



Clearing the 800 MHz band

Funding for moving programme-making and special events from channel 69

Statement

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Section 1

Executive summary

- 1.1 Last year we decided to clear the 800 MHz band so it matches the spectrum being released in other European countries. This will benefit people across the UK because the spectrum will be able to be used for new mobile broadband services. Because of this, programme-making and special events (PMSE) users will have to stop using channel 69. To help these users move, we have made a commitment to:
 - provide replacement spectrum and maintain PMSE access to channel 69 during the changeover period; and
 - provide funding to eligible PMSE users who are affected by us clearing channel 69.
- 1.2 In our 15 April 2010 interim statement on our plans for managing PMSE spectrum, we outlined the arrangements for different types of user moving from channel 69 to channel 38, or other replacement spectrum.
- 1.3 In this statement we focus on funding. The previous Government, in its Digital Britain final report, said that it supported the proposal to clear the 800 MHz band and that it was prepared, in principle, to provide funding for users who had to move.
- 1.4 In August 2009, we consulted on the detailed arrangements for providing funding for eligible users (below we explain which users are eligible for the scheme). We said we would pay out funding to users based on the value of their existing equipment and that this was in line with our powers to make grants to promote the efficient use of spectrum. Most of those who responded to this consultation said that the funding should cover the full cost of replacing equipment. They said that providing anything less than the full replacement cost would mean some users would find it difficult to invest in new equipment.
- 1.5 The Government is responsible for making final decisions on the level of funding and how it is provided. It considered the arguments for providing funding to cover the full cost of replacing channel 69 equipment, including those arguments we thought would raise issues wider than the efficient use of the spectrum.
- 1.6 On 28 July 2010, the Department for Business, Innovation and Skills announced the new Government's plan to provide a funding package to support PMSE users moving out of channel 69. The package does not cover PMSE users in other channels. The funding will provide a contribution towards the cost to PMSE users of replacing their channel 69 equipment. It will be based on the cost of bringing forward investment in new equipment. PMSE users will receive the same amount no matter what age the channel 69 equipment that needs to be replaced is, as long as it is in working order and they meet the other requirements of the scheme.
- 1.7 This statement gives more information on how funding will be provided as a result of the Government's decision to provide funding which will be a contribution to the cost of replacing the equipment. We set out the conditions that users must meet to qualify for funding, the evidence that will be needed to check claims and how payments will be worked out. We finish by setting out the next steps for launching the funding scheme.

Who will be eligible for funding?

- 1.8 To be eligible for funding, a user must have held a licence to use channel 69 equipment on 2 February 2009 (when we gave notice that we planned to clear channel 69), or in the 12 months before this date. The only exception to this requirement is companies who can prove their business involves hiring out, rather than using, equipment which needs a channel 69 licence.
- 1.9 Users will only be able to receive funding for working equipment that tunes to channel 69 but not channel 38. They must have bought that equipment before 30 June 2009 (when we confirmed channel 38 would be replacing channel 69).

How will we work out how much funding each person will get and check their claims?

- 1.10 The contribution to the cost of replacing equipment will be based on the estimated cost to users of having to invest in new equipment before the end of 2012 rather than in 2018 (as they might have reasonably expected based on our previous statements on the availability of channel 69 to PMSE users). This works out as roughly 55% of the cost of replacing the equipment with an equivalent model. If users choose to modify rather than replace their equipment, we will pay for the cost of the modification (up to the amount that we would have paid as a contribution towards the replacement).
- 1.11 We will use a 'rate card' to decide on the amount of funding to be paid. The rate card shows the amount of funding available for each piece of channel 69 equipment, worked out against the price of equivalent current equipment (channel 38 where available, channel 69 where not). The amount on the rate card is based on the assumption that users will give up their equipment on 1 October 2012. As this is when PMSE users will no longer have the first right of access to channel 69 in any part of the UK. Funding will be slightly higher for equipment claimed for earlier than 1 October 2012 (about 0.1% extra per week). In Annex 6, you can find the list of eligible equipment models affected by clearing channel 69, and the amount of funding that we would pay if users stopped using their equipment on the latest possible date 1 October 2012.
- 1.12 Users who make a claim will need to prove to us that they own the equipment for which they want funding unless the total replacement value of their claim falls below £6000. This takes into account the circumstances of smaller (particularly non-professional) users who may not have records of when they bought their equipment. Users who are not VAT-registered will receive an extra 20% funding to reflect the fact that they will not be able to reclaim or offset VAT on items they buy.

When will the funding scheme start?

- 1.13 First, users will need to register their claims through our appointed PMSE funding scheme administrator, Equiniti Ltd. Registration will open on 23 September 2010 and close at the end of December 2010. The scheme administrator will be available to support PMSE users, through the website www.pmsefunding.co.uk, or by phone on 0800 011 3617.
- 1.14 Users will be asked to provide details of all the channel 69 equipment they own and want to claim for, whether they want to give it up or modify it, when they want the claim to be processed and in how many batches. They can ask that their claim is

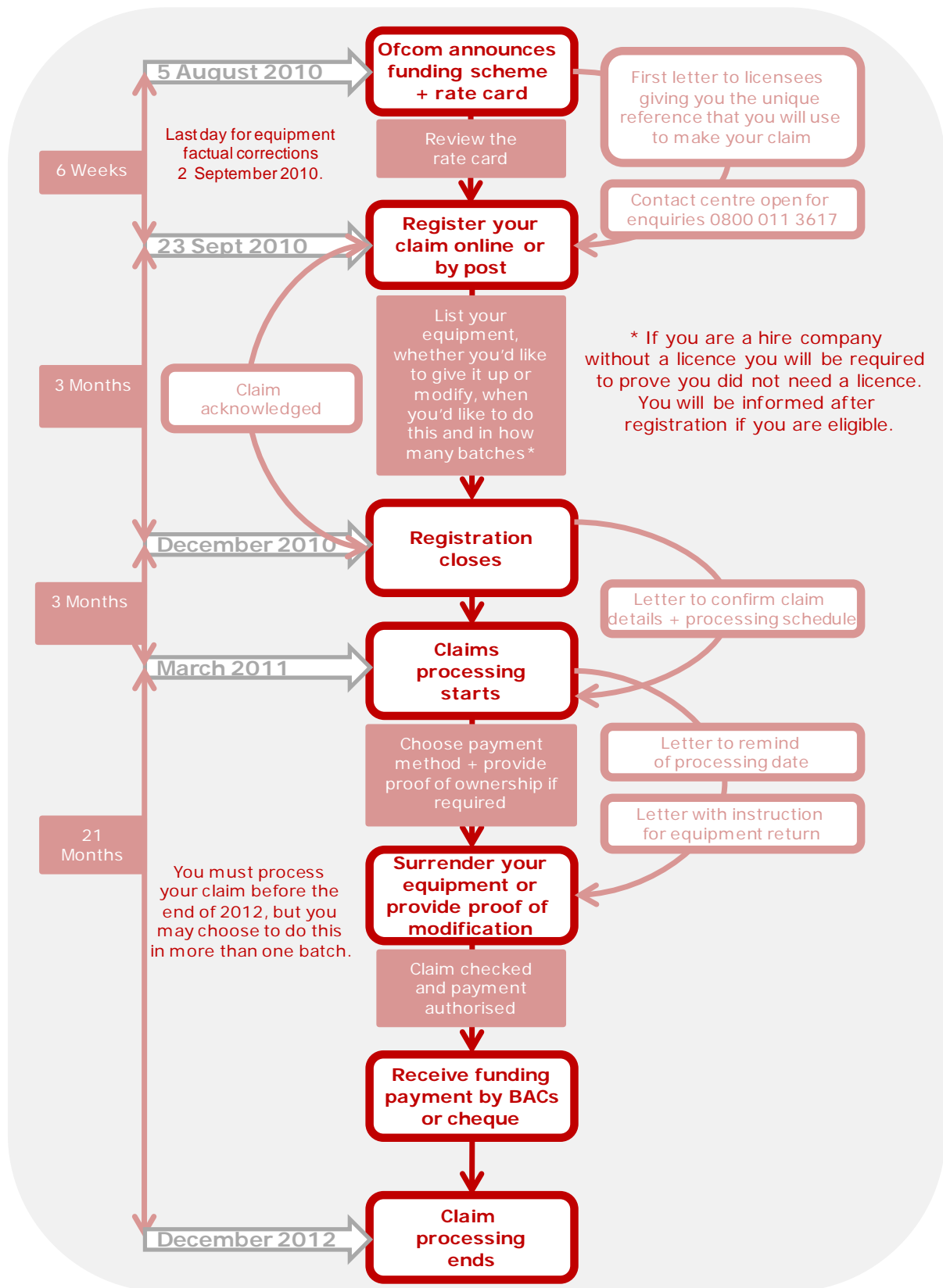
processed at any time between March 2011 and December 2012, and it can be done in batches if necessary. For example, a user may want to claim for half of their channel 69 equipment in July 2011 and the other half in October 2012, after the London Olympics.

- 1.15 Users can visit the website now to find out about the scheme and review the rate card. The rate card shows how much funding is available for each item of relevant channel 69 equipment in line with the Government's announcement on funding, and the policy described in this statement. We are asking PMSE users to check the information included in the rate card and suggest, to the scheme administrator, any corrections which may be needed. However, the administrator will need to receive details of these corrections by 2 September. After this, we will review any suggested corrections and decide whether we should change the rate card.
- 1.16 We expect that the administrator will start paying out funding from March 2011 after receiving formal permission from HM Treasury to pay out grants. We will publish the final rate card, including any changes, at the same time. When the funding scheme administrator processes the claim, they will check that it meets the criteria of the scheme before they pay out the funding.



The Executive summary has received the crystal mark from the Plain English Campaign.

Figure 1: Making a claim



Section 2

Introduction

- 2.1 Our decision to clear the 800 MHz band (comprising frequency channels 61-69 in UHF Band V) and release it for new services means that PMSE users of channel 69 (854-862 MHz) must move to alternative spectrum.¹ We took this decision on the basis of our analysis that clearing channels 61, 62 and 69 to release the whole band for new uses would bring significant net benefits for UK citizens and consumers (conservatively estimated at £2-3 billion in addition to the benefits of clearing channels 31-37 and 63-68 as part of digital switchover). We said we would put arrangements in place to help PMSE users move out of channel 69 (and digital terrestrial television (DTT) out of channels 61-62) with the minimum of disruption. We recognised that moving would be a complicated and costly exercise with risks of disruption to users and the citizens and consumers who rely on their services.
- 2.2 We made two key commitments to PMSE users affected by our decision:
- **to provide replacement spectrum and maintain PMSE access to channel 69 during the transition period:** we confirmed channel 38 (606-614 MHz) as the replacement for channel 69 and said that PMSE access to channel 69 would be maintained until at least 1 January 2012, when channel 38 would become available UK-wide.
 - **to provide funding for the move from channel 69 subject to meeting eligibility criteria:** we indicated that funding for the residual value of equipment (or the cost of modification) would be made available so that eligible PMSE users would be left in an equivalent position as if we had not decided to clear channel 69 by 2012.
- 2.3 We see these commitments to minimising disruption as crucial to making it possible for PMSE users to continue providing important services. Channel 69 is particularly important for PMSE users as it allows them to use the same equipment across the UK. Estimates in 2006 suggested that 95% of new wireless microphones sold and 50% of professional users' equipment were for use in channel 69.² Users operate wireless microphones, in-ear monitors and other devices using frequencies in this channel to deliver a multitude of different services across the UK, including: recording the sound for film and TV productions; staging live theatre and concerts; and projecting voices in churches and community centres.

We have provided information on replacement spectrum for channel 69

- 2.4 On 15 April 2010, we published a statement (the interim statement) which set out our intention to defer the award of spectrum to a band manager with special obligations

¹ *Digital Dividend: Clearing the 800 MHz band*, 30 June 2009.

<http://www.ofcom.org.uk/consult/condocs/800mhz/statement/clearing.pdf>. In this statement, we refer to this document as the '800 MHz statement'.

² *Use of UHF Spectrum for Programme Making & Special Events in the UK*, Sagentia, 2006.
http://stakeholders.ofcom.org.uk/binaries/consultations/ddr/report_sagentia.pdf

to the PMSE sector.³ In that statement we also addressed the first of our commitments to PMSE users affected by our decision to clear channel 69: to provide replacement spectrum. We gave an update on the final date when PMSE users will be able to access channel 69 and set out details of the options for replacement spectrum which users of channel 69 may choose to move to ahead of the final date for moving from the channel.

2.5 With regard to the timing for clearing channel 69, we decided:

- PMSE users will retain primary access to channel 69 until at least 1 July 2012 in all of the UK and at least 1 October 2012 in London, Northern Ireland and northeast England (the Tyne Tees television region);
- we will determine in 2011 the final date for clearing channel 69 when more information will be available on the likely timing of new services being rolled out in the 800 MHz band; and
- the final date for clearance will remain no later than 31 December 2012.

2.6 Recognising the different types of PMSE use of channel 69, the availability of channel 38 and the suitability of other spectrum available for PMSE, we:

- set out the options for moving to replacement spectrum and when users might make the move (further details on moving to channel 38, channel 70 (863-865 MHz)⁴, 1517-1525 MHz, interleaved spectrum or the duplex gap (823-832 MHz) can be found in the interim statement); and
- explained the shared licensing arrangements we introduced for channel 38 in January 2010 to allow similar utility as channel 69.

Channel 38 will be available for low power wireless microphones on a UK-wide basis from 21 September 2011

2.7 The April 2010 interim statement stated that channel 38 would be effectively available on a UK-wide basis from 1 January 2012 or from the date that radio astronomy protection in that spectrum was removed. This date was important because it signalled the earliest that some PMSE users would be able to deploy new equipment in this replacement spectrum UK-wide. Bearing in mind that channel 69 will cease to be available from July 2012 in most of the UK, the overlap period between full channel 38 availability and channel 69 ceasing to be available for PMSE would have been at least seven months.

2.8 Since we published that statement, the Science and Technology Facilities Council (STFC) has agreed to an amendment to its channel 38 Recognised Spectrum Access (RSA) so that radio astronomy protection in channel 38 will cease on 21 September 2011, earlier than initially envisaged. This is because of the need to facilitate DTT use of channel 39 from the Sutton Coldfield transmitter.

³ *Programme-making and special events: Future spectrum management, access and availability*, 15 April 2010.

<http://stakeholders.ofcom.org.uk/binaries/consultations/bandmanager09/statement/statement.pdf>

⁴ References to channel 70 in this document do not include 862-863 MHz, which is licensed separately or 865-870 MHz, which is used for short-range devices including key fobs and low-power radio-frequency identification devices such as security tags used in shops.

- 2.9 Channel 38 will therefore effectively be available for low power wireless microphones on a UK-wide basis from 21 September 2011. The maps below show the amount of available spectrum in across the UK in channel 38 (figure 2) and channels 38-40 (figure 3) from this date.

Figure 2. Available spectrum in channel 38 for wireless microphones on 21 September 2011

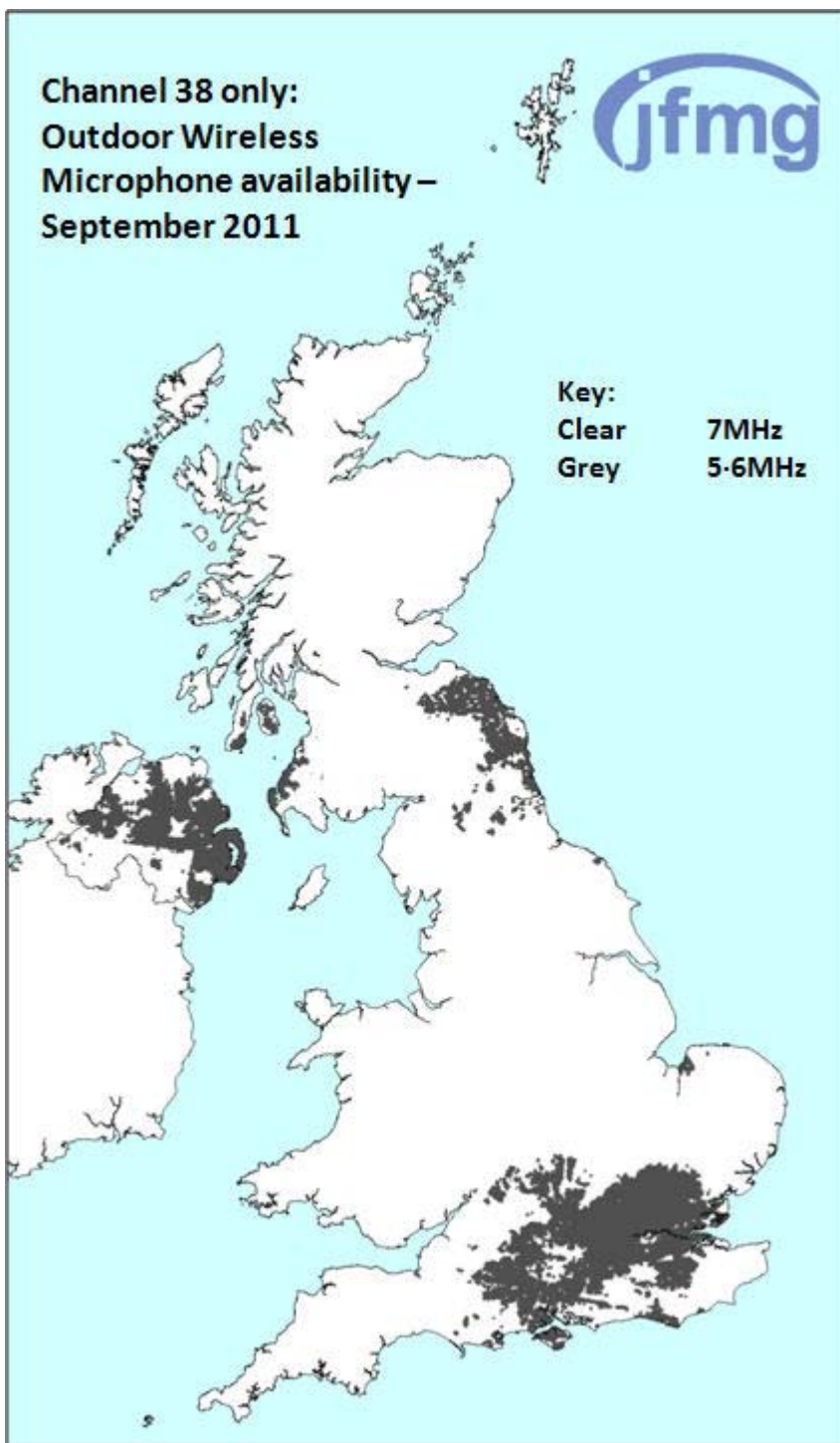
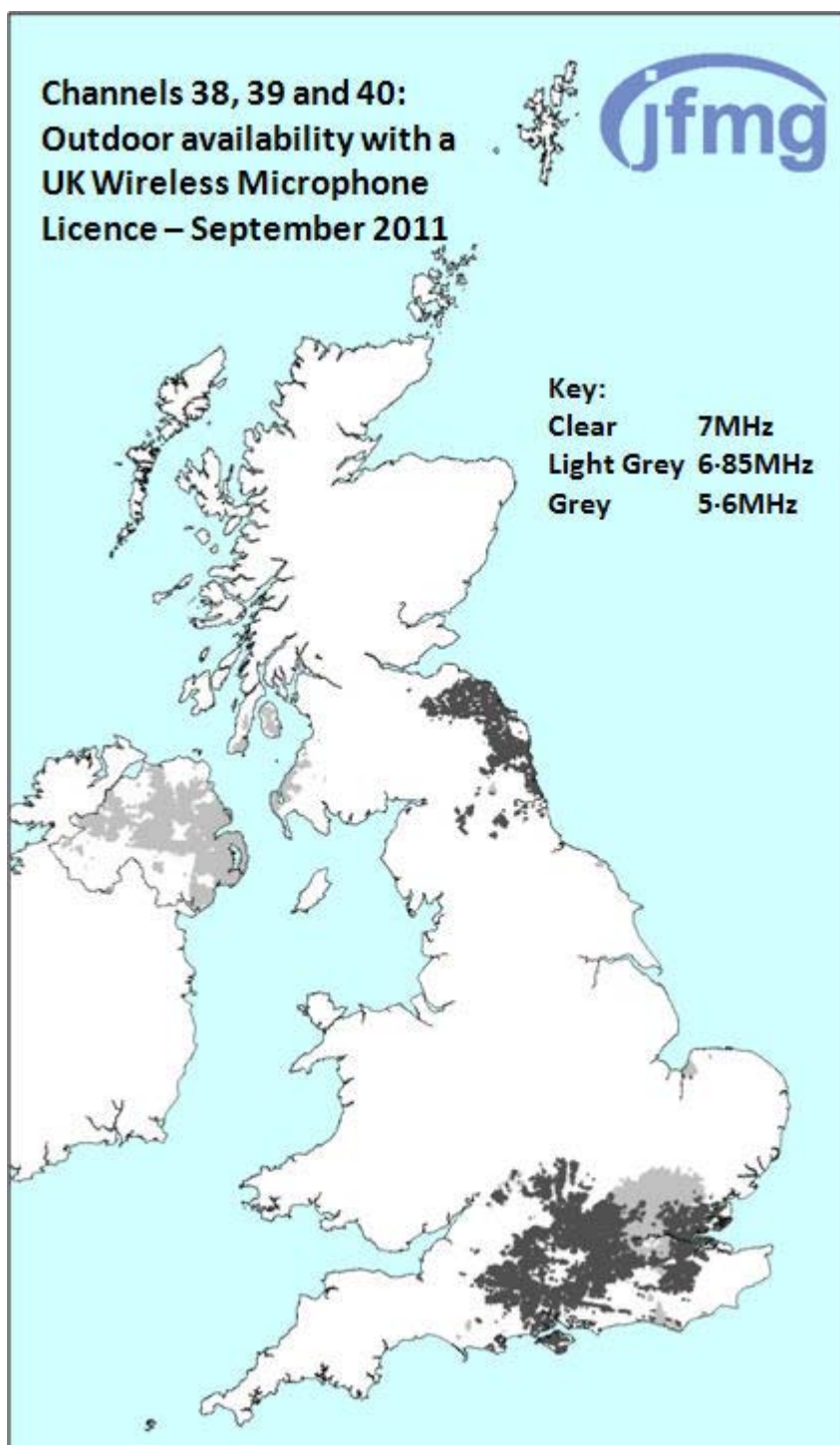


