

8th May 2001

Review of Radio Spectrum Management

Introduction

Thus welcomes this opportunity to respond to Professor Cave's final report to the DTI and HMS Treasury setting out his proposals for the review of the current UK radio spectrum management regime.

Thus previously responded to the Independent Consultation on Radio Spectrum Management (the 2001 Consultation) issued in June 2001.

Thus is a leading UK provider of Telecoms, Data and Internet products, which utilises fixed link radio spectrum allocation as an integral part of its national network. Access to the radio spectrum, and the operation of trunk routes upon it is therefore of critical importance to Thus. With the exception of our comments regarding license exempt spectrum, therefore, we confine our comments purely to fixed point to point links.

Recommendation 5.1

The RA should explore fully the scope for, and means of, transferring more responsibility to operators for interference management, in support of wider moves towards using market mechanisms for spectrum management.

Network reliability is paramount to the provision of services over fixed links.

Circuit availability represents an important and contractual aspect of customer 'Service Level Agreements', and radio path availability is a key component of circuit availability. On systems such as fixed links where dependency on an absolute availability figure is required, there remains a paramount requirement for proper regulation to be correctly applied.

Thus is concerned that if responsibility for spectrum management, and in particular interference management, were to pass to individual operators, then these objectives may not be applied, whether intentionally, unintentionally, or through insufficient understanding on behalf of individual operators.

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Co-ordination of spectrum management should not be left to the discretion of individual operators. As a matter of principle, Thus believes that this facility more properly sits as a cost component of the fixed link licensing service currently paid for, be it through the RA or an established market intermediary. Thus is also concerned that the additional workload placed upon operators, and the corresponding obligations and liabilities placed upon the industry, would be disproportionate to any benefit gained.

Recommendation 7.7

Where licensees are currently granted tailored access to shared spectrum which is managed by the RA, such as in fixed links and certain private mobile radio bands, the RA should move progressively to converting the spectrum to auctionable geographic license blocks.

Thus agree with the Review's recommendation that auctions *may* not, in the short term at least, be the most appropriate method of assigning spectrum use for fixed links bands. Subject to our comments below in relation to Recommendation 8.1, Thus believe that spectrum pricing offers the most suitable means of spectrum management for this particular spectrum use.

The alternative set forth in the review is the introduction of 'overlay auctioning'. This would, ultimately, involve the creation of national or regional licensing blocks, and would not, in Thus' opinion, avoid the risk of unfairly disadvantaging new market entrants, and/or ultimately stifling competition/distorting true spectrum value.

Recommendation 8.1

Where spectrum pricing is currently used, prices should be raised to the full opportunity cost level. Once spectrum trading is introduced, public telecoms operators should be able to trade spectrum.

Spectrum Pricing

Radio licence costs represent a significant portion of Thus' operational expenditure in relation to the provision of fixed link network. These costs have a direct bearing on the pricing offered to our customers in respect of these services.

Thus is concerned, due to the fixed term nature of customer pricing, that the suggested implementation of the revised model in 2005 may lock Thus into unfavourable contractual positions with current customers.

This concern is compounded by the lack of certainty surrounding how changes to the pricing model would affect Thus' annual fixed links licence liability, and the subsequent implications for Thus' operating costs. Thus understands that this lack of clarity will remain until such time as the RA complete their re-examination and classification of congested and non-congested areas, and a better estimation of the full opportunity cost level can be made.

Secondary trading

Thus is *not* fundamentally opposed to secondary trading; a position which we expressed in our response to the 2001 Consultation. We do, nevertheless, feel strongly that market players should be explicitly prohibited from engaging directly in trading activities. Intermediaries should be completely unprejudiced in their management of spectrum, in order to ensure usage is driven solely by sound commercial practice. Thus identifies the following anti-competitive practices as potential risks should this exclusion not be ensured:

- Spectrum hoarding
- Fragmentation of bands leading to scarcity of higher bandwidth Channels
- Intermediary always "first to service" by using competitor intelligence gained through the assignment process

Thus suggests that assignment rules should remain the preserve of the Radio Communications Agency (RA), which has developed significant expertise in this area. Indeed, Thus believes that the maintenance of a single licensing authority offers the following further advantages:

- The operation of regional licenses would require boundary co-ordination with neighbouring spectrum managers, which may impact on spectrum efficiency.
- Market intermediaries are liable to gain exclusive control over a particular geographic area. In the absence of competition, Thus is not convinced that the delegation of licensing powers away from the RA would, currently, serve any useful purpose.

Given the aforementioned concerns, and the practicalities of fixed link spectrum licensing, Thus does not believe that there is currently a compelling case for secondary trading in respect of fixed link bands.

Recommendation 8.2

The current constraint on the use of licence-exempt bands for the provision of public access communications services should be removed as soon as possible.

Thus would welcome any relaxation in respect of the uses to which licence exempt spectrum may be put. Such relaxation could aid the development of innovative technologies and services, which in turn could provide a driver for demand in other licensed bands in the medium term. Thus would, moreover, hope to see this relaxation extended to Fixed Wireless Access applications.

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