
PMSE clearing the 700 MHz band

Participating in the funding scheme

STATEMENT:

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About this document

In October 2016 we published our spectrum management decision to work towards accelerating the 700 MHz clearance programme by 18 months. This means the spectrum will become available for mobile services in May 2020, rather than September 2021. As a result, we have served notice on PMSE users that they will no longer have access to spectrum in the 700 MHz band from 1 May 2020.

Government has decided to fund a grant scheme to support PMSE equipment owners that have to vacate the 700 MHz band earlier than expected. We agreed with Government to design and run a grant scheme to disburse funds. In August 2018 we published a statement setting out our decisions on the level of funding that PMSE equipment owners would receive and the eligibility criteria for the scheme.

At the same time, we said that it would be appropriate for stakeholders to receive funding to help meet costs they will incur as a result of participating in the scheme. We asked for stakeholder input on our proposal to apply a 5% mark up to the payment a claimant receives from the funding scheme to help stakeholders meet these costs. This statement sets out our decision on the additional funding available to eligible equipment owners.

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1. Executive summary

- 1.1 This statement sets out our decision on the additional funding to be made available to eligible PMSE equipment owners to help meet the costs they will face as a result of participating in the PMSE funding scheme. Government has decided to set up the funding scheme to assist PMSE equipment owners affected by the clearance of the 700 MHz band (694 MHz – 790 MHz). It takes account of the seven responses to the statement and consultation published in August 2018 ('the August statement and consultation').

Additional funding to help PMSE equipment owners meet their costs

Context

- 1.2 In October 2016, we published a statement ('the 2016 statement') setting out our decision on key aspects of the 700 MHz clearance programme. In it we set out our aim to accelerate the release of the 700 MHz band and complete it by May 2020, 18 months earlier than planned. We also gave notice to PMSE users that from 1 May 2020 they will no longer have access to the 700 MHz band and we will not authorise its use for PMSE services beyond that date. We have confirmed today that the 700 MHz programme is on track to meet our target date for completion of clearance in Q2 2020.¹
- 1.3 As part of its funding for the 700 MHz clearance programme, Government has agreed to fund a grant scheme to support PMSE equipment owners who will have to vacate the 700 MHz band earlier than expected.
- 1.4 We set out decisions on the overall design of the funding scheme in the August statement and consultation, including the eligibility criteria and the level of funding available to eligible claimants. Eligible PMSE equipment owners will receive at least 60% of the value of the estimated replacement cost of their equipment.
- 1.5 In the August statement and consultation we proposed that equipment owners receive an uplift of 5% to the value of their claim to help towards the costs they will face as a result of participating in the funding scheme.

Our decision on funding for additional costs

- 1.6 Based on our consideration of stakeholders' responses to the August statement and consultation, we have decided that eligible claimants will receive a 10% uplift on the payment they receive from the funding scheme. This is a change from the 5% uplift that we proposed.

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0027/129933/Statement-700-MHz-clearance.pdf

Next steps

- 1.7 The registration phase of the funding scheme is planned to begin in February 2019. We will provide further details on participation in the scheme directly to PMSE licensees and be available online and in advertisements in PMSE trade publications.

2. Introduction

Background

- 2.1 The spectrum between 470 MHz and 790 MHz is used by Digital Terrestrial Television (DTT), Programme Making and Special Events (PMSE) services and White Space Devices (WSDs).² In November 2014, we published a statement ('the 2014 statement') setting out our decision to clear these services from the part of this spectrum between 694 MHz and 790 MHz ('the 700 MHz band'), and to reallocate the frequencies for use for mobile data services.³
- 2.2 A programme of work to implement this decision is underway ('the 700 MHz clearance programme'). In October 2016 we published our statement ('the 2016 statement') which set out our aim to work towards accelerating the 700 MHz clearance programme by 18 months and release the 700 MHz band in Q2 2020.⁴ We have confirmed today that the programme is on track to meet our target of completing 700 MHz clearance in Q2 2020.⁵
- 2.3 In the 2016 statement we served formal notice on PMSE users that their access to the 700 MHz band would cease from 1 May 2020 and therefore we would no longer authorise their use beyond this date.⁶
- 2.4 In our August 2010 statement on future spectrum access for PMSE ('the 2010 statement'), we had said that PMSE users' access to the 700 MHz band would "not be degraded for spectrum management reasons unless we have given five years' notice, not to be triggered before September 2016".⁷ The 2010 statement indicated that where security of tenure is breached, PMSE users could expect some redress. This redress would be assessed at the time, in light of all relevant factors.
- 2.5 The clearance timeline means that PMSE users will have to vacate the band by May 2020, 16 months before the end of the period of security of tenure. In light of this, Government decided to provide funding to support (certain) PMSE equipment owners who have to vacate the 700 MHz band earlier than expected. We agreed with Government to design and run the grant scheme to disburse this funding. In April 2017 we published our

