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James Heath  
Director, Digital Infrastructure  
DCMS

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Dear James,

Thank you for your letter of 19 October which sets out the Government's view that the introduction of new spectrum sharing models will help to secure the objectives set out in the Future Telecoms Infrastructure Review (FTIR), and is therefore a strategic priority. It was useful to be made aware of the Government's position on certain aspects of the draft European Electronic Communication Code (the Code) and the intention to have this position reflected in the Government's draft Statement of Strategic Priorities (the SSP).

In our soon to be published consultation on the award of 700 MHz and 3.6 – 3.8 GHz, we will set out that we do not currently propose to include 'use it or lose it' conditions in the licences for these spectrum bands, for a number of reasons:

- Such conditions are very difficult to make workable in practice because of the problem of defining what constitutes 'use' and therefore what the trigger for an enforced trade or revocation would be;
- There may be entirely legitimate reasons for spectrum remaining unused – the licensee may be holding back until it sees a suitable commercial opportunity or until the technology it wishes to use is ready; and
- Imposing such an obligation also has the potential to distort and/or chill the incentives to invest in the spectrum, and so reduce the benefits for consumers and citizens which the award would otherwise create.

However, licences issued by Ofcom are not exclusive, and we have discretion to authorise use of these or any other frequencies, for other purposes, in line with our statutory duties.

We note the Government's intention to legislate on this issue and we intend to state in our consultation that we are aware of this intention. We plan to note in our consultation that we will keep the position under review and, to the extent that we are required by law to include such a condition in the licences we auction when we make our final decisions, we will do so. As you know, in carrying out our relevant functions, we will also have regard to the final SSP following completion of the statutory consultation and Parliamentary process that applies to it.

Finally, you asked that we review our existing guidance on mobile spectrum leasing and advise licence holders that it is possible to apply to vary existing licences to permit leasing. I note that this

was also a recommendation for Ofcom in the FTIR. Although we've rolled out trading across nearly all of our licences, our publicly available trading guidance<sup>1</sup>, makes clear that leasing is currently only allowed in some business radio and spectrum access licences on a case by case basis. The guidance also sets out, however, that we will keep the position on permitting leasing in bands not covered by the guidance (such as mobile bands) under review, in light of factors such as demand for leasing. Following recent calls for third party access to mobile spectrum, we have considered whether leasing should be introduced more widely. Our view is that we can make mobile spectrum available to third parties more quickly, with all of the benefits associated with leasing (but without some of the drawbacks), by developing a local licence product for shared access to mobile spectrum. We intend to also consult on this approach shortly.

We will publish this exchange of letters alongside our forthcoming 700 MHz and 3.6-3.8 GHz auction consultation.

Yours sincerely,

Katie Pettifer

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<sup>1</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0029/88337/Trading-guidance-doc-jul15v0-1-2.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0029/88337/Trading-guidance-doc-jul15v0-1-2.pdf)