Reference: 00002158

3 May 2016

Annex A: Extracts of minutes of meetings

1. **Extract from minutes of Ofcom/RSGB meeting held on 12-6-2014:**

Proposal from Poldhu Amateur Radio Club for letter K to be used as an optional Regional Secondary – see attached proposal

Ofcom acknowledged receipt of original documents from GC. It was noted that the RSGB Board had not yet considered the proposal nor consulted with the amateur radio community. Ofcom advised that policy and practical concerns were such that the request is unlikely to be agreed. It may be that the "K" RSL will be approved for use on a special event basis such as the Scottish Homecoming.

Action 10.1 (June 14) – Fraser to respond to MPs letters and Poldhu ARC

2. **Extract from minutes of Ofcom/RSGB meeting held on 9-10-2014:**

Proposal from Poldhu Amateur Radio Club for letter K to be used as an optional Regional Secondary Locator - OFCOM's decision

Fraser began by again apologising to the RSGB for not having kept the RSGB informed on the subsequent decisions taken by OFCOM following the initial decision to reject this request.

However, upon further consideration it was felt that there were clear criteria for permitting K to be used as an RSL for Cornwall, without opening a flood of requests from other counties for RSLs.

There is a clear recognition of the Cornish people by the European Framework for the Protection of Ethnic Minorities, and the county of Cornwall is clearly as an area or region associated with the Cornish people.

A decision is yet to be taken on how to implement this.

Murray N asked whether OFCOM can put out an announcement on this decision.

Fraser said that he would talk to OFCOM Communications with this regard

Graham C requested that OFCOM would liaise with the RSGB before any announcement is published.

Riverside House
2a Southwark Bridge Road
London SE1 9HA

Telephone + 44 (0)20 7981 3000
Facsimile + 44 (0)20 7981 3333

www.ofcom.org.uk

A possible implementation date of 1st April 2015 was mentioned.

Action 11.1 (October 14) – Fraser to talk to OFCOM communications with regard to publishing an announcement on the decision to allow K as an RSL for Cornwall

Annex B: Emails

From: Fraser Murrey
Sent: 19 December 2014 10:51
To: 'Graham Murchie'
Cc: Paul Jarvis; 'Graham Coomber'; Russell Kent-Smith
Subject: RE: K for Cornwall RSL

Dear Graham,

Thank you for your message. I am, of course, acutely aware that it is some while since the original e-mail from the RSGB. My legal advisers are also aware that the RSGB originally wrote to us at the end of October and I have made them aware that the RSGB is pressing for a substantive reply.

However, the RSGB has posed important questions not only about the decision itself and the fact that it represents a change from our initial position but also about the process behind reaching the decision. I cannot reply substantively to these important questions without proper legal advice, which I am still awaiting. As soon as I have that legal advice I need, I shall reply substantively.

I shall forward this exchange to my legal advisers, to ensure that they are aware of the urgency and of your frustration, in the unlikely event that there be any question about that. I have also copied it to my Director, Russell Kent-Smith, so that he is aware of this.

Regards,

:: **Fraser Murrey**
Spectrum Policy Manager

Spectrum Policy Group
Direct Line: 020 7981 3692
Fax: 020 7981 3208
fraser.murrey@ofcom.org.uk

:: Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
020 7981 3000
www.ofcom.org.uk

Ctrl+P to print this mail - but do you really need to?

From: Graham Murchie [mailto:graham.murchie@btinternet.com]
Sent: Tuesday, December 16, 2014 10:10 AM
To: Fraser Murrey
Cc: Paul Jarvis; 'Graham Coomber'
Subject: K for Cornwall RSL

Fraser

Graham Coomber wrote to you on 29 October about the change of decision relating to the K for Cornwall RSL. It is now almost seven weeks since the letter was sent and we are being pressed by our Members for an understanding of the decision making process.

