EXPLANATORY MEMORANDUM TO

THE WIRELESS TELEGRAPHY ACT 2006 (DIRECTIONS TO OFCOM) (REVOCATION) ORDER 2026

2026 No. 838

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Science, Innovation and Technology and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Baroness Lloyd of Effra, Parliamentary Under-Secretary of State for Digital Economy at the Department for Science, Innovation and Technology confirms that this Explanatory Memorandum meets the required standard.

2.2 Thomas Eland, Deputy Director for Technology, Spectrum and Strategy, at the Department for Science, Innovation and Technology confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Ian Dewhurst, Head of Spectrum Governance at the Department for Science, Innovation and Technology can be contacted by email at the following address with any queries regarding the instrument: spectrum@dsit.gov.uk. Alternatively, the department can be contacted by telephone: 020 7215 0069.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument is made in exercise of powers conferred by section 5 of the Wireless Telegraphy Act 2006 ("the 2006 Act") and revokes the Wireless Telegraphy Act 2006 (Directions to Ofcom) Order 2010 (S.I. 2010/3024) ("the 2010 Direction").[1]

4.2 The 2010 Direction directed Ofcom to carry out a package of spectrum management measures to support the deployment of high-speed mobile broadband services. The measures enabled the UK to meet its obligations to implement Directive 2009/114/EC[2] and Commission Decision 2009/766/EC[3] on the liberalisation of frequencies in the 900MHz and 1800MHz bands to allow them to be used for different mobile telephony technologies, as amended by the Radio Spectrum (EU) Exit Regulations 2018.

[1] Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2010 (S.I. 2010/3024) https://www.legislation.gov.uk/uksi/2010/3024

[2] Directive 2009/114/EC of the European Parliament and of the Council amending Council Directive 87/372/EEC, [2009] OJ L274/25 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0114

[3] Commission Decision 2009/766/EC on harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services, [2009] OJ L274/32 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009D0766

4.3 Ofcom's obligations under the 2010 Direction have all been fulfilled through a series of regulatory actions and, therefore, the 2010 Direction is no longer required. Revocation of the 2010 Direction removes directions that Ofcom has already fulfilled and releases Ofcom from redundant conditions when prescribing annual licence fees.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland, and Northern Ireland.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland, and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 Radio spectrum is a limited resource essential for a range of communication systems including mobile, broadcasting, and satellite, and the Government aims to maximise its economic and social value. It is important that the regulatory framework for spectrum management remains clear, effective, and aligned with evolving needs.

5.2 In 2010, Third Generation (3G) mobile technology was increasingly being deployed across the UK, enabling high-speed data services such as mobile internet and video calling. Whilst mobile data demand was accelerating, existing spectrum rules offered limited flexibility for how operators could use their licensed frequencies, restricting the ability to deploy newer technologies.

5.3 The 2010 Direction was part of a broader set of policy objectives driven by both UK Government and EU as part of the UK Government's connectivity agenda and as a response to the increasing demand for mobile data and the rapid evolution of mobile technologies. It required Ofcom to modernise spectrum management by liberalising the use of the 900 MHz and 1800 MHz bands, allowing mobile network operators the flexibility to decide whether to continue using these frequencies for legacy 2G services or to deploy more advanced 3G and future mobile technologies, thereby supporting the rollout of 3G networks across the UK.

5.4 In addition to enabling technological flexibility, the 2010 Direction mandated Ofcom to update wireless telegraphy licences (an authorisation issued by Ofcom that allows an individual or organisation to transmit and receive radio signals using specific frequencies). This included introducing new rules regarding the timing of licence revocation (from one year to five, to give operators increased confidence to invest in network upgrades and long-term infrastructure), imposing coverage obligations to ensure that mobile services reached a wider population and changing the licence duration of the 2100 MHz licences from a fixed term to an indefinite licence duration. The 2010 Direction also required Ofcom to facilitate spectrum trading, allowing operators to buy and sell spectrum licences, optimising spectrum holdings and promoting competition within the sector.

5.5 The 2010 Direction further required Ofcom to revise the structure of licence fees, with annual charges to be set by Ofcom to reflect the forward-looking market value of the spectrum, incentivising its efficient use. The 2010 Direction set the rules for the auction of frequencies in the 800 MHz and 2600 MHz bands.[4]

[4] A spectrum auction is a market-based process to allocate radio frequencies when demand exceeds supply, ensuring licences go to those who value them most.

5.6 Ofcom has now completed all the actions required under the 2010 Direction. More broadly, Ofcom continues to operate under statutory duties set out in both the Communications Act 2003 (hereafter, "the 2003 Act") and the 2006 Act, that require Ofcom to promote competition, investment, and innovation in electronic communications markets, and the measures originally mandated in the 2010 Direction are now embedded within current licence conditions and regulatory frameworks.

