



Department for
Digital, Culture
Media & Sport

The Department for Digital, Culture, Media and Sport

100 Parliament Street
London
SW1A 2BQ

E: james.heath@culture.gov.uk

To: Katie Pettifer

Cc: *Sally Jones, Molly Kearney*

22 October 2018

Dear Katie,

The Future Telecoms Infrastructure Review (FTIR) sets out the Government's strategic objectives and priorities in relation to the management of radio spectrum. In summary, these are to: (i) ensure the effective and efficient utilisation of radio spectrum; (ii) improve mobile coverage to meet current demands (e.g. in rural areas and in-buildings); (iii) encourage innovation and investment in 5G services to meet future demands (e.g. industrial IoT and wireless automation); and (iv) promote competition in mobile markets.

We regard the introduction of new spectrum sharing models as a strategic priority to help secure these objectives. We welcome the fact that Ofcom is considering the FTIR's proposals in this area.

In advance of sharing a draft of the Government's Statement of Strategic Priorities (SSP) and given your spectrum work, I wanted to set out the Government's position in relation to Article 47(1) and Recital 122 of the European Electronic Communications Code (EECC), and to ask for your view on how Ofcom can successfully apply these provisions to the upcoming 700MHz/3.6-8 GHz auction, and more widely.

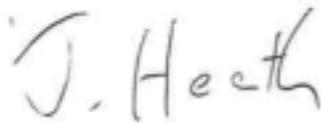
The current text of the Article, supported by the Recital, are in line with the Government's strategic priorities and we are, therefore, minded to transpose them into UK law with full effect, subject to the ongoing Brexit negotiations. This includes Recital 122 which specifically outlines that, in order to enforce conditions of spectrum use, competent authorities should include a "use it or lose it" clause in licences. We believe this builds on the current powers that Ofcom has (derived from the Wireless Telegraphy Act 2006 and the current European framework), to ensure the efficient use of radio spectrum. The new powers will ensure that there will now be an obligation on competent authorities to impose and enforce 'use or lose it' conditions related to individual spectrum rights, subject to the normal constraints on the grant of spectrum rights, such as proportionality. It will form an important incentive for MNOs to share or lease their spectrum licences.

To reflect this upcoming legislation, we would expect that Ofcom include these provisions in the upcoming auction of the 700 MHz and 3.6-3.8 GHz bands. Whilst the Government understands that the auction of these bands may be prior to the transposition of the EECC into UK law, as the new powers in the EECC align with the Government's position we believe that they should be reflected in the licences.

Finally, we would like Ofcom to review the existing guidance on mobile spectrum leasing and advise licence holders that it is possible to apply to vary existing licences to permit leasing. We believe that working through the issues together will aid the implementation of Article 47, as well as providing for greater liquidity and transparency in the spectrum trading market.

I look forward to working with you and your team to ensure the policy is successfully applied in the UK.

Regards,

A handwritten signature in black ink that reads "J. Heath". The signature is written in a cursive, slightly slanted style.

James Heath
Director of Telecoms
Department for Digital, Culture, Media and Sport