You will be aware that there is an increasing amount of correspondence on this matter and I know that Ofcom have been copied on a recent letter to me, as Chairman of the RSGB, on the topic. I am aware that you are finishing for the Christmas break at the end of this week so I am looking for confirmation from you that the matter will be addressed prior to you going on leave.

The Board are pressing for a decision and have asked that if nothing is forthcoming in the near future then they wish the matter to be significantly escalated within Ofcom. I am reluctant to do this as I believe that we have a good working relationship that I have no wish to tarnish. However, such is the high level of dissatisfaction about the lack of response that I am reaching the point when I have no alternative.

I look forward to your assurance that you will be responding before going on leave.

Regards

Graham

Graham Murchie G4FSG

Chairman, RSGB Board

From: Fraser Murrey
Sent: 29 October 2014 08:46
To: 'Graham Coomber'
Cc: Paul Jarvis
Subject: RE: RSL 'K' for Cornwall

Graham,

Thank you for this considered submission. I shall discuss it with colleagues, taking advice as appropriate, and reply as soon as I can.

Regards,

:: Fraser Murrey

Spectrum Policy Manager

Spectrum Policy Group

Direct Line: 020 7981 3692

Fax: 020 7981 3208

fraser.murrey@ofcom.org.uk

:: Ofcom

Riverside House

2a Southwark Bridge Road

London SE1 9HA

020 7981 3000

www.ofcom.org.uk

Ctrl+P to print this mail - but do you really need to?

From: Graham Coomber [mailto:Graham.Coomber@rsgb.org.uk]
Sent: 29 October 2014 08:23
To: Fraser Murrey
Cc: Paul Jarvis
Subject: RE: RSL 'K' for Cornwall

Fraser,

Thank you for your mail of 6th October, setting out the reasons for Ofcom's revised decision on the allocation of an RSL to stations based in Cornwall.

As you will recall, this matter was first discussed at our regular forum meeting on 12th June 2014. The minutes state that "Ofcom advised that policy and practical concerns were such that the request is unlikely to be agreed", a position that we agreed verbally to support. We stated at the time that we had not consulted our Members about the proposal and, to the best of our knowledge, there had been no wider discussion of the proposal.

Chris Lewis from the Poldhu club kindly shared with me your subsequent response to Mr Matthew of 17th June 2014 in which you explained your reasons why Ofcom "are not prepared to designate "K" as a permanent RSL for Cornwall". I have to say that I found your arguments at that time entirely persuasive and in line with the views expressed by the RSGB representatives at our meeting. From our perspective, therefore, the matter was closed.

In that letter your state "We permit licensed radio amateurs to embellish this core call sign with a strictly limited number of Regional Secondary Locators ("RSLs"), which may be inserted into the core call sign, to denote the different constituent parts of the United Kingdom and the Crown Dependencies."

Our interpretation (and I believe the custom and practice over many years) is that the "different constituent parts" to which you refer are the separate nation states, separated legally and governmentally from England. Scotland, Ireland, Wales, Isle of Man, Guernsey and Jersey all meet this criterion. Cornwall, however, will continue for the foreseeable future to be an integral part of England, and so to allocate a permanent RSL to it will set a precedent.

From our understanding of the Framework Convention on National Minorities, there appears no imperative for an RSL in this case unless it can be shown that RSLs are normally used to designate sub-country groups, which they are not. We, therefore, do not believe Ofcom was under any legal obligation to accede to this request and indeed the implication in your email that, had there been the risk of other cases, you would have refused this request, confirms that.