5.7 In 2011, Ofcom designated the 900 MHz and 1800 MHz bands for use with both 2G and 3G mobile systems, extended the notice period for the potential revocation of licences in these bands from one year to five years, and amended the Wireless Telegraphy (Mobile Spectrum Trading) Regulations 2011 (S.I. 2011/1507)[5], enabling the trading of rights and obligations associated with spectrum licences and amended the licences to remove fixed expiry dates, so they would continue in force unless or until revoked.[6]

5.8 In 2012, Ofcom conducted a competition assessment in preparation for the auction of the 800 MHz and 2.6 GHz spectrum bands, considering the competitiveness of the market and the potential for new entrants. To promote competition, Ofcom introduced spectrum caps and reserved a block of 800 MHz spectrum for a smaller operator, ensuring that at least four credible national competitors would be present in the market.[7]

5.9 In 2013, Ofcom imposed coverage obligations on 2100 MHz spectrum licences, requiring operators to provide mobile services to at least 90% of the UK population by mid-2013. Ofcom later confirmed that EE, Three, and Telefónica had met this requirement, with Vodafone achieving compliance shortly thereafter.[8]

5.10 On licence fees, Ofcom has reviewed and set fees for the 900 MHz, 1800 MHz and 2100 MHz bands through several decisions since the 2010 Direction[9] to ensure they reflect the market value of the spectrum and promote efficient use.

What was the previous policy, how is this different?

5.11 Revocation is necessary as Ofcom has fulfilled its requirements, and the 2010 Direction is now redundant. Retaining the 2010 Direction could also create a risk of legal challenge against Ofcom if they proceed with changes to licence charging arrangements. Revocation does not affect the operation or service of mobile network operators ahead of any future spectrum awards. Future decisions will be implemented under the 2006 Act and the 2003 Act, which provide Ofcom with the necessary powers to manage spectrum use and enforce compliance.

[5] Wireless Telegraphy (Mobile Spectrum Trading) Regulations 2011 (S.I. 2011/1507), https://www.legislation.gov.uk/uksi/2011/1507/contents

[6] Statement on variation of 2100 MHz Third Generation Mobile Wireless Telegraphy Act Licences https://www.ofcom.org.uk/siteassets/resources/documents/consultations/uncategorised/8206-2100-mhz-third-generation-mobile/statement/statement.pdf?v=321500

[7] Assessment of future mobile competition and award of 800 MHz and 2.6 GHz https://www.ofcom.org.uk/siteassets/resources/documents/consultations/uncategorised/8141-award-800mhz-2.6ghz/associated-documents/secondary-documents/statement.pdf?v=319922

[8] Ofcom 3G Coverage Obligation Verification Results https://www.ofcom.org.uk/siteassets/resources/documents/consultations/uncategorised/8206-2100-mhz-third-generation-mobile/statement/verification-results.pdf?v=321768

[9] https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-review-of-annual-licence-fees/main-documents/statement-review-of-annual-licence-fees.pdf?v=403704

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument revokes the 2010 Direction, which was made under section 5 of the 2006 Act.

6.2 Ofcom has completed all actions required under the 2010 Direction. Revoking the 2010 Direction removes obsolete provisions. Retaining the 2010 Direction serves no practical purpose and risks creating legal uncertainty, and risks confusion by potentially implying obligations that have long been discharged.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with section 6(2) of the 2006 Act, Ofcom was consulted directly during the policy development process and has confirmed that all the obligations set out in the 2010 Direction have been completed. However, given the technical nature of the instrument, and the absence of any change in regulatory duties, formal public consultation was not deemed necessary.

8. Applicable Guidance

8.1 No additional guidance is being issued alongside this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it makes no change to how spectrum is currently managed. The 2010 Direction, which is being revoked, no longer has any practical effect, as Ofcom has already completed all required actions in the instrument.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the underlying regulatory requirements have already been implemented by Ofcom. The revocation does not introduce any new duties, obligations, or costs. It simply removes an obsolete legal instrument that no longer has practical effect, thereby improving legal clarity without affecting ongoing services or business models. The revocation does not affect the role or service of existing operators ahead of any future spectrum awards.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the instrument does not introduce any new regulatory duties. Ofcom's powers to manage spectrum, including licensing, fee setting, and enforcement, continue under the 2006 Act.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 No active monitoring is required. The purpose of the instrument is to revoke legislation that no longer has an operational effect.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Baroness Lloyd of Effra has made the following statement: "It is not appropriate to include a review provision in this instrument because it revokes legislation that is now redundant and has no ongoing effect. There are no continuing regulatory requirements or impacts to monitor."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Parliamentary Under-Secretary of State for Digital Economy has made the following statement regarding Human Rights: "In my view the provisions of the Wireless Telegraphy Act 2006 (Directions to Ofcom) (Revocation) Order 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").