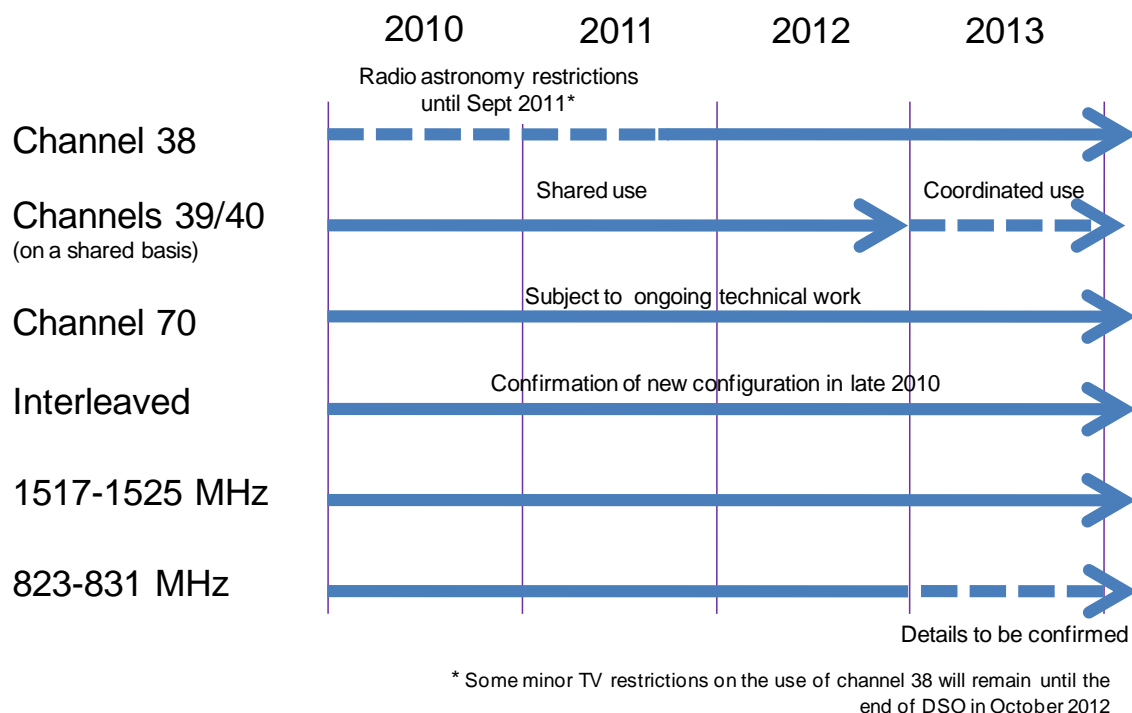
Figure 3. Available spectrum in channels 38-40 for wireless microphones on 21 September 2011



2.10 Figure 2 shows that from 21 September 2011 there will be full indoor channel 38 availability across the UK and that at least 5.6 MHz will be available in any outdoor location. This outdoor bandwidth should be able to support the deployment at least seven wireless microphones in all locations (and eight or more in most locations). This picture improves where we factor in the additional availability of channels 39 and 40 shown in figure 3. We understand from discussions with industry that they need sufficient bandwidth to support the deployment of up to eight wireless microphones in each location. We therefore consider it likely that most PMSE users will be able to

start the move from channel 69 to channel 38 from September 2011 at the latest. The extra three months overlap period should assist those users who need full UK-wide channel 38 availability before they make their investment in new channel 38 equipment.

Figure 4. Timing of availability of alternative spectrum to channel 69



2.11 Addressing the broader picture of PMSE spectrum availability after DSO, we confirmed in the interim statement that we plan to publish information on the availability of interleaved spectrum for PMSE after DSO later this year following the conclusion of international negotiations to clear the 800 MHz band. As we stated at the time, we expect there to be more than sufficient spectrum to meet historic peak demand and will publish details of this as soon as the information is available.

This statement sets out decisions on funding

2.12 The second of our commitments, to provide funding, requires the support of the Government both because of the public money involved and because the statutory power under which we make grants specifically requires HM Treasury approval both of the level of grants and their terms. The Government confirmed in principle that it would meet the costs of the move from channel 69 in the Digital Britain final report published on 16 June 2009, and we have continued to engage with it on the matter.⁵

We consulted on the detailed arrangements for providing funding

2.13 We published a consultation on the detailed arrangements for providing funding for affected PMSE users in August 2009 (the funding consultation).⁶ We asked for views on proposed eligibility criteria, the approach to verifying claims, the methodology for

⁵ Digital Britain final report, 16 June 2009. <http://www.culture.gov.uk/images/publications/digitalbritain-finalreport-jun09.pdf>

⁶ Digital Dividend: clearing the 800 MHz band – funding for programme-making and special events, 14 August 2009. http://www.ofcom.org.uk/consult/condocs/pmse_funding/pmse_funding.pdf

calculating funding and the likely impact of the timing of the clearance of channel 69. To further inform our decisions and estimates of the scale of funding required, we also asked for information on the inventories of equipment held by channel 69 users and whether they hold receipts for this equipment.

- 2.14 We proposed to provide funding based on the residual value of the equipment, up to the point in time beyond which PMSE users could not reasonably have relied on an expectation to have access to channel 69. We said that before we gave notice of our plans to clear channel 69 in the 800 MHz consultation published on 2 February 2009, PMSE users could have expected to have continued access to channel 69 until 2018 based on what we had said previously about its availability.⁷ Because users would have invested in new equipment and in repairs and maintenance on this basis, we said that we would make funding available in relation to the period from 1 January 2012 until the end of the equipment's useful life or the end of 2018, whichever comes earlier.
- 2.15 We said that this approach to calculating funding takes account of our previous statements about spectrum availability and promotes the spectrum efficiency goal referred to by our powers to make grants under section 1(5) of the Wireless Telegraphy Act 2006. Providing full replacement cost would go beyond what is necessary to achieve that objective and, although the objectives it could address may be desirable in themselves, the additional cost would reflect objectives that fall outside the statute which empowers us to make grants.

PMSE users said that funding should cover the full cost of replacing their equipment

- 2.16 A large number of stakeholders – 305 in total – responded to this consultation. The information and views provided have been invaluable in informing the Government's decision on the level of funding and our final decisions in respect of the design of the funding scheme and plans for migration. We set out our decisions on these matters in this statement alongside the next steps for providing eligible PMSE users with funding. We are very grateful to those who went to the time and effort to respond to the consultation.
- 2.17 Much attention has centred on the issue of whether the funding provided should cover the residual or full value of equipment that will need to be replaced. The overwhelming majority of respondents to the consultation said that the full cost of replacing equipment should be funded. PMSE users said that clearance of channel 69 will mean they will need to replace their equipment in greater quantities and at an earlier point than they had expected. They said that this will require a level of investment that they would have difficulty in funding, particularly in the current economic conditions. PMSE users also said that the lack of availability and cost of current channel 38 kit presented problems. Essentially, there was concern about filling the gap between residual value and the cost of unexpectedly needing to replace equipment by 2012.

⁷ *Digital Dividend: clearing the 800 MHz band*, consultation, 2 February 2009. <http://www.ofcom.org.uk/consult/condocs/800mhz/800mhz.pdf>. In this statement, we refer to this document as the '800 MHz consultation'.

The Government has decided to fund a contribution to replacing channel 69 equipment

- 2.18 The final decision on funding – including whether on a residual or replacement basis – is a matter for the Government. The Government is not subject to the same statutory framework as we are and can take into account matters such as broader cultural and industrial policy which go beyond our spectrum efficiency remit. We presented arguments made by users to the Government together with an estimate of the funding requirement, both to enable it to understand the size of the gap between replacement cost and residual value that users had expressed concerns about being able to meet and to inform it about the likely budgetary impact. PMSE users have also made representations to the Government directly.
- 2.19 On 28 July 2010, the Department for Business, Innovation and Skills announced a government funding package to support PMSE users moving out of channel 69.⁸ The package does not cover PMSE users in other channels. The funding will provide a contribution to the cost to PMSE users of replacing their channel 69 equipment. It will be based on the cost of bringing forward investment in new equipment. PMSE users will receive the same amount regardless of the age of the channel 69 equipment that needs to be replaced, as long as it is in working order and the other requirements of the scheme are met.

We will work out the contribution based on the cost of replacement channel 38 equipment

- 2.20 In light of this Government decision and taking into account responses to our consultation, we have considered how best to calculate the contribution towards replacing equipment through evaluating the economic impact on PMSE users arising from the clearance of channel 69 in 2012 rather than 2018.
- 2.21 The approach we have agreed with the Government is to base the funding calculation on the cost of the equivalent replacement channel 38 equipment. This will provide a proportion of this cost to reflect the fact that PMSE users will have to invest earlier in this equipment than they could have expected. We consider this approach is the one that most closely reflects the additional cost that will be incurred as a result of moving early from channel 69. We think it more closely reflects the cost to PMSE users of bringing forward investment than paying an amount based on the residual value of existing equipment as we had originally proposed. We consider that we can still make payments on this basis within our powers to make spectrum efficiency grants under section 1(5) of the Wireless Telegraphy Act 2006. Full details of our approach to calculating funding, responses to our consultation proposals and how we reached our final decisions are set out in section 4.
- 2.22 The remainder of this statement is set out as follows:
- **Section 3** sets out the criteria that PMSE users must meet to be eligible for the funding made available by the Government.
 - **Section 4** describes how funding will be calculated and how claims will be verified.

⁸ News release, Department for Business, Innovation and Skills, 28 July 2010. <http://www.wired.gov.net/wg/wg-wlabel-dti.nsf/wfArticle?ReadForm&unid=894D73F1953C08CA8025776E002F5A0E>

- **Section 5** provides information on when PMSE users will be able to make claims for funding and other details of how the scheme will work in practice.
- **Annex 1** summarises the responses to the consultation and our responses.
- **Annex 2** outlines the economic methodology for calculating funding.
- **Annex 3** sets out our assessment of the impact of different policy options.
- **Annex 4** sets out assessment of the impact of our policies on equality.
- **Annex 5** is a glossary of abbreviations used in this statement.
- **Annex 6** lists eligible equipment models affected by clearing channel 69 and the amount of funding that would be paid for claims processed on 1 October 2012.

Section 3

PMSE users who are eligible for funding

Who will be eligible for funding?

- 3.1 We are providing funding to PMSE users affected by clearing channel 69 in order to promote the efficient use of spectrum by freeing up the 800 MHz band for new services. We are mindful of the key objectives we set out in our 2007 consultation on future spectrum access for PMSE, and in particular of the need to minimise disruption to PMSE users so that their ability to provide a wide range of services to citizens, consumers and business customers is not adversely affected.
- 3.2 In order to be eligible for funding, claimants must satisfy the eligibility criteria set by us and agreed by the Government. We proposed a set of eligibility criteria in the 800 MHz consultation. In the subsequent 800 MHz statement we confirmed the categories of users who would be eligible for funding and identified some categories of users that may be eligible for funding, subject to further deliberation. We consulted on these categories in the funding consultation and have carefully considered all consultation responses. We discuss the issues raised by this consultation and our conclusions below.

3.3 **We have concluded that in order to be considered for funding, claimants must:**

- **EITHER have held a channel 69 licence between 2 February 2008 and 2 February 2009;**
- **OR be able to produce verifiable evidence that their business is based on hiring out channel 69 equipment rather than using it and therefore does not require a licence.**

Eligible claimants will only receive funding in respect of equipment which:

- **belongs to them;**
- **is in working order;**
- **tunes to channel 69 but not channel 38 (without modification); AND**
- **was purchased before 30 June 2009 (when we confirmed channel 38 as the replacement for channel 69).**

Original eligibility proposals

- 3.4 Our 800 MHz statement set out our intention to apply the following funding eligibility criteria:
- equipment had to be purchased before the publication of the 800 MHz consultation (2 February 2009);
 - claimants had to have held a licence to use channel 69 valid before the publication of the 800 MHz consultation (2 February 2009); and

- the equipment had to be capable of tuning to channel 69 but not channel 38.
- 3.5 These criteria were based on our judgement that before we published the 800 MHz consultation on 2 February 2009, PMSE users operating in channel 69 may reasonably have expected to continue to use the channel up to 2018 (based on the information contained in previous regulatory statements) and may therefore have invested in equipment on this basis (see paragraphs 4.5-4.9 for further discussion about the basis for funding).
- 3.6 In the 800 MHz statement we also concluded that we would not require hiring companies to have held a licence in order to be eligible for funding so long as they could demonstrate to our satisfaction that their operations are based on equipment hire as opposed to equipment use that requires a licence and they otherwise fulfil the eligibility criteria. We set out proposals for the evidence that we would require from these hiring companies in the funding consultation (see paragraph 3.11).
- 3.7 We concluded in the 800 MHz statement that there were some additional categories of users who may be eligible for funding, subject to further consultation, namely:
- users who held channel 69 licences before 2 February 2009 but had legitimate reasons for allowing those licences to lapse for a period prior to this date;
 - users who needed to purchase channel 69 equipment between 2 February and 30 June 2009 for demonstrable and compelling reasons. This recognised that we did not confirm channel 38 as the replacement for channel 69 until we published the 800 MHz statement. Before this, users might have reasonably continued to purchase channel 69 equipment if necessary; and/or
 - users who needed to purchase channel 69 equipment between 30 June 2009 and 1 January 2012 because their existing equipment is demonstrably in need of replacement and channel 38 equipment will demonstrably fail to meet compelling operational requirements. This recognised that some PMSE users requiring UK coverage might have operational needs that channel 38 could not meet before becoming fully available for PMSE use.
- 3.8 We noted in the 800 MHz statement that we were minded to conclude that PMSE users of channels 31-37 and 61-68 would not be eligible for funding as a consequence of our decision to clear the 800 MHz band because they had been given more than sufficient notice of the need to clear this spectrum. This would be at least four years for users of channels 61 and 62 and more than six years for channels 31-37 and 63-68.
- 3.9 In the 800 MHz statement we also concluded that the following groups of users would not be eligible for funding:
- users whose equipment does not tune to channel 69. The position of these users is not made worse by clearing channel 69;
 - users whose equipment tunes to channel 69 but also tunes to channel 38. Again, these users are not left in a worse position by clearing channel 69; and
 - users who have never held a licence to operate in channel 69 or who did not have legitimate reasons for allowing their licence to lapse for a reasonable period prior to 2 February 2009. A licence is required for lawful use and we believe it inappropriate for public funding to be made available to those who use channel

69 without a licence. The Government, which had indicated it will meet the costs of clearing channel 69, shared this view.

- 3.10 In the funding consultation we made proposals in relation to the categories of users set out in paragraphs 3.6-3.8 and asked stakeholders for their views. These proposals, stakeholder responses, our analysis and final decisions are set out below.

Hiring companies will be included in the scheme if they can produce sufficient evidence

- 3.11 We confirmed in the 800 MHz statement that unlicensed hiring companies that otherwise fulfil the eligibility criteria would be eligible for funding provided they produced evidence to prove to our satisfaction that their operations are based on equipment hire and not any equipment use that requires a licence. In the funding consultation, we proposed that such evidence would need to include:

- rental agreements (including orders/invoices) with PMSE customers who are licensed;
- relevant company documents (e.g. memorandum and articles of association setting out the objects of the company, business plans etc); and/or
- marketing materials (e.g. brochures, catalogues, advertising, directory listings etc).

- 3.12 We asked the following question in relation to the evidence required from hiring companies in order to be eligible for funding (subject to fulfilling the other eligibility criteria):

Question 1: Do you agree with our proposals for sufficient evidence that a rental company's operations are based on equipment hire as opposed to equipment use that requires a licence? If not, what would you suggest as alternative evidence?

Summary of responses

- 3.13 The majority of respondents who answered this question agreed with our proposals for the types of evidence that would be sufficient, including AMPS, the BBC, BEIRG, the Churches' Legislation Advisory Service (CLAS), the Institute of Broadcast Sound (IBS) and ITN. BEIRG stressed that there should be no burden on hiring companies to prove that the clients that rented their equipment held licences.
- 3.14 In addition to hiring companies, BEIRG said that there are other businesses and individuals which will be affected by channel 69 clearance whose operations do not require a licence (e.g. distribution companies and other equipment stockists such as retailers). BEIRG said that these groups of equipment owners should also be eligible for funding, so long as they could provide appropriate evidence that they did not require licences.

Our response

- 3.15 Under section 8(1) of the Wireless Telegraphy Act 2006, it is unlawful to install or use wireless telegraphy apparatus without a licence. Individuals or companies that hire out wireless microphones and associated equipment are responsible for ensuring they comply with this legislation and should generally have a licence. However, we accept that some individuals or companies that hire out wireless microphones may

not need a licence due to the way they conduct their business. They may have invested in new equipment and maintained existing equipment for hire with the reasonable expectation of access to channel 69 for PMSE up to 2018 before we announced our intention to clear channel 69 in the 800 MHz consultation and therefore should be eligible for funding. Therefore, hiring companies that otherwise meet the eligibility criteria will be able to apply for inclusion in the funding scheme.

3.16 We note that there was broad support for our proposals on sufficient evidence for hiring companies which do not – and do not need to – hold licences. We noted that BEIRG said that we should not require hiring companies to show their customers were licensed. We accept that hiring companies cannot be expected to ensure others do not break the law and therefore have removed the requirement for hiring companies to show their customers are licensed. The evidence that we will accept from applicants will include:

- rental agreements, orders, invoices or contracts with PMSE customers;
- relevant company documents (e.g. memorandum and articles of association setting out the objects of the company, business plans etc); and
- marketing materials (e.g. brochures, catalogues, advertising, directory listings etc).

This is not an exhaustive list. Applicants for funding should ensure they present as comprehensive evidence as possible to ensure timely settlement of claims.

3.17 When assessing applications to be included in the funding scheme from unlicensed hiring companies, we will consider the extent to which the submission and the evidence:

- shows that the applicant hired out channel 69 equipment on or before 2 February 2009; and
- supports the claim that the applicant did not need a channel 69 licence, taking into account the nature of the business and customer base.

3.18 The starting assumption is that generally PMSE users, including hiring companies, should be licensed. Applicants will be required to give demonstrable and compelling reasons why they did not require a licence to conduct their business and will only be included in the scheme if they can supply sufficient evidence to satisfy us that this was the case. We will reject applications if the applicant cannot provide sufficiently compelling evidence for inclusion in the scheme. The process for applications is set out at paragraph 5.7.

3.19 We acknowledge BEIRG's assertion that there might be additional businesses, such as retailers and distributors, which may be affected by the clearance of channel 69 but do not require a licence. However, the scheme is designed to promote the efficient use of spectrum by easing the transition of PMSE users from channel 69 to channel 38, recognising the reliance placed by hiring companies as well as users on statements as to the long term availability of channel 69. Our consultations with PMSE users have made it clear that hiring companies play a significant role in the viability of the sector. Successful transition for PMSE users is thus linked with the ability of hiring companies to make significant re-investments, relying on statements we make regarding spectrum availability.

- 3.20 We believe manufacturers and retailers are in a different position from hiring companies because they are short-term holders of stock who respond to existing demand in the market by producing and selling equipment. They generally accept a range of business risks associated with holding stock, would not generally be expected to rely directly on regulatory statements, and might in fact benefit from clearance through increased demand for new equipment. Additionally, we have not received any evidence of loss or other direct representations from such parties.
- 3.21 Therefore, we consider that it would not be appropriate and proportionate to include unlicensed retail and distribution companies within the scope of the scheme.

Users must have held a licence to use channel 69 between 2 February 2008 and 2 February 2009 to receive funding

- 3.22 We proposed that any user who held a valid licence for using channel 69 at any time during the 12 months prior to 2 February 2009 should be eligible for funding as long as they met the other eligibility criteria and could justify why the licence lapsed. We said that 12 months was sufficient to account for periodic use of channel 69 equipment (e.g. at a seasonal event).
- 3.23 We asked the following question in respect of this proposal:

Question 2: Do you agree that users who have held a valid channel 69 licence at any time during the 12 months prior to 2 February 2009 and can justify why it lapsed should be eligible for funding, subject to the other conditions outlined above? If not, what other time period would you propose and why?

Summary of responses

- 3.24 The BBC, IBS, ITN and most other respondents agreed with our proposal that if users had held a licence in the 12 months prior to 2 February 2009 (and satisfied all the other criteria) they should be eligible for funding.
- 3.25 AMPS agreed that 12 months prior to 2 February 2009 is a reasonable time period but asked that we should be generous in our interpretation of justification due to the unpredictable and intermittent nature of freelance sound recording work. It said that we should consider exceptional circumstances where users' licences have expired more than 12 months before 2 February 2009 on their merits.
- 3.26 Others argued there should be no cut-off period at all. BEIRG and the Association of Professional Recording Services (APRS) said that providing users can justify why their licences have lapsed, they should be eligible for funding regardless of the length of time before 2 February 2009 when they last held a licence. BEIRG said that restricting the eligibility period to 12 months prior to 2 February 2009 could feasibly penalise legitimate claimants who had not used their equipment during that period and therefore had not required a licence due to a range of different circumstances (e.g. long-term illness; career break; change in career; channel 69 equipment not required during this time due to large inventory of other kit; or overseas operations). BECTU shared these concerns and said that funding should be based on ownership of equipment not on evidence of licence-holding.

Our response

- 3.27 We have decided that claimants must have held a channel 69 licence to operate equipment at some point during the 12 months prior to 2 February 2009. We note

that many respondents supported our proposal and maintain that it would not be appropriate to provide funding regardless of when the user's most recent licence lapsed. In our view, allowing a period of 12 months before 2 February 2009 is sufficient to account for periodic use (e.g. use once a year at an annual event) and ensure that legitimate claimants are captured within the scope of the funding scheme.

- 3.28 We have reconsidered the requirement for users that did not hold a channel 69 licence on 2 February 2009 but did hold a licence at some point in the preceding 12 months to provide reasons for the licence lapse. We think that holding a licence at some point during this period suggests a user may continue to make legal use of channel 69 equipment in future. Providing justification for licence lapses would be onerous for claimants and difficult to assess due to the range of potential explanations that could be provided. Taking these factors into account, we think that asking claimants to provide justification for licence lapses would introduce undue complexity to the scheme and not serve to further the aim of ensuring funding is only provided to legitimate claimants. Therefore, we have decided that claimants will be eligible so long as a licence was held at some point during the 12 months prior to 2 February 2009 (and they satisfy all the other eligibility criteria) and we will not require justification for lapses.
- 3.29 We consider that if a user has not held a licence since 2 February 2008 it suggests either that it stopped using the equipment (and therefore has not been providing services that will be disrupted by clearance) or that the user continued using the equipment without a licence. BEIRG suggested a range of potential circumstances in which users may not have held a licence since 2 February 2008 but still have a legitimate case for receiving funding. While we note these potential circumstances, we have not seen evidence that they are widespread and consider that the vast majority of cases where licences lapsed before 2 February 2008 are likely to be because the user stopped using the equipment or was operating illegally. It would be unduly difficult to fairly assess the reasons provided by individual claimants for licence lapses, and would indeed require an inappropriate degree of discretion to be exercised when processing individual claims. In those circumstances, we do not consider it would be appropriate to extend eligibility generally to users whose licences lapsed before 2 February 2008.

Equipment must have been purchased before 30 June 2009 to be eligible

- 3.30 We proposed that users who purchased channel 69 equipment between 2 February 2009 and 30 June 2009 should be eligible for funding for this equipment as long as they can justify its purchase and meet the other eligibility criteria. But we said that users who purchased channel 69 equipment after 30 June 2009 should not be eligible for funding for this equipment. We said that channels 38-40 would support indoor use and up to three wireless microphones outdoors (apart from in a small number of locations) as soon as the further work on the availability of these channels was complete; users who require greater outdoor capacity will be able to utilise their channel 69 equipment up to 1 January 2012 when the geographic restrictions will be lifted from channel 38; and users have the option of hiring channel 69 equipment for this purpose until channel 38 becomes available on a UK-wide basis.
- 3.31 We asked the following questions in relation to the potential inclusion of eligible PMSE users who purchased equipment after the publication of the 800 MHz consultation:

Question 3: Do you agree that equipment purchased by eligible PMSE users between 2 February and 30 June 2009 should be eligible for funding, subject to providing evidence of the compelling reasons for making the purchase? Is there other evidence we should consider acceptable?

Question 4: Do you agree with our proposal that channel 69 equipment purchased after 30 June 2009 should not be eligible for funding? If not, what are the circumstances in which you think such equipment should be eligible?

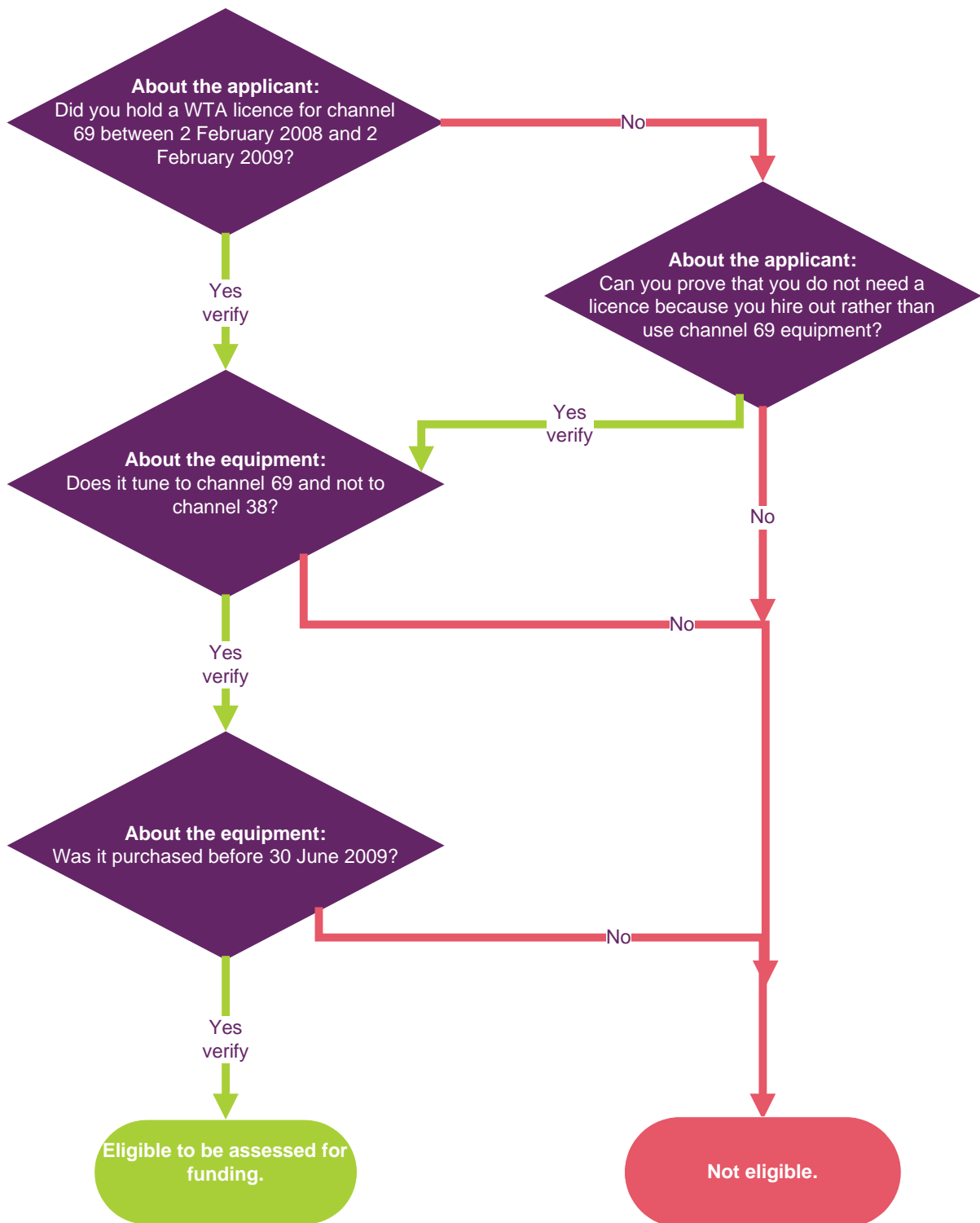
Summary of responses

- 3.32 The majority of respondents agreed with the proposal to extend the cut-off date to 30 June 2009. However some suggested further reasons why users might need to purchase channel 69 equipment during this period. BEIRG said that users who purchased channel 69 equipment in order to meet increased demand should also be included, alongside those who had equipment that needed to be replaced. The BBC said that users should not be required to provide evidence to justify making purchases during this period because there was still uncertainty over whether channel 38 would be confirmed as the replacement channel for PMSE until the 800 MHz statement was published on 30 June 2009. ITN said that as there is no cost effective alternative to channel 69 equipment available from manufacturers, there is no alternative but to purchase channel 69 equipment where business needs dictate. A number of respondents said that the original 2 February 2009 cut-off date for funding was severely damaging business for manufacturers as users were delaying buying new equipment until there was more certainty about their future use of spectrum.
- 3.33 A number of respondents, including AMPS, the BBC and BEIRG argued for further extension of the 30 June 2009 cut-off date. AMPS questioned our assertion that users would have the option of hiring channel 69 equipment until channel 38 becomes available on a UK-wide basis. It said that the rental costs would be higher than the fee paid to freelance sound recordists for supplying their own equipment and services and therefore this was not a financially viable option. It added that this would lead to an increase in demand and thus a shortage of available channel 69 equipment for hire. It called for us to clarify our suggestion that extending the cut-off date may increase the risk of fraudulent claims.
- 3.34 Respondents put forward a range of proposals for where the cut-off date for funding should fall. These included providing funding for channel 69 equipment bought up until the point when some or all of the following conditions are satisfied:
- shared licences are issued for channel 38;
 - suitable channel 38 equipment is on the market (at prices comparable to equivalent channel 69 equipment);
 - channel 38 is available UK-wide on the same basis as channel 69; and/or
 - the move to channel 38 is complete.
- 3.35 AMPS, with the support of other respondents, said that new PMSE users (as well as existing PMSE users) who purchased channel 69 equipment up to the point when channel 38 becomes a viable alternative to channel 69 should also qualify for funding.

Our response

- 3.36 We have decided to extend the eligibility period for funding to include equipment purchased up until 30 June 2009 (the date when we confirmed channel 38 as the replacement channel for PMSE in the 800 MHz statement). We think this reflects the fact that users did not have certainty up until this point that channel 38 would be the replacement PMSE channel and that they may have had justifiable reasons for purchasing channel 69 equipment in this period.
- 3.37 We have reviewed our proposal that users should provide justification for purchasing equipment between 2 February and 30 June 2009. In light of our decision to include these users in the scope of the scheme we consider that it would be disproportionate to require additional evidence to justify claims.
- 3.38 We have decided that new users would not be included in the scheme if they bought channel 69 kit after 2 February 2009 but did not hold a licence before this date. This is because we do not consider that these users would have had a reasonable expectation of continued access to channel 69 at the point when they invested in equipment and purchased a licence. Unlike existing users, new users had the option of delaying their purchase until the position was clearer.
- 3.39 We will not be extending the cut-off date for purchasing channel 69 equipment that will qualify for funding beyond 30 June 2009. Licensees had been notified of the decision to clear channel 69 as well as the decision as to the replacement channel by this date. Therefore, any purchases of channel 69 equipment after this date were the result of an informed investment decision. We are also concerned that if we were to announce funding for channel 69 equipment purchased beyond 30 June 2009 we might distort investment decisions going forward, as users would factor in the promise of funding and therefore possibly purchase a greater amount of equipment than they would have otherwise (see Annex 3 for further discussion).
- 3.40 Figure 5 sets out the eligibility criteria in a flow chart.

Figure 5. Eligibility criteria



PMSE users of channels 31-37 and 61-68 are not included in the funding scheme

- 3.41 We said in the funding consultation that we would be willing to consider representations from existing PMSE users of channels 31-37 and 61-68 who felt there were special circumstances that in their view may entitle them to a different period of notice than others on a case-by-case basis.
- 3.42 We asked respondents the following question about PMSE users of the other spectrum affected by DSO and the decision to award the digital dividend:

Question 5: Do you agree with our proposal to consider on a case by case basis representations from PMSE users of channels 31-37 and 61-68 who feel there are special circumstances that in their view may entitle them to a different period of notice than others? If not, please state your reasons.

Summary of responses

- 3.43 The BBC, ITN and IBS supported our proposal in relation to PMSE users of channels 31-37 and 61-68.
- 3.44 APRS and BEIRG said that all owners of PMSE equipment that will be rendered redundant as a result of DSO and the digital dividend should be entitled to funding that will cover the full costs of replacing their existing equipment with like-for-like alternatives. BECTU said that funding should be made available as broadly as possible, encompassing all equipment that operates in channels 61-69.
- 3.45 AMPS said that the Government had pledged to meet all the costs associated with changing frequencies, including channels 61 and 62, in the Digital Britain final report. CLAS said that similar considerations apply to users of channel 61 and 62 as to those of channel 69.

Our response

- 3.46 Adequate notice was given for the clearing of these channels – at least four years for channels 61 and 62 and more than six years for channels 31-37 and 63-68. The clearance of channel 69 is different due to the assurances we gave to the PMSE sector regarding their protected access to spectrum until 2018. These circumstances do not apply to other channels where adequate notice was given and no specific assurance for protective access was made. The Government has only committed to providing funding for PMSE users of channel 69. PMSE users in channels 31-37 and 61-68 will not be included in the funding scheme outlined in this statement.
- 3.47 We acknowledge that individual PMSE users may come to us, setting out the specific circumstances relevant to their case which they wish us to consider, and we will consider such representations on their individual merits.

Conclusions

- 3.48 Taking into account the responses to the funding consultation, we have made the following decisions regarding the eligibility criteria for funding under the scheme:
- the scope of the scheme will be limited to licensed PMSE users, with the sole exception of unlicensed hire companies who can provide sufficient evidence that

their operations are based on PMSE equipment hire as opposed to equipment use that requires a licence;

- PMSE users who did not hold a licence for channel 69 on 2 February 2009 will be eligible for funding if they held a licence for channel 69 at any time during the preceding 12 months;
- equipment purchased before 30 June 2009 will be eligible for funding; and
- equipment purchased after 30 June 2009 will not be eligible for funding.

3.49 In addition we note that claimants who do not fulfill the eligibility criteria but who believe they can provide compelling and properly evidenced reasons they have a legitimate case to receive funding (taking into account the reasons for limiting eligibility referred to in this document) can ask us to consider their individual circumstances.

Section 4

Calculating funding and verifying claims

Introduction

4.1 The Government is responsible for making final decisions on the availability and level of funding. It decided to provide funding for a contribution to the cost of replacing channel 69 equipment, to reflect the need for PMSE users to invest in new equipment earlier than originally envisaged. In light of this decision and the responses to the consultation, we have considered how best to calculate the amount of funding to be paid to eligible PMSE users. This section sets out how we will calculate funding and the evidence that will be needed to verify claims.

How we will work out funding

4.2 **Users will be able to claim for:**

- a contribution to the cost of replacing their channel 69 equipment; or
- the cost of modifying their channel 69 equipment (up to or equal to the amount indicated on the rate card which would be provided as a contribution to replacing it).

We will use a rate card to show the level of funding available for each equipment model as a contribution to the replacement cost.

We will pay an additional 20% in funding to claimants who are not VAT registered to recognise that they will not be able to offset or reclaim VAT on items or services they buy.

All claimants will be required to show proof of ownership to receive funding apart from those with claims with a total replacement value under £6000 (as indicated by the estimated replacement cost shown on the rate card).

Equipment which is replaced

4.3 **The contribution to the cost of replacement equipment will be equal to the cost of new equipment less the remaining value of this equipment in 2018 discounted to the week when the claim is processed.**

- This means that claimants who surrender their equipment will get a minimum of 55% of the estimated replacement cost of their equipment – plus additional funding if they hand in their equipment early
- Claimants must hand in the equipment they are claiming for in order receive funding, although they will be able to do this in a number of separate batches if they wish.

Equipment which is modified

4.4 **Claimants who would prefer to modify their equipment and are able to do so will be able to claim for funding for modification. Funding for modification will**

not exceed the amount that would have been provided as a contribution to the replacement cost indicated on the rate card. It will be paid subject to claimants proving the equipment has been modified and fulfilling the other eligibility criteria.

The basis for providing funding

Funding is being made available to promote the efficient use of spectrum

- 4.5 An important factor underpinning our approach to the efficient use and management of spectrum is that users should have as great a degree of certainty as possible about its future availability. Reasonable inferences drawn from statements made by us or the Government will contribute to the certainty felt by users. A lack of certainty is likely to reduce users' incentives to invest in spectrum-related assets which could undermine spectrum efficiency and innovation. At the same time, users cannot reasonably expect spectrum to be available indefinitely, and there must be scope for the use of spectrum to change over time if it is to continue to be used efficiently.
- 4.6 To determine the appropriate level of grants to promote the efficient use or management of spectrum, we take into account in particular the extent to which it was reasonable for a user to rely on the expectation of continued availability of the relevant frequencies, unless there are compelling spectrum efficiency reasons to deviate from this approach. We can provide grants on spectrum efficiency grounds when this reasonable expectation is not met by the notice period provided to users. The level of the grant is assessed with reference to the impact on the user of curtailing this reasonable expectation. We would not provide funding when it would not have been reasonable for a user to rely on spectrum being available e.g. where sufficient notice has been given.
- 4.7 Our assessment of the appropriate notice period takes into account the minimum time in which a licensee can reasonably vacate a band. It also looks at other factors, including planning, procurement, testing and installation of new equipment.

We think users may have reasonably expected to have access to channel 69 up to 2018 before we proposed to clear the 800 MHz band

- 4.8 The proposals we made in the funding consultation regarding calculating funding were designed to place PMSE users in no worse but no better position than if we had not decided to clear channel 69 before users may have reasonably expected. This requires us to assess the expectation that users may have had about their continued access to the channel before we announced our intention to clear it.
- 4.9 In the case of channel 69, we gave notice to PMSE users in our 800 MHz consultation on 2 February 2009, and our proposals were confirmed in the 800 MHz statement on 30 June 2009. In the funding consultation we said until 2 February 2009 PMSE users could reasonably have relied on the expectation that channel 69 would continue to be available until 2018. However, we do not think that PMSE users could reasonably have relied on the expectation that channel 69 would be available beyond that date, let alone indefinitely, based on our statements.
- 4.10 We asked the following question in relation to the period for which we would provide funding:

Question 7: Do you agree with our assessment that PMSE users could reasonably have expected to have access to channel 69 until 2018, but not beyond this date? If

not, what time period would you consider reasonable, and why? In this context, please note, the fact that some equipment may be expected to operate beyond 2018 is not, on its own, a sufficient reason to reconsider that date.

Summary of responses

- 4.11 Many respondents disagreed with this assessment, arguing that although no specific dates were given the spirit and intention of our consultations and statements implied that channel 69 would remain a constant factor for PMSE. For example, IBS and ITN said that prior to the formal notification there was nothing to lead to the assumption that access to channel 69 would end by 2018. APRS and BEIRG said that PMSE must reasonably have expected to continue to use channel 69 beyond 2018. They stated that extrapolating an end-date for funding that relates to an argument about the requirement for protected spectrum access is unfair.
- 4.12 Many respondents said that they expected their current equipment to work after 2018 and funding should reflect this. Some respondents, such as the BBC, argued that as access to channel 69 beyond 2018 was not ruled out, it would be appropriate to calculate funding based on a time period equal to the full remaining lifecycle of channel 69 equipment.

Our response

- 4.13 In discharging our spectrum management functions we must periodically review spectrum use. In some cases we will need to make decisions in the interest of spectrum efficiency that can have a detrimental impact on some existing users. The fact that a decision has a detrimental impact does not give rise to an automatic entitlement to funding. As discussed above (see paragraphs 4.5-4.7), funding is only likely to be appropriate where we have not provided adequate notice to cover a licensee's reasonable expectation of continuous access to particular spectrum.
- 4.14 We appreciate that users did not know for sure whether or not they would have access to channel 69 after 2018. However, our consultations and statements prior to February 2009 only assured users they would have access to channel 69 until 2018, and thus could not form the basis of a reasonable expectation by users of access after 2018.

How we assessed the options for working out funding

- 4.15 In our June 2007 consultation on future PMSE spectrum access, we set out four key objectives for future spectrum access for PMSE users:⁹
- avoiding disruption to PMSE users that adversely affects their ability to provide a wide range of services to citizens, consumers and business customers;
 - facilitating participation of the PMSE sector in a market-based approach to spectrum;
 - promoting the optimal use of spectrum in relation to all potential uses and users over time; and
 - avoiding the risks of regulatory and market failure.

⁹ *Programme-making and special events: future spectrum access*, 20 June 2007.
<http://www.ofcom.org.uk/consult/condocs/pmse/pmse.pdf>

4.16 In the funding consultation we said that we needed to design a methodology for assessing the amount of funding payable for each piece of eligible equipment that was consistent with these four key objectives. In determining the most appropriate methodology, we proposed to consider the following factors:

- providing accurate funding for each claim;
- minimising administration and compliance costs;
- providing incentives for timely and orderly migration;
- dealing with claims quickly; and
- ensuring a simple, transparent and predictable process.

4.17 We said that a methodology which balances these factors would be consistent with our four key objectives for future spectrum access for PMSE and that minimising administration costs and seeking to provide accurate funding for eligible claims are important aspects of ensuring prudent use of public funds.

4.18 We asked the following question about the factors we proposed:

Question 10: Do you agree with the factors we propose to consider when designing the methodology for determining the funding payable for each piece of eligible equipment? Are there any additional factors we should consider?

Summary of responses

4.19 Some respondents disagreed with our proposed factors, generally because they said that funding the full cost of replacement equipment would be the only fair approach. However, many respondents supported our proposed factors. Of the respondents who agreed, some raised additional points or considerations, including:

- BEIRG said that full replacement funding would satisfy these criteria. They also suggested the following factors should be added to the list: minimising disruption to the PMSE community; encouraging the successful clearance of the entire 800 MHz band; and ensuring that it is commercially viable for manufacturers to start producing alternative equipment as soon as possible.
- The BBC and AMPS said that we should assign particularly high importance to minimising administration and compliance costs incurred by users.
- ITN said that the large range of sizes and types of businesses within the sector mean that attempts to streamline the administration might disadvantage some groups of users.
- IBS said that we will have to consider carefully how to handle community users' access to funding given that the nature of their original purchase and use will be quite different to that of professional users.

Our response

4.20 We agree that the factors raised by BEIRG, namely minimising disruption to the PMSE community, encouraging successful clearance of the 800 MHz band and

providing the necessary certainty to ensure manufacturers are in a position to produce replacement PMSE equipment, are all important considerations. We have been and will continue to consider these factors in developing and implementing the clearance of channel 69.

- 4.21 However, as these factors have broad relevance to clearance as a whole, we believe they are more suitable as overarching considerations rather than as objectives against which our funding methodology should be assessed specifically. We think that the five factors proposed in the funding consultation are consistent with these overarching considerations and the additional factors raised by respondents are already implicitly reflected in these factors.
- 4.22 Therefore, we have decided to use the proposed five factors for consideration in developing and assessing our funding methodology.
- 4.23 We have also given consideration to respondents' concerns about the treatment of individual, small and non-professional users and have made a number of policy decisions to ensure fair treatment. In particular:
- we understand that small users for whom PMSE equipment does not form a core part (or indeed any part) of a business might not have had reason to retain receipts or other proof of ownership. Therefore we have decided to set a threshold for claim values, below which users will be able to claim without proof of ownership (see paragraph 4.107).
 - the scheme will allow for the provision of funding for all equipment in working order, regardless of age. This will help to address concerns from small community centres and churches that funding might not be available for older equipment.
 - we have decided to pay an additional 20% in funding to claimants that are not VAT-registered to recognise that they will not be able to offset or reclaim VAT on the items or services they buy.¹⁰

We will contribute to the cost of buying replacement equipment...

- 4.24 In the funding consultation, we anticipated that the funding to which PMSE users may be entitled would be based on the lower cost of either modifying equipment or replacing it, with the latter based on the residual equivalent value of existing equipment and not the cost of buying new equipment.
- 4.25 We proposed to fund the replacement or modification of eligible channel 69 equipment for the remainder of its lifecycle between the date when channel 69 ceases to be available for PMSE (in 2012) and the date to which PMSE users could reasonably have expected it to be available prior to our proposals for clearance (2018).
- 4.26 We asked the following question in relation to our proposed approach to the funding methodology:

¹⁰ A 20% VAT-rate will be introduced from 4 January 2011. We expect to use this rate as we plan to begin making payments from March 2011. The rate in use at the time we start making funding payments will be used throughout the scheme even if VAT changes again to avoid adding complexity and uncertainty and in line with other assumptions we have made in designing the scheme.

Question 6: Do you agree with our approach to calculating funding based on the residual value of the equipment for the period during which a PMSE user could reasonably have expected to have access to channel 69? If not, can you set out an alternative approach which meets the overall objective of promoting the efficient use of spectrum?

Summary of responses

- 4.27 While some respondents agreed with our proposal to calculate funding based on residual value of equipment, the majority of respondents – including BEIRG, Autograph Sound Recording Ltd, ITN and the BECTU – disagreed, arguing for replacement funding instead.
- 4.28 Many respondents said that their equipment would continue to work indefinitely and would retain its resale value. Equipment hiring companies said that their equipment is hired out at the same price regardless of age.
- 4.29 IBS said that anything other than funding on a new for old basis will ignore the Government’s statement on meeting the costs of the consequences of DSO. Others questioned the spectrum efficiency grounds for clearing channel 69 without providing new for old replacement funding. For example, AMPS stated that it considered it unreasonable that PMSE users should be evicted so that spectrum can be sold to the highest bidder and rejected the spectrum efficiency grounds for clearing the 800 MHz band. BEIRG said that providing full replacement funding would promote the efficient use of spectrum to a greater extent than calculating funding based on the residual value of equipment.
- 4.30 A number of respondents, including the APRS, said that the ‘book value’ was irrelevant as it bears no relationship to economic value. Other respondents commented that it would be difficult to calculate residual value fairly and to verify that the calculation was accurate. Concerns were raised that calculations would be arbitrary, particularly given differing usage and maintenance of equipment.
- 4.31 Some respondents said that, as there is no second hand channel 38 equipment on the market, the cost of replacing equipment would be higher. Concern was also expressed by some respondents that some vulnerable users – such as charities, small businesses and arts organisations – would struggle to replace equipment as its cost would represent a large proportion of their total budget.
- 4.32 Those respondents who agreed with our proposal, such as the BBC, raised a number of other suggestions, for example:
- calculations should include an amount which ‘compensates’ users for having to time-shift their capital expenditure;
 - calculations should be based on a longer equipment lifecycle than the 10 years suggested;
 - funding should be based on equipment value before the announcement of channel 69 clearance as equipment was devalued by the announcement; and
 - invoices and receipts should be required as proof of purchase.

Our response

- 4.33 In assessing the appropriate way to implement the Government's decision to contribute to the costs of upgrading to new equipment, we have given careful consideration to balancing users' concerns about being left in a worse position due to the need to replace or modify channel 69 equipment in 2012 with the need to avoid inappropriate expenditure of public funds. In this regard, we consider that the additional costs incurred by PMSE users can be approximated by considering what would have happened if we had not decided to clear channel 69 early and comparing this to what will happen when clearance takes place in 2012. Given our previous statements, we consider that users could have reasonably expected to have to replace channel 69 equipment in 2018.
- 4.34 As a result of our decision to clear channel 69 in 2012, users will need to buy replacement equipment earlier than would otherwise have been the case. In considering the additional costs incurred by PMSE users, we note that the replacement equipment will continue to have an economic value in 2018 that reflects its remaining useful life beyond this date. We consider that an appropriate estimate of the additional costs incurred by a PMSE user is the cost of new replacement equipment when the claim is processed, less the discounted residual value of the replacement equipment in 2018. Further information on the basis for our economic methodology and a more detailed description of how the funding payments will be calculated is set out in Annex 2.
- 4.35 We think this approach more closely reflects the additional costs incurred by PMSE users as a result of our decision to clear channel 69 in 2012 than providing funding based on the residual value of equipment as we proposed in the consultation.
- 4.36 Our revised funding methodology is based on the current cost of replacement equipment rather than historical prices for channel 69 equipment. Therefore, despite not providing the full replacement cost of equipment that many PMSE users have requested, it does represent a contribution towards the replacement cost of equipment.
- 4.37 We acknowledge that, even with this contribution towards the cost of replacement equipment, some users might find it difficult to replace all their channel 69 equipment due to difficulties obtaining finance. Although we appreciate that it is not possible to overcome this financing issue completely for all affected stakeholders, we have endeavoured to make provisions in the scheme to help users. In addition to the provisions we are making to help smaller users set out at paragraph 4.23, we have decided to:
- offer the possibility to phase the processing of claims (and therefore the surrender of equipment) in more than one batch to help users who are unable to replace all of their channel 69 equipment at once (see paragraph 4.94); and
 - pay the cost of modifying equipment if users wish to do this rather than surrendering their equipment, up to the amount that would have been paid as a contribution to the cost of replacing it (see paragraph 4.38).

Alternatively we will pay the cost of modifying existing equipment

- 4.38 Some equipment that currently operates in channel 69 can be modified to operate in channel 38 (or other PMSE spectrum). For eligible users that would prefer to modify their equipment and are able to do so, we will provide funding for modification, up to

the amount of funding that would have been provided as a contribution to the replacement cost and subject to proving the equipment has been modified. Funding for modification will include the cost of carrying out the engineering work necessary to retune the equipment and any associated transport or postage costs. It will not include ancillary costs like testing or hiring other equipment while the equipment is being modified.

- 4.39 Users who wish to claim for the cost of modification will be required to present a receipt for the modification to the scheme administrator before receiving this funding. We acknowledge that this will require users to pay for the modification service before receiving funding from the scheme. However, we believe this is the most suitable approach in terms of evidence requirements – given that equipment will not be surrendered as is required for the contribution to replacement costs – and ensuring that the funding provided accurately reflects the cost faced by users.
- 4.40 Some users have told us that they are concerned about getting their equipment modified in time for clearance of channel 69. This is because the level of demand for modification services is likely to be high and some manufacturers do not currently provide this service. Based on this feedback, we have decided that users will be able to choose between modifying their equipment or replacing it based on their own business requirements and access to modification services.

We will use standardised equipment values

- 4.41 In the funding consultation we recognised that there are a variety of ways in which funding for each piece of eligible equipment could be calculated. We acknowledged that there is a trade off between implementing a more standardised approach, which would simplify the process for assessing each individual claim and provide more certainty to PMSE users about the likely outcome of their funding application, and a more detailed approach which would enable more accurate funding to be provided for each claim.
- 4.42 We proposed that a suitable balance would be to determine a set value and lifecycle for each equipment type. We proposed to base this assessment on information obtained from manufacturers and industry experts as well as information provided in response to the funding consultation. We also acknowledged that it might be possible to group similar equipment into larger sub-group categories but that we had insufficient information to determine whether this would simplify the process while retaining an adequate level of accuracy.
- 4.43 We asked the following question in relation to determining the funding for eligible equipment:

Question 11: Do you agree with our proposal to determine a set value and lifecycle for each equipment type, in the interests of simplifying the application and funding process? If not, what would you suggest? Do you think there is scope to group similar equipment into larger sub-groups to simplify the process?

Summary of responses

- 4.44 The majority of respondents disagreed with our proposals, stating that funding should be provided to cover the cost of replacing all channel 69 equipment with equivalent channel 38 equipment. For example, BEIRG suggested that it would be necessary to group existing models by their operational ability and specifications and that like-for-

like means equipment which has the same specifications but operates in the channels available for PMSE post DSO.

- 4.45 AMPS agreed that assessing equipment type, model, age, initial value and condition on a case by case basis would be very difficult to administer and suggested that a system of new for old replacement would be simple to administer.
- 4.46 Some users, including the BBC, agreed with our proposal. ITN said that some simplification of the application and funding process is desirable and grouping equipment by type would be practical. However, it warned that the classification system will need to ensure equipment of differing cost, performance and expected life are allowed separate classification.

Our response

- 4.47 As discussed above, we are unable to provide the full replacement cost of equipment as requested by many respondents. However, in response to concerns raised, we will be basing the contribution to replacement cost calculations on the current replacement cost of equipment, rather than historical costs of the redundant equipment.
- 4.48 As funding will be calculated with reference to the cost of replacement equipment and because the Government has decided to provide funding regardless of the age of the existing equipment, the question of whether to judge the value of each piece of equipment based on its state of repair is no longer relevant.
- 4.49 We have decided to determine a set value and assumed length of life for each equipment type. Based on the responses to our funding consultation, and on advice from manufacturers, we have decided to use an asset life of 15 years across all equipment. We have also employed an assumption of straight line depreciation in our calculation methodology (see Annex 2, table A2.1).
- 4.50 As suggested by some respondents, we commissioned a study to collect detailed information linking each model of eligible channel 69 equipment with the price of channel 38 equipment with the equivalent functionality (or, where this is not available, the most recent price for channel 69 equipment). We used the results of this study as a starting point for the rate card which shows the amount of funding that will be available for each eligible piece of channel 69 equipment. See Annex 6 for further details.

We will not differentiate between types of user

- 4.51 In the funding consultation we also raised the issue of whether to distinguish between different types of users of equipment, on the basis that the lifecycle of equipment may be somewhat greater in the hands of some users.
- 4.52 However, because it would increase the complexity of the funding scheme due to the need for separate calculations and the difficulties in obtaining appropriate evidence to allocate users to categories, we proposed not to distinguish between equipment by type of user.
- 4.53 We asked the following question in relation to differentiation of claims by user type:

Question 13: Do you agree with our proposal not to distinguish between equipment by type of user? If not, what would be your preferred approach?

Summary of responses

- 4.54 Some respondents – including AMPS, the BBC and BEIRG – agreed with this proposal, stating that differentiating between user types would be too subjective and possibly discriminatory.
- 4.55 However, a number of respondents disagreed, stating that different users have differing turnover of equipment. For example, IBS believe that it is necessary to distinguish between professional and community users as their current equipment holdings will be quite different. ITN were concerned that some types of users can and do extract significantly longer useful life from equipment than others.
- 4.56 Those that disagreed with our proposal suggested the following alternatives:
- equipment should be assessed on an item by item basis;
 - an exception should be made for charities and/or community groups;
 - heavy users of equipment will experience more inconvenience, and should therefore be compensated more;
 - hiring companies have a higher equipment turnover than small companies who have invested for the longer term, and therefore should be compensated differently.

Our response

- 4.57 We believe that it would be difficult to determine which user types would need to replace equipment more often (e.g. responses to our funding consultation indicated that large hire companies probably use equipment more often than community users, but might also maintain/check equipment more effectively). It would also be difficult to accurately assess which category each user falls in.
- 4.58 We do not think that varying funding according to user categories would be consistent with the factors against which we are assessing our methodology. For example, it would be very difficult to distinguish between users in a way that is transparent or fair, and splitting users into categories could make the scheme more complicated to administer. In light of this, we have decided that the scheme will not differentiate between types of user.
- 4.59 However, as discussed at paragraph 4.23, we have taken the specific concerns of smaller users into account when making relevant decisions.

We will use a rate card

- 4.60 In the funding consultation we suggested that the funding approach could be implemented through the use of a rate card, which would be made publicly available when the scheme was set up. This rate card would indicate the amount of funding that would be available for an individual item by selecting the model type of the piece of the equipment from a list.
- 4.61 We proposed that the design of the rate card, including specified equipment types, models and lifecycles, would be informed by responses to the funding consultation and advice from equipment manufacturers and industry experts.

4.62 We said that this rate card approach would simplify the scheme and provide certainty to users as it would allow us to easily determine the amount of funding due for each eligible claim and allow eligible claimants to estimate the amount of funding they are likely to receive before submitting their application.

4.63 We asked the following question in relation to the suggested rate card approach:

Question 12: Do you agree that a rate card approach would be a practical way of calculating the funding for each item of eligible equipment? If not, how do you consider the amount of funding for each item of equipment should be calculated?

Summary of responses

4.64 Most respondents agreed with the proposed rate card approach. For example, the BBC and APRS agreed with our proposal because they considered that the simpler the system, the more effective and economical it would be. Many respondents reiterated their belief that we should be providing full replacement funding for like-for-like equipment and described how it could fit within the rate card approach. For example, AMPS and BEIRG suggested that a rate card should include the make, model and tuning capability of existing equipment and match it up with like-for-like replacement equipment.

4.65 Respondents suggested that we work with manufacturers to determine a list of all relevant equipment they have manufactured and their appropriate channel 38 replacements, as well as a list of which equipment can be modified to tune to channel 38.

4.66 ITN said that an independent party should have responsibility for the determination of what rates should be on the rate card.

Our response

4.67 We have decided to create a rate card to guide the administrator and users about the level of funding available for each equipment model if users choose to surrender their equipment. As discussed at paragraph 4.39, funding for modification will be based on receipt evidence. The amount shown on the rate card is the maximum amount that would be paid for modification.

4.68 We have calculated the level of funding that would be paid for any given model of channel 69 equipment, as shown on the rate card (see Annex 6). The calculation is based on:

- the cost of equivalent current equipment as advised by manufacturers (channel 38 where available, channel 69 where not);
- the assumption that equipment has a 15 year asset life, straight-line depreciation profile, and using a 5% discount rate (the analysis underpinning these assumptions is included at Annex 2); and
- the assumption that users will give up their equipment on 1 October 2012, when PMSE users will no longer have primary access to channel 69 in any part of the UK. Funding will be slightly higher for equipment claimed for earlier than 1 October 2012 (about 0.1% extra per week).

- 4.69 We carried out a study to inform our understanding of the cost of replacement equipment, asset lives and depreciation, which helped us draw up the rate card. However, we did not appoint an independent party to have complete responsibility for the determination of what information should populate the rate card as suggested by ITN. It is our responsibility to determine whether grants should be made, with the consent of HM Treasury.
- 4.70 We acknowledge that in drawing up the rate card we have had to apply some assumptions and averaging, which means that the rate card might not represent an accurate estimate of the cost of bringing forward investment in new equipment for all users. However, we believe that it is necessary in the interests of practicality and simplicity to make these assumptions, and have endeavoured to do so in a fair and reasonable manner (see Annex 2 for further detail).
- 4.71 We explain how the rate card will work in Section 5. The draft rate card is at Annex 6.

We will increase funding for claimants who move earlier

- 4.72 In the funding consultation we said that there would be risks to orderly migration if too many PMSE users delayed ordering new equipment or modifying existing equipment until immediately before the final clearance date.
- 4.73 We said that there could be merit in facilitating early migration to channel 38 for those PMSE users for which this is convenient. We suggested that we could encourage early migration by calculating funding from the date on which claims are processed (when the equipment is surrendered), if this occurs before PMSE users are required to clear channel 69 in 2012. We stated that this would also be consistent with our key objectives for future spectrum access for PMSE, not least because an orderly migration increases the likelihood that users will be able to purchase replacement equipment in good time to meet their operational needs and so avoid disruption that adversely affects their ability to provide a wide range of services.
- 4.74 We acknowledged that calculating funding from a date earlier than the final date for clearing channel 69 would increase the overall amount of funding required.
- 4.75 We asked the following question in relation to funding for early migration:

Question 16: Do you believe we should facilitate early migration to channel 38 of those PMSE users for which this is convenient? If so, can you quantify the benefits? Would you take advantage of this option if it were available?

Summary of responses

- 4.76 The majority of respondents, including the BBC, BEIRG and ITN, agreed that we should facilitate early migration to channel 38. Respondents said that earlier availability of the new frequencies is likely to stimulate earlier development of new products which will reduce uncertainty and that early testing will ensure that any issues are dealt with before too many devices are in use. Early adopters will give other users confidence to move to channel 38.
- 4.77 However, some users saw problems with early migration. For example:
- Autograph Sound Recording Ltd stated that until more is known about the future availability of interleaved spectrum for PMSE it cannot see any advantage in an early rush, but that a transition throughout 2011 and 2012 is feasible.

- AMPS said that channel 69 remains the only option for users who need flexible UK-wide coverage.
- IBS said that early migration would pose problems as DSO will not be complete in a number of parts of the country until 2012.

4.78 Supporters of early migration made a number of suggestions about how this could be facilitated:

- BEIRG said that funding the full replacement cost of equipment would facilitate early migration.
- CLAS said that it might be more efficient for some users to move to frequencies other than channel 38 and suggested that the scheme could incentivise users working in fixed locations to move to other frequencies. It also said that licence pricing should encourage compliance and suggested that registered charities could be offered reduced licensing tariff.
- BECTU said that the funding should be available well before channels 61-69 are cleared and that there should be a period of time where existing equipment is used alongside new channel 38 devices.

Our response

4.79 We agree with Autograph Sound Recording Ltd and AMPS that for some users it might not be convenient or indeed possible to migrate to channel 38 ahead of channel 69 clearance. However, some users can start migrating now and we want to facilitate early migration for those users. This will improve the workability of the scheme as spreading out the processing of claims will reduce the risk of administrative bottlenecks at the final clearance date.

4.80 Therefore, we have decided to calculate funding for the contribution to replacement cost based on the week in which claims are processed (and equipment is surrendered) or the date from which channel 69 is no longer available for PMSE use, whichever is earlier. Further information about the calculation of funding is provided in Annex 2.

4.81 This is in addition to the provisions that we have made to allow claimants to process their claims in batches, choose to modify equipment where possible (see paragraph 4.37) and our work to continue to improve the availability of channel 38 (see section 2 for further information).

Each claimant will only be able to make one claim but can ask to process it in batches

4.82 In the funding consultation we said it was important that eligible equipment is only claimed for on one occasion and that this could be ensured by asking PMSE users to surrender their equipment on receipt of funding. While we said this would reduce the risk of false or inaccurate claims, we recognised that it would not necessarily be efficient to require users to give up their channel 69 equipment while it can still be used.

- 4.83 We said that another option to reduce the risk of multiple claims for the same equipment would be to allow only one application for funding per claimant and to reserve the right to require surrender of the equipment.
- 4.84 We asked the following question about our proposals for preventing claims for the same equipment on multiple occasions:

Question 17: Do you agree with our proposal to allow each PMSE user to submit only one application for funding and to reserve the right to require the surrender of equipment for which funding has been received? If not, how do you suggest we ensure items are only claimed for on one occasion?

Summary of responses

- 4.85 The majority of respondents agreed that there should be only one application per eligible user and that the surrender of equipment, for which unique serial numbers were not available, would be necessary. For example, the BBC agreed that this proposal seemed sensible but highlighted the need for sufficient time to be given for applicants to prepare claims. AMPS agreed with this proposal but suggested a voucher system rather than cash payments.
- 4.86 Other respondents raised concerns about the lack of flexibility for companies which might need to replace some equipment early and some at a later date. ITN said that a single application would almost certainly be unworkable for companies with large amounts of equipment, but it might be possible for smaller claimants. IBS said that we must have a flexible approach as some users might be prepared to surrender some of their existing kit for funding now but might wish to retain other equipment right up until channel 69 closes to PMSE.
- 4.87 BEIRG and APRS said that the number of funding applications that may be submitted must not be limited as this would cause problems for the transition, particularly for those users with large stocks who need to phase their acquisition of new equipment.
- 4.88 BEIRG was also concerned that asking users to surrender their existing equipment upon application for funding could encourage a two year period where few owners would be willing to purchase new equipment, potentially sending manufacturers out of business. It said that users should receive funding prior to giving up their equipment.

Our response

- 4.89 We have decided that claimants must surrender their equipment to receive funding for a contribution to the cost of replacing it. Surrender of equipment is required so that equipment cannot be claimed for more than once or passed on to other claimants.
- 4.90 We understand BEIRG's argument that it would facilitate a smooth migration to provide funding prior to requiring equipment surrender and acknowledge that this would help users to invest in replacement equipment earlier. We carefully considered this option but do not think that funding should be provided before equipment is surrendered. This is because the administrative processes that would be needed to implement this option and safeguard against fraud would be overly onerous and impractical.

- 4.91 We do not think that a voucher system, as suggested by AMPS and others, would be appropriate in this situation. Such a system would limit the flexibility of claimants to make decisions to reinvest in PMSE equipment if and when they see fit or to use their funding to address other business needs. Additionally, the work involved in establishing such a scheme, including assessing any possible competition issues, could significantly slow down the implementation of the funding scheme, limiting our ability to facilitate migration on a flexible timeframe.
- 4.92 We have decided that we will only allow one claim per applicant rather than multiple applications in order to limit the scope for fraud and the complexity of the funding scheme. We think that this will allow us to better track the progress of the scheme as we will have early confirmation of the total number of claims. Additionally, users will be able to make investment decisions with clarity over how much funding they are eligible to receive in total ahead of the channel 69 clearance date.
- 4.93 Claimants will be required to register for funding between 23 September 2010 and 31 December 2010. They will be asked to list all the equipment for which they wish to claim funding, including model types and/or numbers. It will not be possible for a claimant to add additional items once they have completed this registration process. We acknowledge that only allowing one application for funding could disadvantage any users that inadvertently leave some equipment off their application form. However, we believe we can mitigate the risk of errors in claim forms by providing sufficient time and advice for users to complete their registration forms.
- 4.94 We have decided that claimants will be able to phase processing of their claims (and therefore receipt of funding) to suit their business requirements. This reflects the concerns raised by respondents such as ITN and IBS about the workability of a single application for companies with large amounts of equipment. Claimants will be required to indicate on the registration form how they would like to phase the processing of their claim. By allowing a specified time period for the registration of claims but permitting phased processing, we hope to mitigate the risk identified by BEIRG of claimants deferring their claims to the latest possible date as a result of limiting them to a single application.

Claimants will need to prove they own their equipment if the cost of replacing it is above £6000

- 4.95 To avoid fraudulent claims, ensure claims satisfy the eligibility criteria set out above, and confirm identity, claimants will be required to produce supporting evidence when making a claim for funding.
- 4.96 In the funding consultation we stated that receipts (or equivalent proof of purchase) could be used to verify the date equipment was purchased and that they could also be used to verify that the claimant owns the equipment for which they are applying for funding. However, we acknowledged that some PMSE users may not have kept receipts for their equipment and asked stakeholders to comment on other evidence that could potentially be used to verify the date of purchase or proof of ownership. We suggested that such evidence could include asset inventories or detailed insurance records.
- 4.97 We also suggested that where the information on model type is insufficient to determine equipment age and in the absence of other evidence such as receipts, we might choose to incorporate assumptions about the date of purchase of an item of equipment (e.g. that it is 70% through its lifecycle) into the rate card. We pointed out

that this would have the advantage of being administratively efficient and giving a high level of certainty to users as to how much funding they can expect to receive. We also acknowledged that the disadvantages of this approach include the loss of accuracy in each individual assessment and the scope for abuse (e.g. to claim that no evidence of age is available for equipment older than our default assumption, so increasing the amount of funding provided).

4.98 We asked the following questions in relation to our proposals on evidence:

Question 8: Do you have receipts for your equipment? What else do you consider we should accept as evidence of the date and price of purchase and proof of ownership?

Question 9: Do you think we should make assumptions about the date of purchase of equipment for which where there is no evidence? If so, what assumptions do you think we should make?

Summary of responses to question 8

4.99 Over 50% of respondents indicated that they do not have receipts for some or all of their equipment: 106 said they have receipts, 120 said they do not have receipts and 47 said they have receipts for some equipment.

4.100 Many respondents – such as AMPS – agreed that proof of ownership is necessary and indicated that, where receipts are unavailable, claimants would be able to provide alternative proof of purchase such as:

- asset registers or inventories;
- insurance lists;
- customs lists;
- statements from accountants;
- bank statements showing the amount and date of purchase; and
- dates of associated warranty scheme enrolment.

4.101 However, some respondents, such as APRS, raised concerns that users would have insufficient evidence for used equipment, which is often bought at auction. ITN believe that any reasonable proof of purchase should be acceptable but that it would need to be judged on a case-by-case basis.

Summary of responses to question 9

4.102 A significant number of respondents, including BEIRG and AMPS, stated that no assumptions needed to be made about purchase dates because the age of equipment is irrelevant.

4.103 Some respondents, such as ITN, said that manufacturers would know how old equipment is based on serial or model numbers and suggested that we use serial numbers, make and model number to establish date of purchase.

4.104 A number of respondents, such as the BBC and APRS, agreed that a system involving subjective judgements about the age of equipment would be unpredictable

and too expensive. They supported our proposal to use a general assumption on asset age where no evidence could be found.

- 4.105 CLAS was concerned that not all churches would have retained receipts older than 6 years. They suggested that where a receipt has been lost or destroyed we should either accept the church treasurer's assurances on the age of equipment or make an educated guess.

Our response

Proof of ownership

- 4.106 From our discussion with PMSE users and the responses received to the funding consultation, we understand that while larger business should have records and/or inventories of their equipment for a variety of purposes including taxation, insurance and customer cataloguing, smaller, non-professional or community users might not need to keep records of equipment purchase or ownership. We are concerned that requiring proof of ownership in all cases might unfairly exclude these users from the funding scheme.
- 4.107 We have decided to accept smaller claims without proof of ownership. However, we will require users to provide evidence of ownership where the equipment being claimed for has a replacement value above £6000. It is important to note that the £6000 threshold refers to the cost of replacing the total amount of a user's equipment that is claimed for as indicated by the estimated replacement cost shown on the rate card, not the amount of funding provided. The amount of funding provided will be less than the total replacement cost (i.e. either a contribution to replacement cost or the cost of modification). See Annex 3 for further explanation of the threshold.
- 4.108 We acknowledge that accepting smaller claims without proof of ownership will increase the risk of fraudulent claims. However, we believe that it is important that small community users, who might not have proof of ownership, will have access to the scheme.
- 4.109 All other claims will require proof of ownership. Evidence that would be acceptable to us includes:
- receipts;
 - asset registers or inventories;
 - detailed insurance records; and
 - evidence of warranty scheme enrolment.

Proof of age

- 4.110 Further to the Government's decision that the age of equipment should not be taken into account in determining the level of funding, proof of age will not be required.

Conclusions

- 4.111 Taking into account the Government's decision on the level of funding and responses to our funding consultation, we have decided that:

- we will make a contribution to the cost of replacing channel 69 equipment. Funding will be worked out with reference to the additional costs incurred by PMSE users as a result of bringing forward their investment in new equipment from 2018;
- we will provide funding for modification of equipment up to the amount that would have been paid as a contribution to replacing the equipment, subject to presenting a receipt for modification;
- a rate card will be used to indicate the amount of funding that will be paid;
- we will calculate funding based on a set replacement cost for each model and on a set asset life assumption of 15 years for all replacement equipment;
- we will not distinguish between different types of users in establishing the set values and lifecycles;
- funding for a contribution to the cost of replacing equipment will be calculated from the date when a claim is processed and equipment surrendered (calculated on a weekly basis) or the date from which channel 69 is no longer available for PMSE use, whichever is earlier;
- claimants will be required to register for funding in a single application but will be able to phase the processing of their claim;
- claims up to a replacement value of £6000 (as indicated by the estimated replacement cost shown on the rate card) will be accepted without proof of ownership; and
- users that are not VAT-registered will receive an additional 20% funding.

Section 5

Launching the funding scheme

5.1 In this section we cover the next steps for users who would like to make a claim for funding. A diagram summarising the process (figure 1) can be found in section 1 of this statement.

We have appointed a contractor to administer funding on our behalf

5.2 We have appointed Equiniti Ltd (the funding scheme administrator) to administer the funding scheme on our behalf. Information on the scheme can be found on the dedicated website www.pmsefunding.co.uk or by calling their contact centre on 0800 011 3617. The process for making claims is set out below.

Launch of the funding scheme

We will ask users to register for the scheme

- 5.3 We are publicising the launch of the scheme by writing to channel 69 licensees that our database indicates may be eligible for funding. This letter will include a unique reference number (URN) for these users to use when making claims.
- 5.4 To make a claim, users will need to register through the funding scheme administrator, either online at www.pmsefunding.co.uk or by post. Registration will open on 23 September 2010 and close at the end of December 2010.
- 5.5 Users will be asked to list the channel 69 equipment they own and wish to claim for and whether they would prefer to give up or modify their equipment. They will also be asked to indicate when they would like their claim to be processed and whether they want to do this in a single or more than one batch. Users can ask that their claim is processed at any time between March 2011 and December 2012, and it can be done in batches if required. For example, a user may want to claim for half their equipment in July 2011 and the remaining half in October 2012, after the London Olympics.
- 5.6 It is in users' interest to register. If they do not register, the funding scheme administrator will not be able to process their claim. But registration does not mean the user has to accept any offer of funding or to give up their equipment unless they want to.
- 5.7 Unlicensed hiring companies that would like to be considered for funding will also be required to explain as part of their registration why they did not need a licence and produce evidence, as explained at paragraphs 3.11-3.18. Applicants will be included in the scheme if they can supply sufficient evidence that they did not require a licence to conduct their business. The names of successful applicants under this provision will be passed to the funding scheme administrator and their claims will be processed, along with those of licensed claimants, as set out at paragraph 5.21. We will notify any applicants that are not included in the scheme and provide reasons.
- 5.8 Users who do not fulfill the eligibility criteria but believe they can provide compelling and properly evidenced reasons they have a legitimate case to receive funding (taking into account the reasons for limiting eligibility referred to in this document) can

ask us to consider their individual circumstances. These users will be able to apply for consideration of their case directly to Ofcom. Ofcom's Spectrum Clearance Finance Committee (SCFC) will then consider each case on its merits, in line with the Ofcom Board's guidelines.

- 5.9 The funding scheme administrator will put in place arrangements for users to have offline access to information – including the rate card and application forms – to ensure people are not excluded from the scheme as a result of not having access to the internet.

The rate card

- 5.10 As explained in section 4, we will use the rate card to work out how much funding will be paid to each eligible claimant. The draft rate card is at Annex 6 to this statement. It shows the amount of funding available for each piece of channel 69 equipment either as a contribution to the cost of new equipment or the maximum amount available to cover the cost of modification.
- 5.11 For a contribution to the cost of new equipment, the amount of funding available will take into account the cost of the equivalent new equipment (channel 38 where available, channel 69 where not). The amount of funding available on the rate card is based on the assumption that the claimant gives up their equipment on or after 1 October 2012, the latest date the channel 69 equipment can be legally used in the UK. Funding will be slightly higher for equipment claimed for earlier than 1 October 2012 and will be calculated to reflect the week in which the claim is processed (see paragraph 4.80).
- 5.12 For modification, funding will be based on receipt evidence and will therefore not be covered by the rate card. However, the funding available for replacement equipment listed on the rate card will indicate the maximum amount that would be paid out for modification in respect of each equipment model.

We invite factual corrections to the draft rate card

- 5.13 It is important that the rate card is as accurate and complete as possible. We invite factual corrections in particular if existing channel 69 equipment which is rendered unusable by clearance is not listed or is ambiguously described, or if the comparator model used for calculating funding is obviously inappropriate given the functionality of the respective model and its comparator.
- 5.14 Factual corrections should be submitted through the funding scheme administrator, using the dedicated website www.pmsefunding.co.uk or by calling their contact centre on 0800 011 3617, and must be received by 2 September 2010.
- 5.15 We are inviting comments only on factual corrections of the kind indicated and not on the basis and rationale for funding. We note the arguments many PMSE users put forward in favour of funding the full cost of replacement of channel 69 equipment in response to our consultations. These arguments were put to the Government before it decided on the approach it considered appropriate and the basis on which it was willing to make funds available. As noted above, that decision was to base the level of funding on a contribution to the cost of replacing equipment rather than meeting the full cost.
- 5.16 We will consider suggestions for corrections and may contact those suggesting them and manufacturers for further information as appropriate. Factual corrections which

are accepted will appear in the final rate card which will be available from 23 September 2010.

We will seek formal consent to make grants

- 5.17 Following the registration phase, it will be possible to produce a plan for claims processing which includes a maximum overall funding requirement and a clear indication of the profile of spending required over the lifetime of the scheme.
- 5.18 This plan will then be put to the SCFC, which has delegated authority from Ofcom's Board to make in-principle decisions on the making of spectrum efficiency grants. A non-confidential version of the Board's guidelines to the SCFC in relation to PMSE is available at the Ofcom website at <http://www.ofcom.org.uk/about/how-ofcom-is-run/committees/spectrum-clearance-finance-committee/ofcom-board-guidelines-to-the-scf/>.
- 5.19 Under section 1(7) of the Wireless Telegraphy Act 2006, the consent of HM Treasury is also required to make grants and for the terms and conditions on which they are made. Notwithstanding Government statements already made on the principle of funding, formal consent will be required on the detailed funding plan when the exact funding requirement is known. At that point HM Treasury will receive the SCFC's in-principle decision together with the detailed plan so that it can either give or withhold consent to make spectrum efficiency grants to a class of recipients on a set of standard terms and conditions.
- 5.20 We anticipate that the planning and consent process will take approximately two months from the closing of registration and would aim to make the final decision public at the end of that period.

Claims processing will start in March 2011

- 5.21 The funding scheme administrator will write to all eligible claimants once HMT has given formal consent to make grants (on the basis of the approved standard terms and conditions) to inform them that their claims will be taken forward and ask claimants to confirm that they still wish to proceed with their claim.
- 5.22 When the funding scheme administrator processes claims it will check that the claimant and equipment meets the eligibility criteria and supplies the required evidence before paying out funding.
- 5.23 Users must give up the equipment they are claiming for or prove their equipment has been modified in order to receive funding. Payments will start from March 2011 onwards.

Annex 1

Summary of responses to the consultation

Introduction

A1.1 We received 305 responses to the consultation. 36 respondents asked that their response be kept fully confidential, and 58 respondents asked that their names be withheld. Some respondents asked that that their responses to one or more questions in the consultation be kept confidential. All non-confidential responses are available on our website.

| | |
|---|--|
| 24 Bit Ltd | Citizens Theatre |
| Abeille, Mr Gerard | City Varieties Music Hall |
| Accent Audio UK | Clark, Mr Simon |
| Adam Smith Theatre (Attfife Ltd) | Clarke, Dr Martin |
| Allison, Mr Taron | Courtfield Audio |
| Almeida Theatre Compnay Ltd | Crossland, Mr John |
| Ambassador Theatre Group | Curry, Mr Simon |
| APWPT | Curry, Mr Thomas |
| Arc Sound Limited | Darbyshire-Bryant, Mr Kevin |
| Ashworth, Mr Chris | Darlington Operatic Society |
| Association of Motion Picture Sound (AMPS) | David Ian Productions |
| Association of Professional Recording Services | Davies, Mr Brian |
| Atkinson, Mr Mark | Davies, Mr Malcolm |
| Audio Ltd | Davis, Mr Ian |
| Autograph Sound Recording Ltd | Deacon, Mr Simon |
| Banbury Operatic Society | Delfont Mackintosh Theatres Ltd |
| Barbican International Theatre Events | Diamond, Mr Sam |
| Bartlett, Mr Bill | Dickinson, Mr Antony |
| BBC | Dimension Audio |
| BECTU | DM Audio |
| BEIRG | Downstream Ltd |
| Bell, Mr Adrian | Ease Audio Ltd |
| Better Sound Ltd | Eden, Mr David |
| Biffin, Mr Brian | Ellis, Mr John Martin |
| Blatchington Mill School | Engetel Ltd |
| Bob Newton Ltd | Enlightened Lighting Ltd |
| BoomerangPlusPLC | Entec Sound and Light |
| Brabants, Mr David | EPIC-TV |
| Bradd, Mr John | Faculty of Health, Liverpool John Moores University |
| Bradshaw, Mr Joseph | Family Church |
| Brighton Early Music Festival | Ferguson, Mr Christopher |
| Broadcast Audio Ltd and Outside Broadcasts | Festival City Theatres Trust |
| Buckle, Mr Rudi | Galvin, Mr Robert |
| Butler, Mr James | Garson, Mr Ron |
| Carter, Mr Greg | Gearhouse Broadcast |
| Chruches' Legislation Advisory Service | Gerallt, Mr Deian |
| | Glossop, Mr Peter |
| | Grant, Mr Nic |
| | Greenhorn, Mr Jim |
| | Hagenstede, Mr John |

Hall for Cornwall Trust
Hall, Mr David
Hanswell, Mr Kevin
Harrogate Theatre
HeadSpin Videography
Highfield Church
Hill, Mr Alan
Hinchliffe, Mr D
Hirst, Mr Malcolm
Holding, Mr Mark
Hoy, Mr Stephen
Hull College of Further Education
Humphries, Mr Tim
Hunt, Mr Tim
Inside-out Branding Ltd
Institute of Broadcast Sound
ITN
Jessup, Mr Tom
Johnson, Mr Paul
Jones, Mr Simon
Jones, Mr Stephen
K&JM Morgan Trust
Keene, Mr David
Lilburn, Mr Aaron
Lindsay, Mr Peter
Linney PA Systems
Lisekard Town Council
Lyric Theatre Hammersmith
Macgregor, Mr John
Maclagan, Mr Ian
Manton, Mr Richard
Mark Goucher Ltd
Marriott, Mr Neil
McGovern, Mr John
McManus, Mr Christopher
Miles, Mr Robert
Milton, Mrs Mary
Mist, Mr Gavin
Mocilnikar, Mr Darko
Monday Night Group
Morgan, Mr David Wynford
Barrington
Morgan, Mr Karl
National Theatre
Nederlander Theatres (Aldwych)
Ltd
Nelson, Dr Ian
New Vic Theatre
Nick Steer Sound Ltd
Nimax Theatres Ltd
Northcott Theatre
Oakworth Methodist Church
O'Flynn, Mr Michael
Oldham Coliseum Theatre Ltd
O'Malley, Mr Sean
One Stage Productions
Orbital Sound Ltd
Oxley, Mr R
Palace Theatre
Paraiso School of Samba
Parmenter, Mr Simon
Pearson, Mr John
Perkin, Mr John
Phillips, Mr Matt
Phillips, Mr Stephen
Picco, Mr Steve
Pritchard, Mr John
Prolink Radio Systems Ltd
Prolink Television Facilities
PSAV Presentation Services
Q Audio Limited
Radio Facilities Ltd
Richardson, Mr Ian
Richmond Film Services
Right Angle Theatre Company
RNSS Ltd
Rodda, Mr John
Rodgerson, Mr Keith
Rossendale Amateur Operatic
Society
Rowe, Mr Andrew
Roy Martin Productions
Royal and Derngate
Royal Exchange Theatre
Rugby Theatre
Russel Edwards Ltd
Sadler's Wells Theatre
Salisbury Playhouse
Sansom, Mr David
Scottsound Audio and Broadcast
Seale, Mr Jonathan
Seeley, Mr Martin
Sharrock, Mr Ivan
Silva, Mr Keith
Slater, Mr Roger
Sound and Light Partnership Ltd
Sound Hire
Soundcrews.co.uk
St Elmo Productions Ltd
St John's Church
Stage Sound Services
Staplehurst Free Church
Starmaker Theatre Company
Stephen Joseph Theatre
Stephen, Mr Robert
Sum and Difference Ltd
Swallowest Baptist Church
Tate, Mr Darren
The Birmingham Repertory
Theatre

The Entertainment Business Ltd
 The Panto Company Limited
 The R&B Group
 The Warehouse Sound Services Ltd
 The Wireless Works (UK) Ltd
 Theatre Royal Newcastle
 T-Mobile
 Tuffrey, Mr James
 Tunney, Mr Keith
 Vassal Centre Trust
 Venue Cymru
 Visual Impact London
 Wakeman, Mr David
 Wales Millennium Centre

Walker, Mr Nicholas
 Ware, Mr Nick
 Wesley Hall Methodist Church
 Widgery, Mr Alistair
 Wigwam Acoustics Ltd
 Wilson, Mr Stuart
 Windsor, Mr Ian
 Withby, Mr Roger James
 Wizard House
 Wokingham Methodist Church
 Wood bridge Quay Church
 Wycombe Swan Theatre
 Wyvern Theatre Ltd
 Youth Connection Theatre Company

A1.2 A summary of stakeholder comments and our responses is included below. For completeness, matters relating to replacement spectrum picked up in the interim statement on future spectrum management, access and availability for PMSE (published on 15 April 2010) are also included.¹¹

Stakeholder comments and our responses

| Issue | Our response |
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| <p>Q1: Do you agree with our proposals for sufficient evidence that a rental company's operations are based on equipment hire as opposed to equipment use that requires a licence? If not, what would you suggest as alternative evidence?</p> | |
| <p>The majority of respondents agreed with our proposals on sufficient evidence required from hiring companies, including AMPS, the BBC, ITN, IBS and CLAS. One respondent suggested that evidence such as a "schedule of charges" could be added to the list.</p> <p>The R&B Group (which hires out equipment as well as offering events production services) said that a large proportion of its equipment use is by its own staff on events. One respondent said that the only time hiring companies use the equipment they own is when they test it before and after hiring it out.</p> <p>A couple of respondents said hiring companies should not be expected to provide evidence as it does not matter whether the equipment is licensed or not. They said that proof of ownership was the only relevant evidence.</p> <p>BEIRG agreed with this proposal but suggested that other businesses (such as</p> | <p>Our decision on sufficient evidence is set out at paragraphs 3.16-3.18 of the statement.</p> <p>We have decided that hiring companies will be required in the first instance to produce rental agreements such as orders and invoices to prove their business is based on hiring out rather than using channel 69 equipment that requires a licence. In the absence of rental agreements we may consider relevant company documents or marketing materials as evidence that a business does not need a licence to use channel 69.</p> <p>Taking account of the concerns raised in response to the consultation, we agree that it would be inappropriate for us to require hiring companies to provide evidence that they hired their equipment to licensed users.</p> <p>We acknowledge that there might be other businesses in addition to hiring companies, such as retailers and distributors, which may</p> |

¹¹ *Programme-making and special events: future spectrum management, access and availability*, 15 April 2010. <http://www.ofcom.org.uk/consult/condocs/bandmanager09/statement/statement.pdf>

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| <p>retailers and distribution companies) that do not require licenses should be included within the scope of the funding scheme. It suggested that similar evidence should be sufficient for these businesses too.</p> | <p>be affected by the clearance of channel 69 but do not require a licence. However, we do not consider that retailers and distributors should be included in the scope of the scheme as set out at paragraph 3.19-3.21. This is because manufacturers and retailers are in a different position to hire companies. They would not generally be expected to rely directly on regulatory statements and accept a range of risks associated with holding stock.</p> |
| <p>Q2: Do you agree that users who have held a valid channel 69 licence at any time during the 12 months prior to 2 February 2009 and can justify why it lapsed should be eligible for funding, subject to the other conditions outlined above? If not, what other time period would you propose and why?</p> | |
| <p>The BBC, IBS, ITN and most other respondents agreed with our proposal that if users had held a licence in the 12 months prior to 2 February 2009 (and satisfied all the other criteria) they should be eligible for funding and felt that this was a reasonable period to take into account legitimate licence lapses.</p> <p>AMPS agreed that 12 months prior to 2 February 2009 is a reasonable time period but asked that we should be generous in our interpretation of justification due to the unpredictable and intermittent nature of freelance sound recording work. It said that we should consider exceptional circumstances where users' licences have expired for more than 12 months before 2 February 2009 on their merits. The views of AMPS were endorsed by other respondents who also stressed the importance of giving special consideration for freelance users.</p> <p>Others argued there should be no cut-off period at all. APRS and BEIRG said that providing users can justify why their licences have lapsed, they should be eligible for funding regardless of the length of time before 2 February 2009 when they last held a licence. Some individual respondents shared the view that no time limits should be imposed.</p> <p>BEIRG said that the restricting the eligibility period to 12 months prior to 2 February 2009 could feasibly penalise legitimate claimants who had not used their equipment during that period and therefore had not required a licence due to a range of different</p> | <p>Our decision on license lapses is set out at paragraphs 3.27-3.29 of the statement.</p> <p>We have decided that claimants must have held a channel 69 licence to operate equipment at some point during the 12 months prior to 2 February 2009.</p> <p>In response to concerns raised by AMPS and others, we have reconsidered the requirement for users that did not hold a channel 69 licence on 2 February 2009 but did hold a licence at some point in the preceding 12 months to provide reasons for the licence lapse. Providing justification for licence lapses would be onerous for claimants and difficult for the funding scheme administrator to assess due to the range of potential explanations that could be provided and consequently what evidence might be appropriate. Therefore, claimants will be eligible so long as a licence was held at some point during the 12 months prior to 2 February 2009 (and they satisfy all the other eligibility criteria) and we will not require justification for lapses.</p> <p>We note the opinion that there should be no cut off period, but maintain that it would not be appropriate to provide funding regardless of when the user's most recent licence lapsed. In our view, allowing a period of 12 months before 2 February 2009 is sufficient to account for discontinuous or periodic use and ensure that legitimate claimants are captured within the scope of the funding scheme.</p> <p>We consider that if a user has not held a</p> |

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| <p>circumstances, for example: long-term illness; career break; change in career; channel 69 equipment not required during this time due to large inventory of other kit; or overseas operations. Others echoed these arguments: one respondent said that it is possible that someone may have not been licensed for longer than 12 months but may have kept their equipment in expectation of using it at some point in the future; while another said the period should be long enough to account for the possibility that an operator may have had a significant change in their use of equipment to not require the use of channel 69. One respondent said that the possibility that a PMSE user may have been out of the UK for a longer period of time and not required a licence should be considered.</p> <p>BECTU shared BEIRG's concerns and said that funding should be based on ownership not on evidence of licence-holding. This view was shared by a small number of respondents maintained that PMSE users should not be required to hold a licence to qualify for funding.</p> <p>One respondent said that some users let licences lapse during the period of uncertainty over channel 69.</p> <p>One respondent said two years before 2 February 2009 would be a more appropriate period to allow for licence lapses. Another proposed 18 months as an appropriate time period.</p> <p>One respondent said that new PMSE users who became licensed up to June 2009 should be eligible for funding.</p> | <p>licence since 2 February 2008 it suggests either that it permanently stopped using the equipment or that the user continued using the equipment without a licence.</p> <p>While we note the potential circumstances raised by BEIRG we have not seen evidence that they are widespread. It would be difficult to fairly assess the reasons provided by individual claimants for licence lapses, as it would involve a high degree of discretion. Therefore, we do not consider it would be appropriate to extend eligibility generally to users whose licences lapsed before 2 February 2008.</p> <p>We do not believe that it would be an appropriate use of public funds to compensate unlicensed users as they were either not using channel 69 and therefore not impacted by early clearance, or they were using the channel illegally. Therefore, we maintain the position that license holding should be part of the eligibility criteria.</p> <p>We will do our best to inform licensed users of the details of the funding scheme, both through publication on the website and through letters to all license holders. Additionally, we will endeavor with JFMG to inform licensed and unlicensed users of channel 69 about clearance of the band and alternative spectrum.</p> <p>We do not believe it would be appropriate to provide funding to users who became licensed after 2 February 2009, but were not licensed between February 2008 and February 2009. This is likely to capture users who had previously operated without a license and/or who made investment decisions in the knowledge that channel 69 would be cleared in 2012, rather than users who have been legitimately disadvantaged by early clearance.</p> |
| <p>Q3: Do you agree that equipment purchased by eligible PMSE users between 2 February and 30 June 2009 should be eligible for funding, subject to providing evidence of the compelling reasons for making the purchase? Is there other evidence we should consider acceptable?</p> | |
| <p>Q4: Do you agree with our proposal that channel 69 equipment purchased after 30 June 2009 should not be eligible for funding? If not, what are the circumstances in which you think such equipment should be eligible?</p> | |

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| <p>Respondents put forward similar arguments in response to questions 3 and 4. Responses to these questions are summarised together below.</p> <p>The majority of respondents agreed that the period should be extended to include equipment purchased between 2 February 2009 and 30 June 2009, but disagreed with imposing this cut-off date and argued for its further extension. BEIRG broadly agreed with the proposed evidence but argued that “compelling reasons” should include increased demand resulting in additional purchases. They also argued that we should not have a cut-off date for equipment eligibility before channel 38 is available on the same basis as channel 69.</p> <p>AMPS suggested that until a viable alternative to 69 is identified, we must qualify any legitimate user, even new ones, if they are forced to purchase channel 69 equipment in the interim.</p> <p>The BBC agreed that funding should be available for this period but does not agree that users should have to provide evidence of reasons for making such a purchase.</p> <p>Orbital Sound said that the cut-off is unfair because the economic and technical conditions that would allow them to invest in channel 38-40 equipment have not yet been met.</p> <p>APRS expressed concern that freelance users, with limited purchasing opportunities, will be disadvantaged. It argued that even the accounting depreciation period would be too short, as equipment can be expected to last over five years.</p> <p>ITN agreed that equipment purchased after 2 February should be eligible, but disagreed with the proposal that equipment purchased after 30 June 2009 should be excluded. They raised concerns that our phrase ‘compelling reasons for making the purchase’ suggested an assumption that PMSE users have a choice about whether or not to replace their equipment. They argued that there is no cost effective alternative to channel 69 equipment available from manufacturers and therefore there is no alternative but to purchase</p> | <p>Our decisions on equipment purchased after 2 February 2009 are set out at paragraphs 3.36-3.39.</p> <p>We have decided to extend the eligibility period for funding to include equipment purchased up until 30 June 2009. This reflects when users received confirmation that channel 38 would be the replacement for channel 69.</p> <p>We have reviewed our proposal that users should provide justification for purchasing equipment between 2 February and 30 June 2009. In light of our decision to include these users in the scope of the scheme we consider that it would be disproportionate to require additional evidence.</p> <p>There have been significant developments to address the availability of UK-wide spectrum which closely mirrors the utility of channel 69. Our technical work has shown that channels 38-40 will provide comparable indoor coverage across the UK, as well as close to adequate outdoor coverage, from December 2009. We also expect that there will be channel 69 equipment available on the second hand market and on the rental market, during this period. Therefore we do not agree with representations made by BEIRG and others that equipment purchased beyond 30 June 2009 should be eligible for funding.</p> <p>We confirmed the replacement channel on 30 June 2009. Therefore, any purchases of channel 69 equipment after this date were the result of an informed investment decision. We also note the risk that providing funding for equipment purchased after this date may distort investment decisions going forward.</p> <p>We understand that with the additional certainty and availability of channel 38, manufacturers have begun to manufacture channel 38 equipment. There will be increasing demand for this equipment as clearance approaches and we do not believe manufacturers will be disadvantaged by clearance in the long term.</p> <p>We do not consider it appropriate to pay out funding to unlicensed channel 69 users.</p> |
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| <p>channel 69 equipment where business needs dictate.</p> <p>IBS agreed but said that we must also give due regard to those who have purchased channel 69 equipment for good business reasons after 30 June 2009. Particularly as no alternative equipment is available due to the lack of notice manufacturers have had to start producing channel 38 equipment.</p> <p>A number of respondents said that all equipment bought from now until the end of digital switchover should be eligible for funding.</p> <p>Some respondents said that funding should be available for equipment bought up until the point new licences are issued for channel 38. Others said the cut-off should only be imposed when channel 38 is fully available across the UK. One respondent said that this would mean that they would need to continue to buy channel 69 kit during this period.</p> <p>One respondent said that responsible manufacturers should inform the purchaser about the impending changes and offer an incentive package to change frequencies in due course.</p> <p>Some respondents said that the cut-off date is severely damaging for manufacturers because users are holding off buying any new equipment.</p> <p>One respondent said that there are no channel 38 alternatives in the right price range on the market at the moment with which to replace channel 69 equipment. Similarly another respondent said funding should be made available until manufacturers offer their full range of equipment in the replacement frequencies.</p> <p>One respondent said that PMSE users were not given sufficient notice that they were expected to stop buying channel 69 equipment and there was no information provided on the extent of availability of channels 38-40. Similarly another respondent said that some end users have been unaware of channel 69 clearance and it has not been clearly publicised to all end</p> | <p>However we wrote to a number of umbrella organisations about the changes and the need to hold a licence in an effort to engage with unlicensed users.</p> |
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| <p>users. Some respondents, including CLAS, said that some smaller organisations such as places of worship may not have known the proposals and will not be able to afford replacement equipment.</p> <p>CLAS was concerned that we have made an ‘assumption that the world at large can be expected to know all the details of Ofcom consultations’. It said that there is no reason to suppose that small organisations that use communications equipment merely as a very minor ancillary to their main purposes should be aware of any of this. They raise the problem of congregations who bought equipment in good faith, unaware that they needed a license to use it.</p> | |
| <p>Q5: Do you agree with our proposal to consider on a case by case basis representations from PMSE users of channels 31-37 and 61-68 who feel there are special circumstances that in their view may entitle them to a different period of notice than others? If not, please state your reasons.</p> | |
| <p>Around two thirds of those who responded to this question (including the BBC, ITN and IBS) agreed that we should consider representations from PMSE users of channels 31-37 and 61-68 on a case-by-case basis.</p> <p>One respondent argued that plans for the digital dividend have been known for sufficient time for users to make alternative arrangements, suggesting that there would not be grounds for case-by-case considerations in respect of users of these channels.</p> <p>Roughly one third of those who responded to this question disagreed with our proposal and argued that users of these channels should be included within the funding scheme. APRS and BEIRG said that all owners of PMSE equipment that will be rendered redundant as a result of DSO should be entitled to funding that will cover the full costs of replacing their existing equipment with like for like alternatives.</p> <p>AMPS said that the Government’s Digital Britain Review indicated that all costs of changing frequencies would be met, and that this would include channels 61 and 62. This view was shared by a number of respondents.</p> | <p>We maintain that adequate notice was given for the clearing of 31-37 and 61-68 in the absence of any indication from Ofcom of the sort given in relation to channel 69 that an extended period of availability (in that case to 2018) would apply. We have not been provided with evidence that users in other channels generally could have reasonably expected a longer period of notice than they in fact received.</p> <p>The Government’s decision on funding covers channel 69 only (see paragraphs 3.46-3.47 of the statement).</p> |

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| <p>CLAS said that similar considerations apply to users of channel 61 and 62 to that of channel 69.</p> <p>BECTU said that compensation should be made as broadly as possible, encompassing all devices operating in Channels 61-69.</p> | |
| <p>Q6: Do you agree with our approach to calculating funding based on the residual value of the equipment for the period during which a PMSE user could reasonably have expected to have access to channel 69? If not, can you set out an alternative approach which meets the overall objective of promoting the efficient use of spectrum?</p> | |
| <p>The majority of respondents disagreed with our proposal to calculate funding based on the residual value of equipment, arguing in favour of replacement funding instead. 41 respondents agreed with our proposal and 24 didn't respond to this question or were unable to give a definitive view.</p> <p>The BEIRG said that all owners of PMSE equipment that will be rendered redundant as a result of DSO should be entitled to funding that will cover the full costs of replacing their existing equipment with like-for-like alternatives regardless of the age of the existing equipment. They argued that this will promote the efficient use of interleaved spectrum to a greater extent than calculating funding based on the residual value of equipment.</p> <p>Many respondents said that channel 69 equipment will have zero resale value in 2012, therefore calculating residual value is meaningless.</p> <p>Some respondents said that it would be difficult to calculate residual value fairly and verify the calculation was accurate. For example, some respondents cited different levels of use and maintenance of equipment as complicating factors. AMPS argued that calculations based on residual value would be arbitrary and highly contentious.</p> <p>APRS proposed calculating compensation "according to a reverse sliding scale from date of purchase", stating that the 'book value' of equipment was not relevant.</p> <p>Autograph Sound Recording Ltd provided an example which suggested that in the equipment hiring business the capital investment has nearly doubled while the rental rates have fallen by nearly 15% since</p> | <p>Government considered the arguments raised by PMSE users through our consultations and through vehicles such as the Save Our Sound campaign, which has argued for Government to fund the full cost of replacing equipment. It decided to provide a contribution to the cost of replacing channel 69 equipment.</p> <p>In light of this Government decision, we set out at paragraphs 4.33-4.40 how we have decided to calculate funding.</p> <p>In assessing the appropriate methodology, we have given careful consideration to balancing users' concerns about being left in a worse position with the need to avoid inappropriate expenditure of public funds by providing too much funding to users. In this regard, we consider that the additional costs incurred by PMSE users can be assessed by considering what would have happened without early clearance and comparing this to what will happen due to clearing in 2012. Given our previous statements, we consider that users could have expected to have to replace channel 69 equipment in 2018.</p> <p>Therefore, an appropriate measure of additional cost to users in this case is the cost of new replacement channel 38 equipment at the date of migration from channel 69, less the discounted residual value of the channel 38 equipment in 2018.</p> <p>This approach is based on the current cost of replacement equipment rather than historical prices for channel 69 equipment. Therefore, despite not providing the 'full replacement cost' many PMSE users have requested, it does represent a contribution towards the replacement cost of equipment.</p> <p>We acknowledge that, even with this</p> |

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| <p>1992, and that the time period for recovery of investment is now 250 weeks.</p> <p>Many said that they had expected to continue to use their kit indefinitely and that it retained resale value.</p> <p>Some respondents, including IBS, referred to the Government’s Digital Britain Final Report, suggesting that it confirmed full replacement compensation for equipment.</p> <p>Some respondents argued that the large auction revenues raised from selling the spectrum should be used to fund the full replacement cost of equipment.</p> <p>A couple of equipment hiring companies made the point that equipment is hired out at the same daily rate regardless of age.</p> <p>Some said that as there is no second-hand channel 38 equipment available to purchase, the cost of replacing equipment would be higher.</p> <p>Many said that some users – for example, charities, small businesses, and arts organisations – would find it difficult to fund replacement equipment as the total cost would be a large proportion of their budget. Some said that a hardship fund should be put in place for these users.</p> <p>One respondent said that he had not envisaged ever needing to replace his equipment as he used it as a hobby and would find it difficult to reinvest.</p> <p>BECTU stressed the potential adverse impact on the TV and film production industry.</p> <p>CLAS said that for a church or charity half the replacement cost is useless because charitable funds will have to be used for the rest of the cost.</p> <p>One respondent suggested that reasonable expectation of access to channel 69 may have extended beyond 2018 as it was a date for re-evaluation rather than a finite cut-off date</p> <p>Some respondents said that replacement</p> | <p>contribution towards the cost of replacement equipment, some users might find it difficult to replace all their channel 69 equipment due to difficulties obtaining finance. This is a significant concern for some PMSE users, particularly given the current economic climate.</p> <p>Annex 2 provides a more detailed description of how the funding payments will be calculated under the chosen methodology.</p> |
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| <p>funding should be provided in certain circumstances:</p> <ul style="list-style-type: none"> • the equipment is in full working order; • the equipment is under two years old; • if users can prove the equipment has been used in the last 2-5 years; and • if users can prove that they have held a licence to use the equipment for its entire life. <p>Some respondents agreed with our proposals, but provided additional comments:</p> <ul style="list-style-type: none"> • the BBC said the calculation should account for the fact that users will have to time-shift their capital expenditure • some said that our calculations should be based on a longer lifecycle of equipment than the 10 years we had used as our working assumption • one respondent said that an invoice should be required as proof of purchase. • one respondent said that the funding should be based on the value of the equipment before we announced plans to clear channel 69. <p>A handful of respondents, including AMPS, questioned whether clearing channel 69 represented an efficient use of spectrum.</p> <p>One respondent cited the strain on global energy and resources and the financial difficulty with replacing equipment as relevant factors.</p> | |
| <p>Q7: Do you agree with our assessment that PMSE users could reasonably have expected to have access to channel 69 until 2018, but not beyond this date? If not, what time period would you consider reasonable, and why? In this context, please note, the fact that some equipment may be expected to operate beyond 2018 is not, on its own, a sufficient reason to reconsider that date.</p> | |
| <p>Many respondents disagreed with our assessment that PMSE users could have reasonably have expected to have access up to, but not beyond, 2018.</p> <p>BEIRG said that PMSE users had a reasonable expectation to use channel 69 beyond 2018. They said that extrapolating an end-date for funding that relates to an argument about the requirement for protected spectrum access is unfair. APRS supported BEIRG's position and added that the scope of the proposed compensation</p> | <p>Our decision on reasonable expectation is set out at paragraphs 4.13-4.14.</p> <p>The calculation of funding will not take the age or lifecycle of existing channel 69 equipment into account.</p> <p>When calculating funding we will assume an asset life of 15 years for all pieces of equipment. This assumption was informed by the inventory study we carried out as well as responses to our funding consultation (see Annex 2 for more information).</p> |

scheme is very limited.

The BBC said that as access to channel 69 beyond 2018 was not ruled out, calculating funding based on a time period equal to the remainder of the lifecycle of channel 69 equipment would be more appropriate.

AMPS also said that the 2018 date was not specifically announced as the cut-off date for PMSE access to channel 69. It argued that the removal of frequencies means a loss of income and considerable personal expenditure for PMSE users who need to replace what is still serviceable equipment, at a time of severe lending restrictions by financial institutions. This will cause severe disruption to the industry if claims are not met in full. It also said that there is no definite sell-by date for professional equipment as it lasts as long as it is legal to use, and thus application of any arbitrary lifecycle is unacceptable.

ITN said that although no specific dates were given the spirit and intention of our statements implied that channel 69 would remain a constant factor for PMSE. It said that, given the normal lifecycle of equipment, it is not likely that extending this cut off into the future will lead to a significant increase in amounts claimed, but it could make a difference to the small number of users likely to be affected.

IBS said that, as the professional user group, it has argued throughout the debates on the digital dividend that 2018 is arbitrary, irrelevant, and should be extended. It said that prior to the formal notification there was nothing to lead to the assumption that access to channel 69 would cease by 2018. It also stated that professionally owned equipment is capable of extended lifecycles and therefore could be expected to operate well beyond 2018.

Many respondents said that they expected their current equipment to work after 2018 and compensation should reflect this. Some said that a time period equal to the remainder of the lifecycle of Channel 69 equipment would be more appropriate.

One respondent said that ten years from

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| <p>2008 seemed too long as they doubted that much equipment more than 7-8 years old would realistically be in use.</p> | |
| <p>Q8: Do you have receipts for your equipment? What else do you consider we should accept as evidence of the date and price of purchase and proof of ownership?</p> | |
| <p>106 respondents said that they have receipts for their equipment. 120 respondents said that they don't have receipts. 47 said that they may have some receipts.</p> <p>Many respondents – such as AMPS – agreed that proof of ownership is necessary and indicated that, where receipts are unavailable, they would be able to provide alternative proof of purchase such as asset registers or inventories; insurance lists; customs lists; statements from accountants; bank statements showing the amount and date of purchase; and dates of associated warranty scheme enrolment.</p> <p>However, some respondents, such as APRS, raised concerns that users would have insufficient evidence for used equipment, which is often bought at auction. ITN believe that any reasonable proof of purchase should be acceptable, but that it would need to be judged on a case by case basis</p> | <p>Our decisions on proof of ownership and proof of equipment age are set out at paragraphs 4.106-4.110.</p> |
| <p>Q9: Do you think we should make assumptions about the date of purchase of equipment for which where there is no evidence? If so, what assumptions do you think we should make?</p> | |
| <p>The majority of respondents disagreed. They said that no assumptions needed to be made about the date of purchase of equipment because the age of equipment is irrelevant to a calculation of full replacement costs. AMPS and BEIRG endorsed this view.</p> <p>CLAS suggested that if a church has lost or destroyed the receipt, the church treasurer's estimate of age should be accepted or an educated guess made on equipment value.</p> <p>A number of respondents said that the condition, functionality and quality of equipment was relevant to calculating funding, but the age of equipment was not relevant.</p> <p>A couple of respondents commented that claimants should be able to produce some form of proof of purchase, especially professional licensed users.</p> | <p>As set out at paragraph 4.110, further to the Government's decision that the age of equipment should not be taken into account in determining the level of funding, proof of age will not be required.</p> |

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| <p>A considerable number of respondents said that funding could be calculated using serial numbers in conjunction with records held by manufacturers and retailers on the release date of kit to determine equipment age and current list prices.</p> <p>The BBC said that the proposal seemed sensible. They suggested that we might use the average purchase date for equipment for which there is no evidence as well as information provided by PMSE users.</p> <p>APRS said that a system involving subjective decision making would be ill-considered and too expensive, so supported the application of a general, possibly imperfect rule that doesn't require judgement.</p> <p>ITN suggested that the age of equipment should be discoverable if it has a serial number and the type or model number could also assist in dating equipment.</p> <p>IBS disagreed with our proposal and said that these assumptions should only be made by reference to the original manufacturer who should be able to provide data on the date of manufacture.</p> | |
| <p>Q10: Do you agree with the factors we propose to consider when designing the methodology for determining the funding payable for each piece of eligible equipment? Are there any additional factors we should consider?:</p> | |
| <p>Around 70 respondents agreed with our proposal on the factors to consider when designing the funding methodology.</p> <p>Many respondents did not express a view on the criteria, but stated that funding should cover the full cost of replacing the affected equipment.</p> <p>BEIRG (supported by Orbital Sound and other respondents) agreed with factors we proposed but argued that full replacement funding would satisfy these criteria. They also suggested the following factors should be included:</p> <ul style="list-style-type: none"> • minimising disruption to the PMSE community; • encouraging the successful clearance of the entire 800MHz band; and • ensuring that it is commercially viable for manufacturers to start producing | <p>Our decision on the funding principles is set out at paragraphs 4.20-4.22.</p> <p>We acknowledge that, even with the provision of a contribution towards the cost of replacement equipment, some users might find it difficult to replace all their channel 69 equipment due to difficulties obtaining finance. This is a significant concern for some PMSE users, particularly given the current economic climate.</p> <p>Although we appreciate that it is not possible to completely overcome this financing issue for all affected stakeholders, we have endeavoured to mitigate the effects through the scheme design as set out at paragraph 4.23.</p> |

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| <p>alternative equipment as soon as possible.</p> <p>AMPS and the BBC agreed with the factors we proposed and said that we should assign particularly high importance to 'minimising administration and compliance costs' with regards to users.</p> <p>ITN agreed with the factors we proposed but pointed out that the large range of sizes and types of businesses within the sector mean that attempts to streamline or simplify the administration of the funding scheme might disadvantage some groups of users. Similarly, IBS agreed with the factors but said that we will have to consider carefully how to handle community user's access to funding given that the nature of their original purchase and use will be quite different to that of professional users. APRS said that the factors proposed were too limited, unfair to individual users and possibly discriminatory. It said that we should ensure that the mechanism is devised to compensate individual as well as corporate wireless users. It expressed concern that the imposition of new investment in equipment on people in the sector could threaten the survival of their businesses.</p> <p>Many respondents also stressed the importance of providing financial assistance to cover the replacement cost of equipment to individual users and small businesses.</p> <p>One respondent said that funding should be calculated as a percentage of the cost of purchasing new equipment.</p> | |
| <p>Q11: Do you agree with our proposal determine a set value and lifecycle for each equipment type, in the interests of simplifying the application and funding process? If not, what would you suggest? Do you think there is scope to group similar equipment into larger sub-groups to simplify the process?</p> | |
| <p>As the majority of respondents, including AMPS, APRS and BEIRG, did not support our proposal to determine a set value and lifecycle for each equipment type, because they consider full replacement value to be the correct approach.</p> <p>Around 30 respondents, including the BBC agreed with our proposal.</p> <p>BEIRG suggested that it would be necessary</p> | <p>Our decision on the use of standardised values to calculate funding is set out at paragraphs 4.47-4.50 of the statement.</p> <p>We do not agree that a voucher system would be appropriate in this situation. Such a system would limit the flexibility of claimants to make decisions to reinvest in PMSE equipment if and when they see fit or to use their funding to address other business needs. Additionally, the work involved in</p> |

to group existing models by their operational ability and specifications; then provide like-for-like funding for equipment that has the same specifications but operates in the channels available for PMSE post-DSO.

A number of respondents, including AMPS, said that a system of new for old replacement would be simple to administer. Some respondents suggested that this could be administered through the equipment manufacturers, for example: calculating the level of funding by asking the manufacturer for the cost of supplying the new equipment. One respondent proposed there should be a network of valuation centres including manufacturers and dealers. AMPS said that it would not be an imprudent use of public funds due to the revenues that will be generated from the sale of channel 69.

ITN agreed that some simplification of the application and funding process is desirable and grouping equipment by type would be practical. However, it said that the classification system will need to be at a low enough level to ensure equipment of differing cost, performance and expected life are allowed separate classification.

One respondent suggested that claimants should be able to replace or modify all equipment using a voucher.

One respondent said that it was important that users retained the option of modifying rather than replacing their equipment.

One respondent said that a set value and lifecycle for each equipment type will not provide for differences in the original purchase price.

Some respondents said that equipment lifecycles can vary greatly depending on how equipment is used and maintained; with one saying that it is impossible to calculate equipment lifecycles.

One respondent said that there should be replacement funding for all equipment under two years old.

One respondent suggested that means-testing would be appropriate because a

establishing such a scheme, including assessing and resolving any possible competition issues, could significantly slow down the implementation of the funding scheme, limiting the scheme's ability to facilitate migration on a flexible timeframe.

We do not believe that it would be appropriate or proportionate to means test all claimants. However, we have taken certain steps to ease the transition for non-professional PMSE users.