A number of our members have raised with us the issue of a 'permanent' RSL being issued without consultation when many other less impactful issues have been the subject of the recent Ofcom licence consultation. We are disappointed and concerned that this is the case. It would appear that a decision now to grant use of the "K" (or any other RSL) on an optional basis predetermines the outcome of that consultation which I am sure is not your intention. We believe, therefore, that the absence of any consultation on the matter of the "K" RSL whatsoever makes the decision unsound and untenable and the Society formally requests you to place this decision on hold until Ofcom has undertaken proper consultation with its stakeholders and listened to their views. We believe that if Cornwall is allocated its own RSL this will have repercussions far beyond the boundaries of that county

Best Wishes

Graham Coomber, G0NBI
General Manager
Radio Society of Great Britain
Tel: 01234 832701
Fax: 01234 831496
Email: xxxxxx.xxxxxxx@xxxx.xxx.xx

****
The information in this internet email is copyright of the Radio Society of Great Britain (RSGB), confidential and is intended solely for the addressee(s). Any views expressed in this e-mail are those of the individual sender, except where the sender specifically states these to be the views of the RSGB. Access, copying, dissemination to or re-use of information in it to or by anyone else is unauthorised.
****

-----Original Message-----
From: Fraser Murrey [mailto:xxxxxx.xxxxxx@xxxxx.xxx.xx]
Sent: 06 October 2014 12:13
To: Graham Coomber
Cc: Paul Jarvis
Subject: RSL 'K' for Cornwall

Graham,

I am conscious that I did not update you on our consideration of the request from Cornish radio amateurs to assign them a new RSL, 'K'. I understand that this led to a difficult situation for the RSGB when you were discussing this question with some radio amateurs. Naturally, I am sorry that I overlooked this, particularly in light of your support for our original position not to grant the RSL and that it led to such an awkward situation for you.

In light of the very considerable lobby from Cornish radio amateurs and their elected representatives, we reviewed our decision and its basis. We concluded that we could accede to the request, as additional information

that Poldhu ARC supplied gave us clear criteria on which to assess these sorts of requests. We therefore notified Poldhu ARC that we were prepared to agree in principle to the RSL but that it could not be used until we had considered how to implement the decision.

Our decisions must be proportionate, transparent and objectively justifiable. With the request for the 'Cornish' RSL, we initially identified a viable risk that every county (or other geographic area) could feel justified in requesting its own RSL. That would lead to an unacceptable proliferation of call sign variants, which could, in turn, create misleading identities. Our decision not to allow the RSL for that reason was therefore proportionate and objectively justifiable. However, if it were possible to grant this RSL in a manner that would not lead to proliferation, it would be harder to justify not allowing the RSL. It would follow that, if a minority were recognised by HM Government under the Framework Convention on National Minorities ("FCNM") and if that minority could be associated with a clearly definable geographic area, then we could allow an RSL.

For a decision to be objectively justifiable, it must be consistent with comparable or analogous decisions. For the Scotland Homecoming, we allowed an RSL ('A' for 'Alba') for 'Scottish' stations. There being no definition of 'Scottish', we decided that the call sign should be available to all licensees with a main station address in Scotland. Although this was only a temporary facility, it established that it was possible to define criteria for allowing this sort of RSL for a minority that could be associated with a definable geographic area. Not to consider the request for 'K' for Cornwall in the same light would be inconsistent and thus not objectively justifiable.

In light of the considerable support for this RSL, which was also supported by elected representative at all levels and across the political spectrum, it was difficult to justify not looking again at our initial decision. HMG has recognised the Cornish as a national minority under the FCNM. Although, historically, the 'Cornish' people extended into Devon, they can be associated with a definable geographic area, Cornwall. Applying the clear criteria that I have described above, we have therefore decided to allow the RSL for stations with a main station address in Cornwall.

We believe that HMG is unlikely to recognise any other minorities under the FCNM, certainly in the foreseeable future. If so, future requests for RSLs would not succeed, as they could not satisfy the twin criteria of a declaration under the FCNM and a link to a geographic area. They could consequently not address our concerns about proliferation. We are therefore satisfied that we can justifiably resist requests for RSLs for other counties and this will address our concerns about proliferation of RSLs.

