across the radio spectrum, telecoms, and broadcast media areas. At the time the view was that convergence of the delivery of broadcast media and telecommunications through wired or off air platforms and the regulation of content required a single independent regulator. There was a plethora of

bodies involved: the Broadcasting Standards Council, the Radio Authority, the Independent Broadcasting Authority and OTFEL, with several of them having overlapping responsibilities. Our view is that the regulation of content should be carried out by a body independent of Government: the right to freedom of expression and decisions on what is acceptable or offensive to broadcast should not be subject to varying Government whims or the possibility of censorship on political grounds. Equally, economic regulation of ownership of media, and fair competition between providers is best regulated by independent experts acting within a statutory framework.

However the arguments for spectrum being a part of this structure are not valid now. We consider the arguments were not valid 10 years ago. There is no overlap between the requirements of fair competition and content regulation on one hand, and spectrum management on the other. Spectrum management is both a national and international matter that should be handled at Government level (see also our response to Q8). It is also essentially a matter of engineering. Even though the economic value of the spectrum has assumed increasing importance in recent years, its management is essentially engineering based.

The arguments for placing the then RadioCommunications Agency into the Ofcom structure appeared therefore to be placed on purely Political, rather than rational grounds. The independent non-Crown body status of Ofcom also means that it is not responsible to Parliament through Ministers. What has happened as a result is precisely what many experts feared at the time. Ofcom, being heavily weighted with telecoms and media interests and with little knowledge of spectrum engineering requirements at its higher levels, has regarded spectrum as little more than just one delivery platform for the converged media. In fact the radio spectrum is used for far more than broadcasting and public telecoms. Our own interest in the spectrum allocated internationally by the ITU is one example. The protection requirements of safety of life services such as air traffic control are clearly far removed from media content and competition issues, as are the requirements of the private mobile radio (PMR) industry.

The result of this has been a downgrading of the importance of the radio spectrum within Ofcom. One key example is Ofcom's focus on the importance of broadband provision for all; pressure from the industry and having little understanding of the effect on the spectrum has led to permitting unrestricted use of Power Line Adapter devices to distribute broadband in domestic premises. Emissions caused by these devices have a growing detrimental effect on the spectrum. Yet our opinion is that Ofcom has refused to act against non-compliant devices placed on the market – to the extent of ignoring its own commissioned research and neglecting its statutory duty to act against such devices (see <http://www.rsgb.org/plt/>) . New threats to the spectrum emerge constantly as more electronic devices that can cause interference appear on the market. Yet the neglect of spectrum protection effort and the reduction in resources to deal with such matters means that Ofcom is both unknowing and unwilling to respond. While comparisons are now becoming difficult with the situation pre-Ofcom, the Society believes that there has been a reduction of some 80% of staff resources nationally to deal with interference and misuse as well as reductions in licensing and spectrum engineering staff. Further examples that this Society has heard about are that the situation with pirate broadcasters in major cities across the UK is now out of control and that changes to PMR licensing which should provide spectrum efficiencies cannot be policed and are thus not only ineffective but are actually creating interference problems.

Devolving civil spectrum regulation to a non-Government body has also led to inequality at strategic management level. Before Ofcom, the military spectrum regulator, MoD, and the civil spectrum regulator, latterly DTI/RA, co-chaired the cabinet officials' UK Spectrum Strategy Committee. This does not happen under the current arrangements, indeed since it does not represent a Secretary of State through being a Whitehall Government Department, Ofcom is not formally permitted to attend at all. While there are administrative devices to get round this, it is hardly satisfactory.

In the RSGB's view all these failings point to the re-incorporation of the spectrum regulation functions of Ofcom into the appropriate Government Department, as was always the case prior to 2003. In this way the national importance of civil spectrum regulation would be in the care of, and the staff responsible would report to, the Secretary of State without undue influence from telecoms and media interests. The RSGB believes this would also bring efficiency and cost savings.

Q4. What barriers can be removed to facilitate greater exports and inward investment and make the UK more globally competitive in digital communications

No Comment

Q5. What further market and regulatory developments would lead to widespread take-up of superfast broadband? What regulatory action would government need to take to make superfast broadband more readily available in a) urban areas; and, b) rural areas?

No Comment

Q6. What are the competing demands for spectrum, how is the market changing and how can a regulatory framework best accommodate any rapidly changing demands on spectrum and market development?

No Comment

Q8. How should the UK engage on an EU/International level in relation to spectrum?

The independent nature of Ofcom has also made constitutional and practical difficulties for Government – and for spectrum management – at international level. While the Communications Act 2003 does give Ofcom the ability to represent the UK at international level, this is a conditional power. Once again, as Ofcom is independent of Government, a Ministerial over-ride power has had to be written into the Act. Thus the Ofcom-employed leader of the UK delegation at the ITU World Administrative Radio Conferences does not have the plenipotentiary power of a Civil Servant acting directly for the Secretary of State. It is significant that the ITU Treaty and the Radio Regulations annexed to it refer to national Administrations that are Governments, being responsible for implementation of actions.

From our own perspective Ofcom provides the RSGB with membership of a number of formal groups that includes the International Frequency Planning Group, the UK WP5B and

the International Spectrum Stakeholder Briefing. Ofcom also supports our interests and includes RSGB representation where appropriate in WRC preparatory meetings.

The RSGB also believes that reductions in staff has led to withdrawal or reduced attendance at some CEPT and ITU committees. We consider that one person to cover CEPT ECC SRD/MG, WGFM, and WGSE, ITU-R SG1 and its Working Parties is totally inadequate, especially where there are parallel sessions, e.g. 3 simultaneous drafting groups at each of ITU-R WP1A, B and C. Greater representation at ETSI would give Ofcom an earlier view of new technologies and the spectrum needs thereof. In view of the importance of AI1.22 at WRC 12, the failure to attend the relevant meetings of ITU-R SG1, WP1A and WP1B means the UK effectively had no input, and we are thus relying totally on CEPT. On the other hand, Ofcom staff appear to have an unsupervised attendance at meetings concerned with enforcement of the EMC Directive which is not in the interests of UK spectrum management.

Q9 - 13

No comment

Please do not hesitate to contact me further on any of the above or arising issues. You have our permission to place this response in the public domain.

Yours faithfully

A handwritten signature in cursive script that reads "John".

John W Gould
RSGB Director – Spectrum & Radio Sport