

Cover sheet for response to a DTI consultation

BASIC DETAILS

Consultation title: Fixed Penalty Notice Consultation

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Name of respondent: Mr John H Bowen. C.Eng. MIEE. G8DET.

Representing (self or organisation/s): Self

Address (if not received by email):

CONFIDENTIALITY

What do you want DTI to keep confidential?

Nothing

Name/address/contact
details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can DTI still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

No

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full, unless otherwise specified on this cover sheet, and I authorise the DTI to make use of the information in this response to meet its legal requirements. If I have sent my response by email, the DTI can disregard any standard e-mail text about not disclosing email contents and attachments.

DTI can publish my response: on receipt

once the consultation ends

Name John H Bowen.

Signed (if hard copy)

DTI Fixed Penalty Notice Consultation

QUESTIONS:

Q1 *Do you agree that the Secretary of State should introduce a fixed penalty regime for certain minor WT Act 1949 offences?*

Yes, but see further comment.

Q2 *Do you agree the proposal that section 1(1) offences, when triable summarily only, other than receive only ones, are appropriate for a fixed penalty regime and should be the subject of the first Fixed Penalty Regulations?*

Yes, but see further comment.

Q3 *Do you consider that the proposed level of penalty is proportionate and appropriate?*

Yes, however I have reservations about the detail.

I have studied the DTI Proposal & some lack of clarity worries me.

3.1 I get the impression that this has been produced as so many OFCOM Personal have been "released" that there is now insufficient Staff to do the job correctly.

3.2 I am concerned that there is no "Right of Reply" to an incorrect "Fixed Penalty Fine being imposed" other than attending a Court Hearing.

Many years ago I received a number of QSL Cards to confirm Amateur Radio contacts I was alleged to have made at a time I was out of the Country. Clearly someone was "Pirating" my Call-sign.

If an Ofcom Monitoring Station hear "me" Offending, I could receive a "Fixed Penalty Fine" which maybe inappropriate. I do not think I should have to attend Court to explain the situation.

3.3 I do not agree that Offending Stations should NOT have their illegal wireless equipment confiscated.

I maintain that if someone is transmitting illegally using low power equipment (as the majority of your submissions suggest) and it is classified by Ofcom as a Minor Offence & a £100 Fixed Penalty Fine is imposed & paid, their equipment MUST be confiscated, or they will re-offend as soon as the Ofcom Officer is out of sight.

To say to an Offender "You can keep your Illegal Equipment" smacks of "Revenue Earning", not Policing the airwaves.

3.4 I am very concerned that the DTI Proposal mentions that no real Record of Offences being kept. Every Fixed Penalty Fine issued should be kept on record for a minimum of 5 years.

3.5 Additionally, Bailiffs should be used to enforce the payment of Fines. One major weakness of County Court Fines is the lack of enforcement of the hardened offender to actually pay-up when they have the means to do so.

3.6 I have a feeling that an Illegal Broadcast Station will be very happy to pay the £100 Fixed Penalty Fine and will continue to transmit with near impunity.

I can log many Pirate Broadcast Stations, some of which have been transmitting for years without Ofcom intervention - what you are now proposing may formalise the situation. To pay £100 Fixed Penalty Fine is cheaper than £600 to apply for a Broadcast Licence.

Q4 The CA 2003 permits other matters incidental to the operation of the fixed penalty regime to be covered in regulations. Do you think that anything else needs inclusion?

4.1 As a Radio Amateur I am more concerned with Amateur Radio Violations of which there were no examples quoted in the Dti Proposal. Does this mean that BR68 Violations will not be covered. Examples, which concern me, include "Bad Mouthing" and transmitting music in the Amateur Bands.

Amateur Radio Full Licence Terms, Provisions & Limitations Booklet BR 68 Page 25, Para (I) states

"It is an offence under the Wireless Telegraphy (Content of Transmission) Regulations 1988 to send a message, communication or other matter in whatever form that is grossly offensive or of an indecent, obscene or menacing character."

I feel that this is ideally what the Fixed Penalty Fine should cover.

The equipment of the proven offender should be confiscated in total & destroyed if not Licenced (if a Pirate).

If Licenced the equipment should be withheld for a period of time, maybe 2 years on committing a second Fixed Penalty Offence.

4.2 The Fixed Penalty Fine scheme needs to be flexible to include Offences not considered at this time.

End of my Submission.