

Additional comments:

Question 7.1: Do you agree that it is best to seek to establish MitCo in advance of the auction for later transferral to 800 MHz licensees?:

We consider that Mitco should be established in advance of the auction as this is the most effective way to proceed and overcomes many of the issues identified in various parts of Section 7.

Question 7.2: Do you agree with our initial views on MitCo's constitution and governance?:

We consider that Mitco should be a limited company in view of the benefits that this option confers. However this structural form may cause difficulties with establishing MitCo in advance of the auction. Thus there is a need to consider how the shares intended for the successful licensees will be held before the auction takes place. Our view is that these shares should be held by an entity other than MitCo. However we have some concerns that if Ofcom held the shares then it might distort the auction process though further studies are required to understand the implications of this.

Question 7.3: Do you have any views on the proposed approach to the Supervisory Board.:

We are not convinced that a separate Supervisory Board is required and consider that MitCo itself could monitor progress against the KPIs with Ofcom monitoring the process to ensure that it is carried out effectively and fairly.

It also appears that the expert level function is duplicating some of the MitCo work and we consider that this duplication is inappropriate and does not provide any additional benefits. However if the Supervisory Board is established then we consider that the Chairman should be an independent person and not a Government official. Additionally the DCMS should not have any voting rights to prevent any possible conflicts of interest developing.

Question 7.4: We propose that the 50 gain share be split between 800 MHz licensees based on the volume of spectrum they hold in the 800 MHz band. Do you have any comments on this proposal?:

This issue raises a lot of questions and the thinking on this subject in the consultation document seems to be confused. Additionally some of the later paragraphs appear to indicate a possible different approach in that the funding will come from the Treasury rather licensees. Thus clarification over the source of this funding is required as this may have an impact on the distribution of any gainshare.

We consider that the gainshare should be distributed based on the combination of the volume of spectrum held and the demands that licensees network have placed on MitCo e.g. if one network operator has caused a disproportionate amount of interference issues then they should receive a lesser proportion of the gainshare.

Question 7.5: Are the information parameters defined above and in Annex 5 sufficient to allow MitCo to accurately and reliably forecast the scale and scope of households affected by DTT interference?:

The information parameters are valid thought there is a need to consider how it fits with the licensees network models and deployment plans. There is also a need to consider how the supply of information to MitCo fits with the role of the Supervisory Board and our response to Question 3 refers.

Question 7.6: Do you agree the KPIs related to MitCo's activities are appropriate and robust?:

Generally we agree that the KPIs are appropriate for meeting the relevant targets. However we note that paragraph 7.81 states that the 800 MHz licensees are collectively responsible for MitCo and we are concerned about how this responsibility fits with the relationship between MitCo and Supervisory Board.

Question 7.7: Do you agree that the KPI for incentivising and measuring the proactive supply of DTT receiver filters to households affected by interference should be based on an assessment of the outcomes rather than the activities performed by MitCo?:

This appears to be a valid approach and it is consistent with the funding structure of MitCo. However we have some concerns over the relationship between MitCo and the Supervisory Board and we consider that MitCo should have more responsibility in this area where currently it is proposed that the Supervisory Board should have the responsibility.

Question 7.8: Do you agree with the approach we have outlined for incentivising KPI achievement and managing cases of non-compliance with KPIs?:

Generally we agree with the approach but again this section of the consultation document raises questions regarding the relationship between the licensees, MitCo and the Supervisory Board.

Question 7.9: Do you agree with our proposed approach for managing MitCo's performance against other elements of service delivery that are not captured by KPIs?:

We consider that the 'MitCo activity' and 'Importance' are appropriate and valid. However we consider that for some of the activities the Supervisory Board is too involved and we consider that this involvement should be reduced. We recognize that this could place additional responsibilities on MitCo though we feel that this is the correct body for undertaking these tasks.

Question 7.10: Do you think a hard or soft limit should be set in relation to platform changes? Do you have any other comments in relation to the platform change cap?:

In view of the current number of uncertainties we tend to consider that a soft cap would be more appropriate. This approach may also be consistent with the national total for the number of platform changes. This national total could result in some reluctance to adopt platform changes in the early stages of the process to avoid exceeding the total in the later stages which could result in expensive mitigation techniques being required to meet the targets.

Question 7.11: Do you agree with the requirements we propose to place on licensees to address interference after MitCo closes?:

Parts of this section appear to indicate that changes to the network could be required after the network deployment is completed and we consider that there should be some limit on the changes that can be made. This may be linked to the possibility that the completion of network deployment might be rushed in order to maximize the gainshare that is distributed. Additionally the proposed provisions in paragraph 7.202 appear to indicate that retrospective changes to the license conditions may be applied which we consider is inappropriate. We consider that the Supervisory Board should be disbanded before MitCo closes in order that the final accounts can be produced.

Question 8.1: Do you have any views on the nature or detail of the requirements we propose may be necessary as set out in this Section?:

We are concerned that some of the provisions appear to differ from those given in earlier sections. We consider that some of the points mentioned in paragraphs 8.15 and 8.16 could have an adverse impact on the deployment of LTE and may even depress the spectrum value and/or have implications for the 800 MHz coverage requirements. In paragraph 8.12 there is a reference to a national total for platform changes and we consider that it may be difficult to work within this parameter particularly in the early stages of network deployment.