² The term PMSE refers to radio devices (e.g. wireless microphones, in-ear monitors and talk back intercoms) which are used for activities such as broadcasting, newsgathering, community events, theatre productions and concerts. WSDs are innovative new devices which are able to identify and make use of previously unused gaps in frequency bands.

³ https://www.ofcom.org.uk/data/assets/pdf_file/0024/46923/700-mhz-statement.pdf

⁴ https://www.ofcom.org.uk/data/assets/pdf_file/0031/92659/Maximising-the-benefits-of-700-MHz-clearance-Statement.pdf

⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0027/129933/Statement-700-MHz-clearance.pdf

⁶ In November 2017 we published a statement ('the Guard Band statement') setting out our decision to modify this notice to allow audio PMSE services to access the band 694 to 703 MHz ('the guard band') beyond 1 May 2020. (See https://www.ofcom.org.uk/data/assets/pdf_file/0027/107775/statement-spectrum-audio-pmse.pdf)

⁷ https://www.ofcom.org.uk/data/assets/pdf_file/0034/58795/statement310810.pdf

consultation on support for PMSE equipment owners ('the April consultation')⁸ setting out our proposals for how the grant scheme should operate.

- 2.6 In August 2018, we published a statement and consultation ('the August statement and consultation') setting out decisions on the design of the funding scheme for audio PMSE equipment owners.⁹ This included decisions on the eligibility criteria for the scheme and the formula we would use to calculate the level of funding to be made available. We said that eligible PMSE equipment owners would receive at least 60% of the value of the estimated replacement cost of their equipment. Alongside the statement we published a draft version of the rate card listing eligible PMSE equipment, on which we requested stakeholder input. We have updated the rate card in response to comments received from stakeholders and published version 1 on our website.¹⁰

Additional funding to help meet participation costs

- 2.7 In the August statement and consultation we agreed with stakeholders who said in response to the April consultation that equipment owners would face additional costs as a result of participating in the funding scheme, for example administration costs that would not be covered by equipment funding. We therefore proposed that a 5% uplift should be applied to the payment a claimant receives from the scheme for eligible equipment to help stakeholders meet the costs of participating in the funding scheme. We sought stakeholder input on this proposal.
- 2.8 We received seven responses to the consultation. We have published the non-confidential responses on our website.¹¹ We summarise these responses in section 3 and annex 1.

Legal

Ofcom's specific duties and powers related to spectrum management

- 2.9 Ofcom's responsibilities for spectrum management are set out primarily in two Acts of Parliament which confer on us specific functions, powers and duties in respect of spectrum (and the other sectors we regulate): the Communications Act 2003 (the '2003 Act') and the Wireless Telegraphy Act 2006 (the 'WT Act').¹²
- 2.10 Among our functions and powers in relation to spectrum are making frequencies available for use for particular purposes and granting rights of use through wireless telegraphy licences and licence exemptions. They also include the power to make grants if, in our opinion, doing so is likely to promote the efficient use in the UK of the spectrum for

⁸ https://www.ofcom.org.uk/data/assets/pdf_file/0021/100965/700mhz-band-pmse-funding.pdf

⁹ https://www.ofcom.org.uk/data/assets/pdf_file/0022/118831/PMSE-700-MHz-statement-and-consultation.pdf

¹⁰ https://www.ofcom.org.uk/data/assets/pdf_file/0019/117523/pmse-equipment-rate-card.pdf

¹¹ <https://www.ofcom.org.uk/consultations-and-statements/category-1/support-pmse-equipment-owners>

¹² The European Common Regulatory Framework for electronic communications (in particular, the Framework Directive and the Authorisation Directive) sets the broad legal framework for how spectrum use should be authorised and managed in the UK and aims to harmonise the regulation of electronic communications networks and services throughout the European Union

wireless telegraphy or the efficient management of that use. We can make grants to wireless telegraphy licence holders and other persons on such terms and conditions as we consider appropriate. HM Treasury consent is required to make such grants and for the relevant terms and conditions.

- 2.11 Our principal duties, set under the 2003 Act, when carrying out our functions and exercising our powers, are to further the interests of citizens and consumers, where appropriate by promoting competition. In doing so, we are required (among other things) to secure the optimal use of spectrum and the availability throughout the UK of a wide range of electronic communications services. We must also have regard to the desirability of promoting competition in relevant markets; the desirability of encouraging investment and innovation in relevant markets; the desirability of encouraging the availability and use of high speed data transfer services throughout the United Kingdom; and the different needs and interests, so far as the use of the electro-magnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to make use of it.
- 2.12 We have reached the decision set out in this document by reference to these statutory duties. Our decision is consistent with these duties and supports our decision to make available the 700 MHz band for mobile data services, pursuant to our duty to secure optimal use. Our aim is to encourage the availability and use in that band of those high-speed data transfer services while, at the same time, helping to maintain the use of spectrum for PMSE.
- 2.13 In these particular circumstances, it is appropriate to pay grants. They could protect the interests of relevant PMSE equipment owners and facilitate their continued provision of PMSE services (and maintain the benefits derived from them) where they have a specific expectation of spectrum tenure, whilst helping to secure the benefits of using the 700 MHz band for mobile data. We may use the powers we have under section 1(5) of the WT Act to make grants where doing so is likely to promote efficient spectrum use.
- 2.14 Our decision on the level of additional funding to award eligible PMSE equipment owners to help meet the additional costs they will face as a result of participating in the PMSE equipment funding scheme flows from the foregoing analysis. Grants will only be made to equipment owners who are eligible under the criteria set out in the August statement and consultation. Any grants we make on this basis would be subject to HM Treasury consent as required under section 1(7) of the WT Act.

Impact assessment

- 2.15 Section 7 of the 2003 Act provides that where we are proposing to do anything for the purposes of or in connection with carrying out our functions and it appears to us that the proposal is important, we are required to carry out and publish an assessment of the likely impact of implementing the proposal, or a statement setting out our reasons for thinking that it is unnecessary to carry out such an assessment. Where we publish such an assessment, stakeholders must have an opportunity to make representations to us about the proposal to which the assessment relates.

- 2.16 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. As a matter of policy Ofcom is committed to carrying out impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, “Better policy-making: Ofcom's approach to impact assessment”, which are on our website.¹³
- 2.17 In the August statement and consultation, we set out, and consulted on, the impact of our proposed decision on the funding for eligible equipment owners to help meet their additional costs (which we are now making). The analysis in that document was an impact assessment as defined in section 7 of the 2003 Act.

Equality impact assessment

- 2.18 Ofcom is required by statute to assess the potential impact of all its functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. Equality Impact Assessments (EIAs) also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- 2.19 The decision set out in this document follow the decisions we made in the 2014 and 2016 statements to clear the 700 MHz band and the notice we gave to PMSE users about the use of that band, as well as the decisions on scheme eligibility and funding level set out in the August statement and consultation. In reaching those decisions we conducted an EIA to understand if changes of use of the 700 MHz band could disproportionately affect any particular group of consumers or raise specific issues for groups that are protected under equality laws. In relation to the decision set out in this statement, we have not identified any further differential impact of our proposals in relation to the identified equality groups.

¹³ <https://www.ofcom.org.uk/consultations-and-statements/better-policy-making-ofcoms-approach-to-impact-assessment>

3. Funding for additional costs

Our consultation proposal

- 3.1 In their responses to the April consultation, stakeholders made submissions about the costs they might face as a consequence of the 700 MHz clearance. Examples include the expense associated with spectrum re-planning, finding proof of ownership of the relevant equipment, the additional employee hours needed to recover equipment from hire, the reprogramming of software systems and the costs of programme-managing the equipment changeover process.
- 3.2 In the August statement and consultation, we decided that it would be appropriate for PMSE equipment owners to receive funding to help meet the costs they will incur as a result of participating in the funding scheme. We said that only equipment owners who are eligible claimants will be eligible for additional funding to help meet those costs.
- 3.3 We said that it would be unlikely to be appropriate to undertake a case by case assessment of the costs incurred by each equipment owner. This was because it is likely to be a lengthy and complicated process that would only delay the time before a PMSE equipment owner could return to business as usual. This would not be consistent with our goal of securing the optimal use of spectrum and securing the benefits that flow from PMSE's access to spectrum. We proposed that the best approach would be to apply a single mark-up across all eligible claimants.
- 3.4 Based on limited information we had at the time, we proposed that a 5% mark-up should be applied to the payment a claimant receives from the scheme for eligible equipment (rather than the cost of the equipment a claimant decommissions) to help claimants meet the costs they will incur as a result of participating in the funding scheme.
- 3.5 We asked stakeholders for input on the following question.

Consultation question A: Do you agree with the proposal to reflect the costs of participating in the funding scheme by adding a 5% mark-up to the payment made to a claimant?

Consultation responses

- 3.6 We received seven responses to the consultation, of which two were wholly confidential and two were partly confidential. None said that PMSE equipment owners should not receive additional funding to help meet their costs, but the majority of respondents disagreed with our proposed approach or the level of funding. We have published non-confidential responses on our website. Below, we summarise the responses we received

and give our view.¹⁴ We then set out our decision on our approach to funding for additional costs.

A minority of stakeholders agreed with our proposed approach

- 3.7 Some stakeholders, such as Wigwam Acoustics, agreed with our consultation proposal, without making further comment.¹⁵

The funding scheme disadvantages small value claimants

- 3.8 Some stakeholders argued that the small value claimants in particular were disadvantaged by our proposed approach.
- 3.9 Loh Humm Audio said that the 5% figure was appropriate for organisations with large amounts of equipment. However, it said that it is not appropriate for a smaller organisation that owns less equipment. It said that the costs of the changeover process do not vary with the amount of equipment being surrendered. It identified businesses it works with who own equipment valued at £14,000 who will face costs of £2,000 – £2,500.¹⁶
- 3.10 Loh Humm Audio proposed that one way to address this issue would be to award a base amount (e.g. £2,500) to each claimant, with an additional 5% awarded for equipment surrendered over £50,000.
- 3.11 Highfield Church disagreed with the proposed approach to reflecting additional costs. It said that it is not a realistic way of calculating this part of the scheme's compensation. It said that the approach particularly disadvantages small charitable and community venues that do not have technical expertise in-house and need to buy in technical assistance. Given that their equipment is typically consumer grade and economically priced, the proposed 5% funding level will not meet the actual engineering costs.
- 3.12 Highfield Church proposed that every geographical site should receive a call out base compensation, plus a fixed amount per licensed frequency, plus 5% applied to each piece of equipment licensed to that frequency. It further said that at least 5% per annum on the replacement costs should be added on top of the above to reflect the delay in receiving payment from the scheme.¹⁷
- 3.13 The British Entertainment Industry Radio Group (BEIRG) echoed the views of Highfield Church and Loh Humm Audio. It indicated that the 5% uplift we proposed is not appropriate for smaller organisations.¹⁸

¹⁴ We give an overview of responses in Annex 1.

¹⁵ [Wigwam Acoustics consultation response](#)

¹⁶ [Loh Humm Audio consultation response](#)

¹⁷ [Highfield Church consultation response](#)

¹⁸ [BEIRG consultation response](#)

Our view

- 3.14 We derived our consultation proposal from the experience of an owner of PMSE equipment participating in the Channel 69 PMSE funding scheme in 2012 (part of the 800 MHz clearance). In this case total additional costs were estimated at £125,000, approximately 5 per cent of the replacement cost of the equipment the company decommissioned.¹⁹ This equipment owner could be considered a large PMSE user and therefore the uplift proposed in the consultation inevitably did not reflect the experience of all PMSE equipment owners. Having received more information from stakeholders on which to base our view, we consider that a 5% uplift to the payment received from the scheme would not reflect the costs smaller stakeholders will face in participating in the funding scheme.
- 3.15 Therefore, we consider that an increased uplift would be appropriate. However, we do not agree that it would be correct to adopt the approaches suggested by stakeholders. The proposal to give all claimants a flat payment (e.g. £2,500) to help meet their additional costs risks (perhaps significantly) overcompensating claimants who submit small claims. This would not be an appropriate use of public money. We further consider that the approach proposed by Highfield Church involves implementation challenges that cannot be overcome – for instance the PMSE licensing system does not allow us to confirm which piece of PMSE equipment is licensed to which frequency. We also think it likely that this approach would, in any event, add unduly to the complexity and cost of the scheme without necessarily providing corresponding benefits to stakeholders.

The proposed 5% uplift is not appropriate

- 3.16 Many respondents, such as the BBC, Autograph Sound and BEIRG, took the view that the overall level of the uplift in funding we had proposed was not appropriate.
- 3.17 The BBC said that the proposed reimbursement level did not reflect the time and effort needed to prepare the 700 MHz clearance. It identified additional costs of £200,000 related to the Channel 69 funding scheme compared to £1,700,000 worth of costs for new equipment. It also identified c. £5000 of additional costs associated with installing c. £50,000 worth of new equipment in a studio.²⁰ The BBC indicated that a figure in excess of 10% of the equipment replacement cost would more accurately reflect the costs likely to be incurred by PMSE users. It highlighted that the 700 MHz clearance changeover is likely to be more complex than the Channel 69 changeover.
- 3.18 Autograph Sound responded in a similar vein. It said that the changeover process for 700 MHz is likely to be twice as complex as the Channel 69 changeover. More skilled personnel will be required and for a longer time. Autograph Sound suggested that the cost will be

¹⁹ https://www.ofcom.org.uk/data/assets/pdf_file/0024/46923/700-mhz-statement.pdf

²⁰ [BBC consultation response](#)

over 10% of the amount it will claim for equipment and that the funding for additional costs should increase from 5% to 10%.²¹

- 3.19 BEIRG questioned whether a single 5% uplift was sufficient and fair to all on the grounds that the additional costs faced by PMSE equipment owners will vary between companies and productions.²² Autograph Sound suggested a tiered or scaled approach may be appropriate.²³

Our view

- 3.20 We acknowledge that different PMSE equipment owners will face different costs by virtue of their being involved in different productions. However, we consider that a case by case assessment of each claimant's costs would not be proportionate: again, such an assessment would place an increased burden on both claimants and the scheme administrator without, we think, necessarily providing meaningful benefits. We consider that we can help PMSE equipment owners to meet the additional costs they will face as a result of clearance through a single uplift.
- 3.21 We arrived at the proposed 5% uplift through reference to the experience of one claimant during the Channel 69 funding scheme. Stakeholders have now provided further evidence to inform our analysis. In particular, we note the view of Autograph Sound and the BBC that by comparison with the Channel 69 changeover the upcoming 700 MHz changeover will be more technically complex, require additional resource and be more time consuming.

Exclusion of some parties from the funding scheme

- 3.22 BEIRG disagreed with the exclusion from the funding scheme of parties who rent rather than own equipment, such as theatre companies. It said that the costs faced by these groups – such as for additional rehearsal time – should be covered by the funding scheme.

Our view

- 3.23 We do not consider it would be appropriate to include parties who do not own equipment in the funding scheme. The funding scheme is intended for PMSE equipment owners who would have made the decision to invest in equipment based on a previous assurance of security of tenure in the 700 MHz band that will come to an end prematurely as a result of the clearance of PMSE from the band in Q2 2020.