Regards,

:: Fraser Murrey
Spectrum Policy Manager
Spectrum Policy Group
Direct Line: 020 7981 3692
Fax: 020 7981 3208

xxxxxx.xxxxxx@xxxxx.xxx.xx<mailto:fraser.murrey@xxxxxx.xxxxxx@xxxxx.xxx.xx>

:: Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

020 7981 3000
www.ofcom.org.uk<http://www.ofcom.org.uk/>

Ctrl+P to print this mail - but do you really need to?

From: Fraser Murrey
Sent: 06 October 2014 12:13
To: Graham Coomber
Cc: Paul Jarvis
Subject: RSL 'K' for Cornwall

Graham,

I am conscious that I did not update you on our consideration of the request from Cornish radio amateurs to assign them a new RSL, 'K'. I understand that this led to a difficult situation for the RSGB when you were discussing this question with some radio amateurs. Naturally, I am sorry that I overlooked this, particularly in light of your support for our original position not to grant the RSL and that it led to such an awkward situation for you.

In light of the very considerable lobby from Cornish radio amateurs and their elected representatives, we reviewed our decision and its basis. We concluded that we could accede to the request, as additional information that Poldhu ARC supplied gave us clear criteria on which to assess these sorts of requests. We therefore notified Poldhu ARC that we were prepared to agree in principle to the RSL but that it could not be used until we had considered how to implement the decision.

Our decisions must be proportionate, transparent and objectively justifiable. With the request for the 'Cornish' RSL, we initially identified a viable risk that every county (or other geographic area) could feel justified in requesting its own RSL. That would lead to an unacceptable proliferation of call sign variants, which could, in turn, create misleading identities. Our decision not to allow the RSL for that reason was therefore proportionate and objectively justifiable. However, if it were possible to grant this RSL in a manner that would not lead to proliferation, it would be harder to justify not allowing the RSL. It would follow that, if a minority were recognised by HM Government under the Framework Convention on National Minorities ("FCNM") and if that minority could be associated with a clearly definable geographic area, then we could allow an RSL.

For a decision to be objectively justifiable, it must be consistent with comparable or analogous decisions. For the Scotland Homecoming, we allowed an RSL ('A' for 'Alba') for 'Scottish' stations. There being no definition of 'Scottish', we decided that the call sign should be available to all licensees with a main station address in Scotland. Although this was only a temporary facility, it established that it was possible to define criteria for allowing this sort of RSL for a minority that could be associated with a definable geographic area. Not to consider the request for 'K' for Cornwall in the same light would be inconsistent and thus not objectively justifiable.

In light of the considerable support for this RSL, which was also supported by elected representative at all levels and across the political spectrum, it was difficult to justify not looking again at our initial decision. HMG has recognised the Cornish as a national minority under the FCNM. Although, historically, the 'Cornish' people extended into Devon, they can be associated with a definable geographic area, Cornwall. Applying the clear criteria that I have described above, we have therefore decided to allow the RSL for stations with a main station address in Cornwall.

We believe that HMG is unlikely to recognise any other minorities under the FCNM, certainly in the foreseeable future. If so, future requests for RSLs would not succeed, as they could not satisfy the twin criteria of a declaration under the FCNM and a link to a geographic area. They could consequently not address our concerns about proliferation. We are therefore satisfied that we can justifiably resist requests for RSLs for other counties and this will address our concerns about proliferation of RSLs.

Regards,

:: Fraser Murrey

Spectrum Policy Manager

Spectrum Policy Group

Direct Line: 020 7981 3692

Fax: 020 7981 3208

fraser.murrey@ofcom.org.uk

:: Ofcom

Riverside House

2a Southwark Bridge Road

London SE1 9HA

020 7981 3000

www.ofcom.org.uk

Ctrl+P to print this mail - but do you really need to?

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.
The following outcomes are possible:
• the original decision is upheld; or
• the original decision is reversed or modified.

Timing
If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Graham Howell
The Secretary to the Corporation
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF