

Question 5.1

DETI agrees that national wholesalers will require a reasonable overall portfolio of spectrum, including an appropriate allocation in the sub 1GHz band, to be credible suppliers of higher quality data services.

Question 5.2

DETI agrees that there is significant risk of reduction in competitive market pressures if appropriate measures are not applied in the auction process. DETI also agrees with the OFCOM assessment that at least four national wholesalers is preferable with appropriate spectrum holdings in both the 800MHz and 2.6GHz bands.

Question 5.3

DETI agrees that one of the strengths of the UK telecommunications market is the number of sub-national RAN operators offering niche retail products. In the absence of competition measures there is a risk that such products may not emerge, impacting adversely on national coverage commitments set out by the Coalition Government in its broadband strategy "Britain's Superfast Broadband Future".

Question 5.4

DETI agrees that the more suppliers there are the better for consumers and competition. DETI also acknowledges the OFCOM proposals that should, fewer than four national wholesalers emerge from the auction process or should future merger proposals be suggested, competition checks are appropriate at that point. DETI has a concern as to the effectiveness of measures and methods used to establish if markets are competitive.

For example as a result of the merger of Crown Castle and National Grid Wireless to form Arqiva, mobile operators in Northern Ireland all rely heavily on this organisation for telecoms infrastructure such as masts.

DETI is aware of at least one instance where a fixed wireless operator was able to develop its own infrastructure at costs far below those which it was being quoted for whilst making enquiries under site share arrangements. This may be indicative that the market is not fully competitive. We would welcome further clarification from OFCOM on indicators that would flag the degree of competition in this sector.

Question 5.5

DETI agrees that the proposed measures are appropriate and proportionate.

Question 5.6

DETI agrees with this proposal. There is evidence that National Wholesale agreements are already emerging e.g. Virgin Mobile. National access therefore appears to function. A dormant access provision could inhibit the market and application of existing OFCOM powers, if required, is likely to prove to be a more appropriate and proportionate approach to ensuring competition.

Question 6.1

It is disappointing that OFCOM has been unable to provide any meaningful coverage data in this part of the consultation to indicate if the targets are reasonable, making it difficult to accept its current rationale which is lacking in evidence. High level modeling completed by DETI suggests that the total number of premises unable to get a service of 2M or better is in the range of 80-100K premises. It has been suggested that a national coverage objective could be achieved by excluding any rollout in NI. In fact there is irrefutable evidence that national coverage obligations do not deliver for the Devolved Regions, with the existing 90% obligation under the 3G rollout delivering coverage of just 40% in Northern Ireland. In addition, the proposed sanctions for breach of coverage obligations are not strong enough, with little detail provided in the consultation paper on the proposed monitoring arrangements.

In principle DETI supports inclusion of a coverage obligation. However, it would be more attractive if added to this obligation there was an approved mechanism by which funds could be channelled to compel/direct the holder of a license to build additional infrastructure to improve coverage. We would also favour a mechanism that could incentivise the holder to upgrade infrastructure to offer higher speeds e.g. linking annual license fees to coverage at the higher bandwidth.

DETI does not believe that adequate consideration has been given to the coverage obligation or its concentration on indoor coverage. The consultation should also have examined if it might be preferable to increase this target but apply it to outdoor coverage? Consideration should also be given to facilitating/permitting deployment of repeater or rebroadcast capabilities in this band to allow communities to install microcells to address hot spots.

Question 6.2

See comments above. DETI is again concerned that the evidence base seems limited and this is an issue that has been the cause of concern for some time. There have been several drive surveys undertaken locally and nationally to ascertain coverage. One of the most anticipated benefits has been improved coverage and service improvement. If the outcome of this auction is not better than current service/levels, questions will rightly be asked if a more prudent approach might have been to improve coverage with existing technologies. In

fact at a recent public meeting DETI was lobbied that efforts should be made to improve existing GSM services and coverage especially close to the border with the Republic of Ireland.

DETI believes that there is an obligation to ensure that economic and social benefits associated with the auction of this important spectrum is maximised in support of national broadband commitments. A coverage obligation of 95% nationally must translate into the same coverage regionally if those benefits are to be experienced across all of the UK and to the same extent.

Concerns have been raised by members of the public and elected representatives about poor mobile phone reception and the issue of inadvertent roaming close to the land border between Northern Ireland and the Republic of Ireland and at other locations across NI. We would therefore wish to see that obligations are factored in that mitigate or resolve this issue. We believe that the award of new licenses offers a unique opportunity to include obligations to improve coverage in areas close to NI's border with the Republic of Ireland.

DETI acknowledges that the auction must be structured in such a way as to ensure that it does not stifle competition and that coverage obligations are achievable. Consideration might be given to how a reduction in annual license might incentivise investment in rural/remote areas. In effect, a more pervasive coverage obligation could translate into a lower annual license fee. This is the "outside-in" concept that was widely supported under Digital Britain. Alternatively, if service is provided in an area that can be served cost-effectively then an investment needs to be made in a less commercially attractive area.

Whilst OFCOM has wanted to be a light touch regulator, the UK Government has placed the provision of world-class telecommunications up the agenda. We therefore believe that a more proactive approach should be taken.

In addition, DETI is concerned that monitoring and enforcement procedures for the coverage obligation are not discussed adequately in the consultation paper.

The obligation itself we believe should be disaggregated. The Office of National Statistics can capture data down to Census Output Areas. This approach is accepted nationally as offering the most robust evidence base on which to take investment decisions. DETI has used and indeed further developed this approach using Super Output Areas (SOA) in developing its Next Generation Broadband work, which includes an obligation to provide service to 85% of business for service provision in SOA areas across Northern Ireland. We believe that systems can be developed by suppliers to capture and model this data.

DETI is also concerned that the consultation paper is non-specific in relation to how compliance with the 95% coverage obligation might be measured. This is a key area on which DETI receives correspondence and DETI believes that more work needs to be undertaken to develop a robust monitoring model and to compel national wholesalers to provide information on their infrastructure networks.

Question 6.3

DETI would be broadly supportive of such an obligation. However, monitoring compliance with such an obligation would be resource intensive and while OFCOM has undertaken some research both locally and nationally into this issue, much more work is required. DETI would also suggest that such an obligation should be extended to include other transport links such as the railways.

There are a number of obvious roads in Northern Ireland to which such an obligation should be extended. These include, but should not be regarded as restricted to, the route between Belfast and Enniskillen, the new route upgrading the entire A5 to dual-carriageway from the Irish border near Aughnacloy, via Omagh and Strabane, to Londonderry and, more generally, both Motorways. The other instance is the Belfast Dublin railway line which has areas of poor or no coverage.

DETI believes that if such an obligation is to be considered within this auction, OFCOM should engage extensively with Northern Ireland councils, the Department for Regional Development and the Department for Agriculture and Rural Development to fully understand priorities set out in the Regional Development Strategy for Northern Ireland and the Draft Rural White Paper.

Question 6.4

DETI contends that OFCOM should be more robust in its approach to addressing mobile not-spots. If OFCOM wishes to exclude the combined awards from an obligation to provide coverage then it should state more clearly how it intends to amend existing licenses to address this issue. DETI has been approached on many occasions by businesses and citizens in rural areas of Northern Ireland who complain about poor mobile coverage as well as the issue of inadvertent roaming. These issues are also frequently raised with the DETI Minister who has lobbied OFCOM for resolution. DETI also understands that the issue has been raised with OFCOM directly through various forums including public and community meetings and through Councils. As this matter has remained unresolved with no improvement in either 2G or 3G coverage in Northern Ireland, DETI believes that OFCOM does not appear to be furthering the interests of consumers on this issue.

OFCOM's own research notes that 3G coverage across NI is at a level of 40% which is considerably lower than the UK average and is, in fact, the lowest by far anywhere in the UK. This suggests that the current license conditions are inadequate and have failed to deliver a reasonably uniform service across the whole of the UK. DETI advises that OFCOM needs to reconsider this issue.

The 'not spot' issue has been around for many years and the award of these new licenses represents a unique opportunity to resolve the matter. It is recognised that there could be significant costs in providing services to particular not spot areas but mechanisms need to be included in this license that allows them to be considered and corrected if feasible. One suggestion might be to establish a

“retention” fund from the license fees which operators could draw on to provide services to ‘not spots areas.

Question 6.5

DETI is extremely disappointed to note that OFCOM is minded not to include a “use it or lose it” clause in relation to licenses awarded through this auction process. There have been many licenses awarded by OFCOM which have not been fully utilised or where utilisation has been limited to a narrow geographic region. An audit of OFCOM licenses, site clearance files and registers would reveal many instances where spectrum has been awarded with an expectation by OFCOM that widespread services would emerge, but where investment has not proceeded. There appears to be little appetite within OFCOM to ensure that spectrum is efficiently and effectively used and DETI advises that active measures need to be developed.

One of OFCOM's expectations in relation to management of spectrum is that spectrum trading might have matured to such an extent across the UK, negating any requirement for “use it or lose it” provisions. However there is little evidence to date that this has stimulated innovative use of spectrum and there still remain significant barriers for new entrants.

Question 7.1

DETI has no specific issues to raise in relation to the proposed duration of the initial licensing period or subsequent procedures for revocation of licenses. DETI recognises that the proposed licensing period is appropriate. We would also ask Ofcom to note the previous comments on the requirement for appropriate mechanisms to ensure that coverage obligations address regional aspirations and requirements and that actual coverage in Northern Ireland is consistent with the UK average and that in the other regions and Devolved Nations. OFCOM must consider previous shortcomings in relation to management of spectrum to ensure that through this auction economic and social benefits which support the national broadband programme are extended to all areas of the UK.

Question 7.3

DETI would welcome a requirement as part of the licensing arrangement for the provision of data, including the GIS ordinates of sites and predicted coverage maps, power outputs and height of transmitters. DETI would also be interested in capacity or backhaul, utilisation figures of base stations and details of annual investment by the National Wholesalers in the regions/nations. Such data should be supplied on an annual basis and DETI understands that much of this is consistent with existing obligations under the Stewart Report Recommendations.

Question 8.1

DETI fully supports the OFCOM assessment of factors relevant to packaging of spectrum, particularly that of ensuring contiguity of allocation to match existing holdings by national wholesalers.

Question 8.2

No issues other than those identified by OFCOM or flagged by DETI elsewhere in this response have been raised with DETI. DETI believes that Northern Ireland benefits from being part of the larger UK telecommunications market but that its interests must be addressed in equal measure through this important auction process.