Our decision

- 3.24 In our judgment, it would not be appropriate to do a case by case assessment of each claimant's additional costs due to the cost, complexity and administrative burden (on both

²¹ [Autograph Sound consultation response](#)

²² [BEIRG consultation response](#)

²³ [Autograph Sound consultation response](#)

the scheme and claimants) of such an assessment associated with this approach. Therefore, our decision relates to the level of uplift to apply to eligible claims.

- 3.25 Small value claimants submitted that a 5% uplift will not reflect the costs they will incur. We are therefore minded to increase the level of funding available to smaller claimants in particular. In this respect a tiered approach, as some stakeholders suggested, might have been appropriate. However, larger equipment owners like the BBC and Autograph Sound also presented evidence that the 5% uplift was too low. This suggests that we should increase the uplift for these claimants also.
- 3.26 We have decided to award all claimants 10% of the payment they receive from the funding scheme for eligible equipment (rather than the cost of the equipment a claimant decommissions) to help meet the costs incurred as a result of participating in the funding scheme. This higher level of funding will put small value claimants in a better position to meet the costs of clearance. It also reflects the complexity and time associated with the 700 MHz clearance that users will have to face. It does so, in each case, without unduly increasing the cost and complexity of the scheme.
- 3.27 As set out in the August statement and consultation, where claimants submit their equipment in batches during the submission phase of the scheme, the 10% uplift will be applied to each payment a claimant receives.

4. Next steps

- 4.1 At this stage, we expect registration for the funding scheme to be in February 2019.
- 4.2 We will communicate directly with PMSE licensees about participation in the funding scheme. Further information will also be available online and in advertisements in PMSE trade publications.

A1. Summary of consultation responses

A1.1 We asked one consultation question in the August statement and consultation. We received seven responses. Below we set out the key themes that arose from stakeholder responses, along with our view in brief. We indicate where we have discussed this topic in the main body of this document.

Agreed with consultation proposal

Some stakeholders, such as Wigwam Acoustics, agreed with our consultation proposal. ²⁴	<i>We discuss this in section 3.</i>
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Our consultation proposal disadvantaged small users

Some stakeholders, such as Highfield Church and Loh Humm Audio, said that our consultation proposal disadvantaged small users. ²⁵	<i>We have raised the level of funding available to all users to 10% of the amount they receive from the funding scheme for their equipment. We discuss this in section 3.</i>
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Our consultation proposal was too low

Some stakeholders, such as the BBC and Autograph Sound, said that our consultation proposal was too low. ²⁶	<i>We have raised the level of funding available to all users to 10% of the amount they receive from the funding scheme for their equipment. We discuss this in section 3.</i>
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Some users omitted from the scheme should be eligible

Some stakeholders, such as BEIRG, said that some users who do not own equipment will incur losses as a result of clearance and should be eligible for the funding scheme. ²⁷	<i>We do not consider that users who do not own equipment should be eligible. We discuss this in section 3.</i>
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Costs incurred will vary between users

BEIRG said that the costs incurred by users will vary based on the productions they are	<i>We do not consider it would be appropriate to do case by case assessments. We discuss this in section 3.</i>
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²⁴ [Wigwam Acoustics consultation response](#)

²⁵ [Highfield Church consultation response](#); [Loh Humm Audio consultation response](#)

²⁶ [BBC consultation response](#); [Autograph Sound consultation response](#)

²⁷ [BEIRG consultation response](#)

involved in and that a single uplift applied across the board would not be appropriate. ²⁸	
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A tiered approach might be appropriate

Stakeholders, such as Autograph Sound, said that a tiered approach might be appropriate. ²⁹	<i>We considered a tiered approach to reflect the costs incurred by small users. However, we felt that evidence suggested that an increase in the funding level was appropriate for larger users as well. We discuss this in Section 3.</i>
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²⁸ [BEIRG consultation response](#)

²⁹ [Autograph Sound consultation response](#)