

OFCOM CHARGING FOR VHF COM

Ofcom has launched its second consultation on applying Administered Incentive Pricing (AIP) to aeronautical spectrum, this time focussing solely on VHF frequencies having taken out their earlier proposals to charge for radar and navigation aids. They have dealt separately with maritime VHF which caused a public furore with the RNLI last time so it is clear that they have now broken the problem down into smaller bite sized pieces. The intent of their proposal is to charge £9900 per year for approach and upper sector frequencies and £2600 for tower, AFIS and A/G frequencies. There would be discounts in the West and Scotland, a £75 fee per ground transmitter for sporting frequencies (gliding and ballooning), a higher charge for data links and for most uses, a phased introduction starting towards the end of this year.

AIP is a construct of Ofcom, it has no real basis in wider economics and does not exist in other countries. Their theory goes that where there is excess demand for spectrum, AIP applies market disciplines forcing users to face the "opportunity cost" of their spectrum use and causing it to move to alternative uses by those users who "value it most". By this means it is said that spectrum efficiency is improved and society gains most value from spectrum.

To grasp what Ofcom are up to you need some basics (I paraphrase and simplify here):

- Ofcom, which is an agency of Government that does not answer to a minister or Parliament, can apply charges to improve spectrum efficiency but it cannot within the law apply a tax. In setting fees it is not allowed to have any regard for the revenue so raised.
- Aeronautical frequencies are protected from alternate use by international agreement and there is very careful allocation to prevent interference. Frequencies are assigned by the CAA and deconflicted nationally and internationally. Frequencies need to be coordinated by Europe because, for example, a London upper frequency cannot be reused closer than the South of France to avoid interference between aircraft.
- Opportunity cost (hope you are ready for this) is the value forgone by selecting one use rather than the next-best-choice use that could be made of the frequency. That means (I think) that this is the difference between what you pay for a frequency (presently the licence cost) and what someone else would be willing to pay for it for some alternative use in the market. So the theory is that you pay an AIP charge to hold on to a frequency rather than give it up to be sold on to the user who would be willing to pay that much more. If you do give it up the market ensures that it goes to those who are willing to pay and society benefits as the new users are doing something more valuable for citizens.

So much for theory; aviation is not about facing a theoretical and fairly notional cost, it is all about recognising and facing reality so let's do that.

Following the last consultation Ofcom told us that they recognise that there is no prospect of using this spectrum for non-aeronautical purposes but this consultation is still littered with allusions to alternative use “at the margins” and “in the longer term”. However, Professor Cave who wrote an independent report for Government in December 2005 said that where there is no reasonable prospect of alternative use the “opportunity cost” must be set at zero. We deployed that argument in the last consultation to some effect but now Ofcom says that their AIP policy still holds good as there is potential alternative use by other aeronautical users and that would be allowed. So because there is excess demand these fees should cause some users to forego their frequencies which can then be taken up by those users who value them more and society will benefit. This is the fundamental proposition in the consultation so let us examine it in some detail:

- The spectrum must have excess demand for AIP to be valid so we phoned the spectrum manager at the CAA and asked, today how many unfulfilled assignments do you have? Although there have been some in the past and there may be some in the future, the answer right now is none. There is no excess demand. You and I know that the aeronautical spectrum is what it is and society gains most safety by utilising all of it. If a new frequency was needed here, the CAA would negotiate with Europe to have it assigned. Meanwhile there is no benefit in having unused spectrum.
- Next, AIP should tend to cause frequencies to be transferred up the food chain to the “most valuable use”. Let us consider two scenarios. In the first assume that an approach or upper sector frequency is given up in response to AIP. That frequency does not belong to the UK to reassign because of the interference issue – it belongs to Europe and must be given back and may be reassigned to a user in another country. It is true that the UK can bid for it on the same basis as everyone else but there are more of them than there are of us so the probability of it coming back to the UK is considerably less than one. So in this example AIP causes the spectrum available to the UK to reduce to the disbenefit of UK society. In the second example, assume that a tower, AFIS or A/G frequency is given up. Most of these frequencies are given to the UK to manage and are used in several places separated by the appropriate protection distance. In most cases the only place that frequency can be reused is very close to the original site and for its original purpose so there is a very high probability it will remain unused. Again, in the round, UK society will lose value.
- The consultation says society will obtain value from this process but it does not quantify that value. It cannot be the revenue obtained from AIP as Ofcom is not allowed to consider that and we have shown that squeezing users by pricing causes spectrum and therefore value to be lost so it cannot be that either. So this value to society must be something else.

Ofcom only looks at the narrow issue of spectrum efficiency, arguing that if we use less it is more efficient. You and I know that aviation safety and regularity is the benefit that society obtains from aeronautical spectrum but Ofcom says

safety is the responsibility of the CAA and they do not consider "externalities". They expect that where safety is affected by a frequency being given up, the CAA will use legislation to require the unit to continue to use and pay for it, even for unlicensed aerodromes. Again, we know that an aerodrome with VHF com is safer than one without so the CAA will have to act or accept the potential liability in the event of an accident. Safety regulation would otherwise be driven not by the CAA but by the commercial view of certain air traffic service providers. This application of law to maintain the status quo would mean that AIP cannot change the allocation of spectrum so AIP is not an efficiency measure at all but a tax which is outside the authority of Ofcom to impose.

On safety, Ofcom often use the example of the emergency services that pay AIP to use business radio and liken them to aviation asking why we should not pay too. Consider that if we send out an ambulance without radio communications it may not be able to carry out its function as effectively but the ambulance itself is no less safe as it travels through the busy streets of a city. However an aircraft travelling through similarly busy airspace over that same city but unable to use its radio is, of itself, an increased risk to life and property; indeed to society. There are circumstances where aeronautical radio communications are appropriate and the CAA manages that to ensure a proper balance of safety throughout aviation. But AIP would propose to remove that safety management function from the CAA and give it up to market forces because that "will have a beneficial impact on the economy". You may not find that argument convincing.

The cost of all this to aviation is somewhere between £4m and £7m but the cost at the point of payment varies enormously. A passenger at a main airport might pay less than a ha'penny but the pilot of a light aircraft landing at Dunsfold would pay some £28. However, Ofcom observe that once AIP is established the fees will need to be reviewed to ensure it operates as intended so it is the principle that is key here and now rather than the price.

We have had a team of people including economists working on this as we think the principles involved are important for aviation safety which is everybody's business. AIP has the potential to decrease aviation safety generally and if it works as Ofcom intend it could do significant damage in the sport and recreational sector where the costs will be sufficient to remove important facilities. You will find a briefing pack and a link to the Ofcom document in the consultation section of the LAA website. That should give you enough information to response to Ofcom by the deadline of 22 April. Please bear in mind that responses that are essentially duplicates will be ignored so you need to set out your own view on this matter.