

New radio stealth tax grab



Keith Wilson

Britain it is demonstrably untrue that there is any frequency congestion, but while charges there will be discounted by 20% in parts of the north and west and 50% in northern Scotland, you'll still have to pay.

The consultation document seems to indicate that if aerodromes go non-radio in response to the new charges, then the CAA will introduce regulations to force them to provide radio services and pay the fees. It says: "Changes to the financial landscape... will generally cause businesses to review decisions in relation to operating practices and, where these practices are unregulated, this may cause the CAA to conclude that it should review the adequacy of existing sector regulation in the light of the changed circumstances." It goes on: "We recognise the critical importance of safety in the aeronautical sector and, in that context, we have given careful consideration to the relevant duties of the CAA as safety regulator and how these align with our AIP proposals... Ofcom does not consider that AIP fees should be reduced in response any relevant externalities. Instead, Ofcom considers that other responses, including safety regulation where appropriate, will be the more direct (and therefore more efficient). The CAA has confirmed to Ofcom that it has adequate powers to respond to any safety concerns arising from Ofcom's current proposals to apply AIP to the aeronautical sector, and that the adequacy of VHF communications provision will be subject to safety regulation by the CAA using appropriate regulatory instruments taking

Left: some pilots would have to junk their nav/com systems and pay hundreds or even thousands of pounds for new equipment

Ofcom has produced a new consultation document on stealth taxes for aviation radios showing that they want to introduce charges of £2,600 a year for an aerodrome A/G service, £9,900 for ATIS and VOLMET, and up to £19,800 for VHF digital links.

AOPA has condemned the proposals to charge for air traffic control bandwidth, saying the consequent loss of frequencies will have serious safety implications as aerodromes with multiple frequencies are forced to amalgamate them, increasing congestion, and unlicensed aerodromes go non-radio rather than find another few thousand for the government.



But the Ofcom document contains an intimation that should this occur, the CAA will introduce legislation to force aerodromes to provide radio services and pay the taxes. On the one hand, it claims, there is frequency congestion and people should think about giving up frequencies. On the other hand, giving up frequencies would be detrimental to safety, so you'll be forced to keep your frequency and pay the money. The idea that the Ofcom tail wags the CAA dog on this may be wishful thinking, but if Ofcom succeeds in creating an unsafe environment, the CAA may be compelled to do something expensive to sort it out.

AOPA chief executive Martin Robinson met with Ofcom officials in January and found they had no credible answers to the safety issues raised by their charging proposals. "Ofcom is used to operating in a market where the end user has a choice, and its market disciplines are wholly inappropriate and not a little bizarre in the aeronautical sector," he said. "They say they are keen to see the universal adoption of 8.33 kHz spacing as an efficiency tool and that their charging regime will encourage this.

But the only safe way to impose 8.33 kHz is by national regulation so that all aircraft and all ground stations use the same equipment. I'm afraid that the end result of this Ofcom proposal may be that the CAA is forced to move in that direction."

Ofcom's excuse for the taxes – that there aren't enough frequencies to go round – doesn't hold water. IAOPA-Europe has produced algorithms to show there would be more frequencies available than we'll ever need if the 27 frequency allocation offices in Europe were centralised. NATO has done this with its own frequencies, and solved the problem at a stroke. Many European countries favour this approach, but Germany, France and Britain are refusing to co-operate, saying it's "a matter of national sovereignty". The suspicion is that they've found something new they can tax, and the need for money outweighs any other considerations.

Ofcom's first proposals, produced last year, were hastily withdrawn when there was a public outcry against plans to tax the emergency services for distress frequencies. The second consultation, published in December, proposes that fire and distress frequencies should be discounted to zero.

Ofcom calls the tax 'administrative incentive pricing' (AIP) and plans to introduce it incrementally over five years, with the first hit coming in the last quarter of 2010. It plans to impose reduced charges on 8.33 kHz in order to 'incentivise' the spread of the reduced spacing, but does not acknowledge that some pilots would have to junk their nav/com systems and pay hundreds or even thousands of pounds for new equipment just in order to put themselves in a position to start paying the charges, which will of course ultimately fall on the pilot. Ofcom admits that in rural areas of

into account safety justification provided by the service providers, via, for example, safety cases."

Martin Robinson says: "So they're pressing ahead with the charges irrespective of the safety implications and calling on the CAA to sort out the mess. I fear the CAA's response will be to mandate 8.33 kHz radios for all, at huge expense to GA."

Ofcom says that at small aerodromes, the new tax will amount to about 20p per movement. But Martin Robinson says: "What they don't admit is that there's more than one beggar at the door. I'm tired of hearing people claim that each individual charge on one day is very small. We've just been through five years of swingeing and unjustified CAA charge increases, and if I had 20p for every time I heard that each individual charge was small, I'd be a rich man. The cumulative effect is to hammer GA with millions of pounds in new costs, which it cannot afford.

"An aerodrome licensed by the CAA for flight training is required to provide a radio, but the 500 to 600 other landing grounds in the UK are not. There is a debate about removing the CAA licence requirement for flight training in order to save money – but Ofcom is planning to charge about twice the CAA's licence fee for the use of the radio."

Ofcom says the biggest single loser will be NATS, which will have to pay £1.3million. This, it says, will be passed on to airlines at the next regulatory price review and will amount to a maximum of 6p per passenger. Most of GA, of course, cannot pass on the new tax. Ofcom notes that private general aviation was estimated to be worth £318 million in 2006, and adds: "Ofcom notes that AIP per movement charges for sampled non-reporting aerodromes are low when compared to the

cost of renting a small single engine craft (i.e. £80-£130 per hour before additional fees including fuel, landing fees, parking)." So there you have it – they're only robbing the rich.

Ofcom makes no mention of the clear alternatives that have been debated in Europe over the last three years, which include the replacement of all the national frequency allocation offices with two guys in Brussels. Although the nations say they co-operate on frequency allocation, there remains a huge amount of overlap, inefficiency and wastage

which could be eliminated by central allocation. NATO has addressed this issue successfully, and the same should be done on the civilian side.

Martin Robinson says: "When I met with Ofcom they made it clear they weren't interested in the European dimension and were looking at this solely from a national point of view. That means they are willfully ignoring the greatest potential for efficiency savings and pressing ahead with what is simply a money-making scheme. The effects

will be felt by pilots whose money is taken while safety is compromised. We'll pay Ofcom to reduce our safety, and pay again for the CAA to get back to square one."

It is important that you reply to this consultation if you feel you have an interest. Ofcom retreated under the barrage of complaint that greeted its first proposals – from GA's point of view, little has changed in its second attempt. To say your piece, see <http://www.caa.co.uk/docs/33/ATSINO172.pdf> and follow the 'How to respond' trail. ■

Mentoring Scheme gets legal nod

AOPA's legal advisor Tim Scorer and insurance advisor Frank Bannister have created a framework within which the AOPA Mentoring Scheme can operate while reducing the legal risks to the Association to what is believed to be an acceptable level.

Tim Scorer, of Thomas, Cooper and Stibbard in London, and Frank Bannister, Managing Director of Besso Group's aviation insurance division, have worked together to arrive at a no-cost format in which insurance policies on aircraft would be extended to include AOPA – a simple administrative task. Then provided the stipulations of the Mentoring Scheme were meticulously observed, liability would be reduced to manageable proportions.

The two men outlined the format at a meeting of the AOPA Members Working Group in December. It must be approved by the full AOPA Board, but with Chairman George Done and Chief Executive Martin Robinson expressing their full support, the result will be positive unless new information comes to light.

Mr Scorer told the meeting: "Frank and I share a desire to make the scheme work but on a basis that won't give rise to problems. Essence of what we're saying is that the only way it can work is on the basis that the mentee is P1, the mentor is a passenger, and at no stage does that situation change. The PIC must be approved under a valid insurance policy which has passenger coverage. If these things are adhered to, it will work.

"The mentor has no responsibility in terms of this flight. He may help, advise, give the benefit of his experience, but he's not instructing and has no status, any more than if the mentee had his aunt aged 75 in the right seat. Everything comes down to P1; it's his

decision, and he's the insured pilot."

Mr Bannister added: "We can make this work as long as all parties conform precisely to the stipulations and there are no misunderstandings. The underwriters understand that the purpose of this scheme is to improve safety."

He explained that insurance policies should carry a 'standard waiver of subrogation in favour of AOPA', a standard clause which did not carry a cost penalty. The wording of the clause will be provided by the two advisors.

It will mean, of course, that mentors and mentees who are hiring an aircraft will have to know exactly what the insurance policy provides for. "How many pilots ask to see the

insurance document when they hire a club aircraft?" Mr Bannister asked. "The word needs to go out – make sure the insurance policy contains the requisite clause."

Mick Elborn, who runs the Mentoring Scheme, asked whether there had to be a formal written agreement between the mentor and the mentee. Mr Scorer said they had discussed this as a way of ensuring that both parties understood the rules, and the wording of a pro forma was being decided. He added that money must not come into the arrangement, and no 'valuable consideration' such as payment for a hotel bill or other expenses could be entertained. Mick Elborn and Tim Scorer are producing the pro forma.

Chairman of the Members Working Group, Chris Royle, thanked Tim Scorer and Frank Bannister for their work, which as is often the case with AOPA-related matters, was taken on by both men without charge. ■

Score one for Tim

AOPA Chairman Prof George Done presented Tim Scorer with his 'Friend of AOPA' award at the Members Working Group meeting at Earls Colne in Essex in December. The citation said: "Tim is a practising lawyer, with specialist knowledge in aviation. He has provided first-aid legal advice on behalf of AOPA to a huge number of pilot and aircraft owner members over a great many years, and the award is in recognition of this invaluable service."



AOPA Chairman George Done (right) presents Tim Scorer with the Friend of AOPA award

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