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| <p>profit-making organisation would place different value on cash award to a charitable group.</p> | |
| <p>Q12: Do you agree that a rate card approach would be a practical way of calculating the funding for each item of eligible equipment? If not, how do you consider the amount of funding for each item of equipment should be calculated?</p> | |
| <p>The BBC and some other respondents agreed with our proposal for a rate card. These additional points were suggested by those that supported the approach:</p> <ul style="list-style-type: none"> • spot checks could be carried out to prevent fraudulent claims; and • the system will only work if the rate card included all equipment that needs to be replaced. <p>A large number of respondents reiterated that they would only support replacement funding. Of these, many agreed with the use of a rate card provided it reflected full replacement costs.</p> <p>AMPS, BEIRG and many of the respondents said that a rate card should include the make, model and tuning capability of existing equipment and match it up with like-for-like replacement equipment. AMPS and others said that manufacturers should be consulted to inform the figures in the rate card. IBS did not support a rate card, saying that the only practical and reasonable method is new for old policy. APRS said that the simpler the system the more effective and economical it will be.</p> <p>ITN said that an independent party should have responsibility for the determination of what rates should be on the rate card. It stated that they would be open to discussion as to how such a body would be constituted and appointed.</p> <p>A number of respondents dismissed the rate card proposal entirely. The following points were raised:</p> <ul style="list-style-type: none"> • a case-by-case assessment would be the only fair way to calculate funding; • information should be supplied on equipment which can be modified to channel 38; | <p>Our decision on the rate card approach is set out at paragraphs 4.67-4.71. Further detail is provided in section 5, and Annex 6.</p> <p>We believe it would be inappropriate to judge the value of each piece of equipment based on its state of repair as this would involve too much discretion, be time consuming and fail to provide users with any certainty of funding.</p> <p>We have decided to create a rate card which will set out the level of funding available each piece of channel 69 equipment. This is consistent with the suggestions made by a number of respondents, including AMPS.</p> <p>As suggested by the BBC, we do intend to implement a spot checking and/or audit process to minimise fraudulent claims.</p> <p>Although we did not appoint an independent party to have responsibility for the determination of what information should populate the rate card as suggested by ITN, we did commission a contractor to complete a study of equipment prices, asset lives and depreciation to help inform the rate card design.</p> <p>We acknowledge that in collating the information for the rate card we have had to apply some assumptions and averaging, which means that the rate card might not represent an accurate estimate of the cost of bringing forward investment in new equipment for all users. However, we believe that it is necessary in the interests of practicality and simplicity to make these assumptions, and have endeavoured to do so in a fair and reasonable manner (see annex 2 for further detail).</p> |

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| <ul style="list-style-type: none"> • funding should be the same for all units; • the same equipment lifecycle cannot be assumed for all users; and • the condition of equipment should be taken into account. | |
| <p>Q13: Do you agree with our proposal not to distinguish between equipment by type of user? If not, what would be your preferred approach?</p> | |
| <p>The majority of respondents, including AMPS, the BBC and BEIRG agreed that we should not distinguish between equipment by type of user.</p> <p>ITN said that further analysis is needed. It expressed concern that some types of users can and do extract significantly longer useful life from equipment than others. For example, hire companies are likely to replace equipment twice as frequently as a freelance or staff sound operator would need to.</p> <p>IBS said that professional and community users should be differentiated as their current equipment holdings will be quite different.</p> <p>The following additional points were made by respondents:</p> <ul style="list-style-type: none"> • we should make an exception for charities and similar community groups – or focus on replacement cost for all affected licensed users; • heavy users of equipment will have more inconvenience so should be compensated more; • the funding proposal needs to treat the smallest non-commercial users of PMSE equipment fairly; • if a company can list their equipment and proof of purchase then funding should be on an item by item basis; • small theatres and others may only be light users and can reasonably expect their equipment to last 20 years; and • hiring companies should be treated completely differently to other users. | <p>Our decision on distinguishing claims by type of user is set out at paragraphs 4.57-4.59.</p> <p>Although we are not planning to make an exception for charities and other small users, we have taken the specific concerns of smaller users into account when making some relevant decisions. For example, we are taking the VAT registered status of users into account. We have also set a threshold value for claims below which no proof of ownership will be required – this is designed to protect users who might not have had business reasons to keep records of their equipment.</p> |

Q14: What type(s) of equipment do you own (e.g. wireless microphone, in-ear monitor) which uses channel 69? For each equipment type:

- a) How many pieces of equipment do you own?
- b) Can this equipment be modified (or re-tuned) to function in channel 38? If so, what would be the average cost of this modification?
- c) What was the average purchase price (excluding VAT)?
- d) On average, how many years would you normally keep this equipment in operation?
- e) Does the useful life of equipment vary with the amount and method of use? If so, in what way?
- f) What is the average age of the equipment?
- g) Would you normally sell or dispose of the equipment at the end of its useful life? If sold, how much on average would you expect to receive for it? If disposed of, how would you normally dispose of it? How much does this disposal normally cost?

We appreciate the many detailed and informative responses we received to this question. Many respondents asked for this information provided to be kept confidential, so we have not detailed the responses received in this annex.

However, we have taken account of the information provided in response to this question in considering the practical implementation of the funding scheme and in reaching many of the policy decisions in this statement.

Q15: How would a decision to clear PMSE from channel 69 on 1 January 2012 affect you? What could we and the Government do to provide for an orderly migration in these circumstances?

BEIRG said that it would not be possible to clear the 800 MHz band of PMSE by 1 January 2012 even if there was earlier access to channel 38 and full replacement funding was available. It said that this was due to the timescales involved in the development, production and distribution of sufficient equipment to re-equip the vast majority of the PMSE sector. BEIRG said that the PMSE sector should retain access to the entire 800 MHz band and channels 31-37 until, at the very earliest, after the Olympics in 2012. It said that a decision to clear PMSE from the 800 MHz band would disrupt the PMSE sector, particularly travelling productions that need to use more than 8 radio microphones. The need to swap equipment as they move from venue to venue as dictated by having to adapt to the variation in frequency allocation will add to costs significantly and potentially render them financially unviable. It said that clearing the 800 MHz band of PMSE will threaten the availability of sufficient stocks of

Our decision on the timing of clearing channel 69 is set out in Annex 3.

We appreciate the link between orderly migration and the availability of funding and plan to begin payment of funding from March 2011.

We considered whether parties like manufacturers and distributors should also be eligible for funding. As set out at paragraphs 3.19-3.21, we have concluded that they should not be included in the funding scheme.

PMSE equipment for the Olympics. Orbital Sound supported BEIRG's view.

The BBC said that it needed as much time as possible to move its operations from channel 69, including up until the completion of the Olympics in 2012. If, however, clearance must occur before this time, early clarity on how much spectrum will be available in channel 38 and adjacent channels, and early completion of the funding process are likely to facilitate an early migration. It said that we may also wish to consider providing incentives to PMSE users to migrate earlier rather than later.

AMPS expressed strong reservations about this proposed timetable. It said that an instant changeover on 1 January 2012 was seriously flawed. It said that we had previously announced in a statement that the industry needed a three year overlap with channel 38 and channel 69 to facilitate an orderly migration. Removal of radio astronomy from channel 38 will not in itself enable full and unrestricted access for PMSE before DSO. A changeover date of 1 January 2012 does not take into account that the use of channel 38 might still be geographically restricted because of TV transmissions in channel 37 until the final DSO in about September 2012. If Channel 69 is withdrawn on 1 January 2012, this would mean that no unrestricted nationwide outdoor channel would be available for PMSE use until the final DSO. Further, it will not be possible for manufacturers to supply all the units required on the 1 January 2012 which will cause disruption and the idea behind the overlap period was to spread the demand.

Autograph Sound Recording Ltd stated that it would speed up an already complex process before there is complete access to channel 38 countrywide and until sufficient information is available through the white space maps that are not due until mid 2010, and as such is an unworkable proposal. The transition needs as long a crossover period as possible to prevent serious disruption to the PMSE sector.

ITN stated that the most important factor for an orderly migration will be the need for users to re-equip. That will require

manufacturers to bring cost effective products to the market and for there to be funding available for users to buy the new equipment. ITN cannot see that a smooth migration will be possible unless funding is available ahead of the cut-off date for channel 69. Equally, the earlier that channel 38 is available nationwide, the earlier users will feel able to migrate.

IBS stated that clearing channel 69 by 1 January 2012 will not be practical. DSO will not be completed by then coupled with the fact there will not be sufficient channel 38 kit in existence to service all the Olympics requirements. It said that we must accept the practical realities as they will exist at that time not what they would wish for in an ideal world.

T-Mobile said that we should move PMSE users out of the 800 MHz band as quickly as possible and by January 2012 at the latest across the whole of the UK in order to release the band for new services. It acknowledged that the 800 MHz band will be used for the Olympics which will preclude its UK-wide availability until late 2012. However, it stated that there are areas of the UK that will not be affected by the Olympics and where the 800 MHz band will be cleared by the end of 2011 as part of DSO. It said that the top 2 x 10 MHz will be available by the end of 2011 and that in some regions the full band (2 x 30 MHz) could be available by the end of 2012. It noted that continued use of channel 69 for PMSE in 2012 would sterilise 2 x 10 MHz of spectrum across the UK (852-862 MHz and the corresponding downlink channels) and would prevent earlier access by new services. It said that any delay in clearing PMSE from channel 69 would have a great cost impact.

Many respondents stated that they would need to bring forward the purchase of new equipment as existing equipment could no longer be used. There would be a rush to purchase new equipment which would push prices up, and there would be pressure on the number of technicians available to retune.

One respondent suggested we consider direct capital injections to manufacturers to

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| <p>ensure that they have the resources to develop and produce sufficient equipment to replace all that will be affected.</p> <p>Some respondents said that licensing arrangements for channels 38 – 40 must mirror current arrangements for channel 69, the licences for channels 38 – 40 must not be any more expensive than those currently issued for use of channel 69 and users should not be required to purchase a channel 38 licence until channel 69 expires.</p> <p>One respondent said that January 2012 would be an achievable aim and that disruption their business would be moderate.</p> | |
| <p>Q16: Do you believe we should facilitate early migration to channel 38 of those PMSE users for which this is convenient? If so, can you quantify the benefits? Would you take advantage of this option if it were available?</p> | |
| <p>The majority of respondents agreed that we should facilitate early migration to channel 38 with many stating the advantages of moving early so long as the following conditions were satisfied:</p> <ul style="list-style-type: none"> • channel 38 equipment is available for purchase; • channel 38 is fully available; and • funding is available. <p>Respondents stated the following advantages of early migration:</p> <ul style="list-style-type: none"> • earlier availability of the new frequencies is likely to stimulate earlier development of new products which will reduce uncertainty and open more buying opportunities for users; • it will help users continue their businesses and help manufacturers cope with demand for new equipment and modification; • it will reduce the burden on hire companies and manufacturers as well as fixed site operators such as theatres; and • it will help spread the costs incurred by Government. | <p>Our decision on facilitating early migration is set out at paragraphs 4.79-4.81. Funding will be slightly higher for PMSE users who claim for their equipment earlier, providing an incentive for early migration.</p> <p>As discussed above we acknowledge that, even with this contribution towards the cost of replacement equipment, some users might find it more problematic to replace all their channel 69 equipment due to difficulties obtaining finance. Although we appreciate that it is not possible to completely overcome this financing issue for all affected stakeholders, we have endeavoured to mitigate the effects through the scheme design (see paragraph 4.81).</p> |

BEIRG said that we should do whatever is necessary to facilitate an early migration to channel 38 for as many users as possible.

AMPS agreed allowing eligible users to purchase channel 38 equipment in advance would help alleviate the difficulties of an instant changeover on the 1 January 2012.

The BBC said that we should facilitate early migration but is not in a position to quantify the benefits.

Autograph Sound Recording Ltd said that until there is more information on the white space maps it cannot see any advantage in an early rush, but see that a transition throughout 2011 and 2012 is feasible.

AMPS agreed that allowing those users who are able to migrate early, such as fixed users, to purchase channel 38 equipment early would ameliorate the situation to some extent. However, it also pointed out that channel 69 remains the only option for users who need flexible nationwide coverage.

ITN said that provided funding will be in place ahead of 2012, it supports early migration. It stated that the key benefit will be to allow early adopters to gain experience working with new equipment in the new band. This will ensure that any issues are dealt with before too many devices are in use. Early adopters will give other users confidence to move to channel 38.

IBS disagreed because early migration will be problematic as DSO will not be complete in a number of parts of the country until 2012. It also said that that our suggestion that there will be 24 MHz of PMSE spectrum available in the channel 38-40 block will not be a practical reality until DSO is complete and equipment manufacturers have a chance to start production of models with a 24MHz switching bandwidth in this block of frequencies.

CLAS said that the compensation scheme should not necessarily be tied to replacement with channel 38 equipment, as it might be more efficient for some users to move to other frequencies. For example, the scheme should incentivise fixed users to

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| <p>move to better frequencies. They also said that license pricing should encourage compliance and suggested that registered charities should enjoy a reduced licensing tariff.</p> <p>BECTU said that the funding should be available well before channels 61-69 become unavailable, and there should be a period of time where existing equipment is deployed along side new channel 38 devices.</p> <p>Respondents also made the following points:</p> <ul style="list-style-type: none"> • the Government should also fully fund the hire and delivery costs of channel 69 equipment to those who have migrated when they are required to work outside channel 38 during the transition; • early migration to channel 38 will help static indoors users but not freelance mobile users; • some respondents said that they would continue to use channel 69 as long as possible; and • if users don't have the money to invest in new equipment they cannot benefit from early migration. | |
| <p>Q17: Do you agree with our proposal to allow each PMSE user to submit only one application for funding and to reserve the right to require the surrender of equipment for which funding has been received? If not, how do you suggest we ensure items are only claimed for on one occasion?</p> | |
| <p>The majority of respondents agreed that there should be only one application per eligible user and this should list all the equipment that they plan to exchange for funding.</p> <p>The BBC agreed that this proposal seems sensible, but highlighted the need for sufficient time to be given for applicants to prepare their claim.</p> <p>AMPS agreed with this proposal and suggested a voucher system rather than cash payments.</p> <p>APRS and BEIRG said that it is important that users are not forced to surrender their existing equipment upon application for</p> | <p>Our decision on the number of claims and surrender of equipment is set out at paragraphs 4.89-4.94.</p> <p>We have decided that claimants must be willing to surrender their equipment at the time when they want to receive funding. Surrender of equipment is required so that equipment cannot be claimed for more than once or passed on to other claimants.</p> <p>We understand BEIRG's argument that it would facilitate a smooth migration to provide funding prior to requiring equipment surrender and acknowledge that this would help users to invest in channel 38 equipment earlier. We carefully considered this option but do not think that funding should be provided before equipment is surrendered.</p> |

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| <p>funding. They argued that this would encourage the majority of owners to wait until 38 is available on the same basis as 69. This could also encourage a two year period where few owners would be willing to purchase new equipment, potentially sending manufacturers out of business. They said that there must be no limits imposed on the number of funding applications that may be submitted as this would cause problems for the transition particularly for those with large stocks who need to phase their acquisition.</p> <p>ITN said that for businesses with many business units to consider a single application is almost certainly unworkable, but it might be possible for smaller entities. It said that where there is a serial number applied to equipment, double claims could be prevented without surrender of equipment but that there would seem to be no alternative to surrender of equipment that does not have a manufacturer's serial number to identify it.</p> <p>IBS disagreed because some users might be prepared to surrender some of their existing kit for funding now but might wish to retain other equipment right up until channel 69 closes to PMSE. It said that the approach needed to be more flexible.</p> <p>Respondents also made the following points:</p> <ul style="list-style-type: none"> • a single one off funding 'event' does not fit with 'migration'; • there must be no limits imposed on the number of funding applications that may be submitted; • some companies may need to replace some of their equipment now and some at a later date. • a new-for-old equipment exchange with the manufacturers should be set-up; • a user or hire company with a large amount of equipment would have to replace it over a period; • users must be able to purchase replacement equipment before | <p>This is because the administrative processes that would be needed to implement this option and safeguard against fraud would be overly onerous and impractical.</p> <p>We do not believe that a voucher system, as suggested by AMPS and others, would be appropriate in this situation. Such a system would limit the flexibility of claimants to make decisions to reinvest in PMSE equipment if and when they see fit or to use their funding to address other business needs. Additionally, the work involved in establishing such a scheme, including assessing any possible competition issues, could significantly slow down the implementation of the funding scheme, limiting our ability to facilitate migration on a flexible timeframe.</p> <p>We have decided that we will only allow each claimant to make a single claim rather than allowing multiple claims in order to limit the scope for fraud and the complexity of the funding scheme. We think that this will allow us to better track the progress of the scheme as we will have early confirmation of the total number of claims. Additionally, users will be able to make investment decisions with clarity over how much funding they are eligible to receive in total ahead of the channel 69 clearance date.</p> <p>Claimants will be required to register for funding between 23 September 2010 and 31 December 2010. They will be asked to list all the equipment for which they wish to claim funding, including model types and/or numbers. It will not be possible for a claimant to add additional items once they have completed this registration process.</p> <p>We acknowledge that only allowing one application for funding could disadvantage any users that inadvertently leave some equipment off their application form. However, we believe we can mitigate the risk of errors in claim forms by providing sufficient time and advice for users to complete their registration forms.</p> <p>We have decided that claimants will be able to phase processing of their claims (and therefore receipt of funding) to suit their business requirements. This reflects the concerns raised by respondents such as ITN</p> |
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| <p>surrendering the existing equipment; and</p> <ul style="list-style-type: none"> serial numbers should be used to ensure there are no duplicate claims. | <p>and IBS about the workability of a single application for companies with large amounts of equipment.</p> <p>Claimants will be required to indicate on the registration form how they would like to phase the processing of their claim. By allowing a specified time period for the registration of claims but permitting phased processing, we hope to mitigate the risk identified by BEIRG of claimants deferring their claims to the latest possible date as a result of limiting them to a single application.</p> |
| <p>Q18: What are your views on the three options for new licensing arrangements for channel 38 identified by JFMG? Do you prefer any different approaches?</p> | |
| <p>The majority of respondents who expressed an opinion on licensing arrangements favoured Option 3 put forward by JFMG which was for fully shared use of channel 38 with no coordinated licences. In addition respondents raised the following points:</p> <ul style="list-style-type: none"> Standardised set of frequencies crucial in environment where other channel 69 shared licence holders are working and need to coordinate to avoid interference e.g. press conferences, festivals; Users should only have to deal with licensing once a year; 14+ frequency shared licence needed to replicate current usability of channel 69 and adjacent channels; Licensing and enforcement are crucial: it was suggested that proof of licence could be required at point of purchase of channel 38 equipment; Consultation with manufacturers needed; and Current flexibility should be maintained or bettered. | <p>We announced shared licensing arrangements for channels 38 on 16 December 2009 and new licences were available from 4 January 2010.</p> <p>We considered that PMSE users and manufacturers are better placed to determine the best way of using the frequencies within channel 38 than us or JFMG are through regulatory intervention. For these reasons we decided to go for option 3 put forward by JFMG which received most support from respondents.</p> <p>We believe think that concerns about the increased risk of interference between PMSE users in a shared licence environment can be overcome. PMSE users generally have an ability to manage use of channel 69 shared frequencies 'on the ground', communicating with each other to ensure that they can operate free from harmful interference. There is no reason why this should not apply similarly to channel 38 use; and there will still be the option of using interleaved spectrum where licensees consider that they need additional protection from harmful interference.</p> <p>The introduction of shared licence only for channel 38 means that licensees will not be faced with the increased transactional costs that would be the case if they had to book and coordinate each instance of spectrum use.</p> <p>At present eight wireless microphones can typically be used in channel 69 without the risk of harmful interference between PMSE users. It is our hope that the new flexible</p> |

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| | <p>licensing arrangements will enable manufacturers to identify additional frequencies within channel 38 – perhaps as many as 10 or 12 – where PMSE users will be able to operate without harmful interference from other competing users.</p> |
| <p>Q19: Do you agree with our proposal to include frequencies from channels 39 and 40 in the shared licence arrangements for channel 38?</p> | |
| <p>The majority of respondents agreed that frequencies from channels 39 and 40 should be included in the shared licence arrangements for channel 38 but a common set of reservations were raised (geographical restrictions, equipment availability etc):</p> <ul style="list-style-type: none"> • this arrangement should not impact on cost of licence or equipment; • nationwide (indoor and outdoor) availability key; • manufacture of equipment that tunes to channels 38-40 key; and • site specific licences for channels 39 and 40 should be considered to supplement channel 38. <p>BEIRG did not disagree with the principle of including channels 39 and 40 in the shared licensing arrangements but raised the following concerns:</p> <ul style="list-style-type: none"> • It can result in an increased risk of interference due to undue burden on users to check with JFMG which of the three channels is available in the area where they are operating; especially challenging for community and non-commercial PMSE users unaware of such licensing arrangements. • Unlikely that many users will purchase and use equipment that operates in these channels until channel 38 is available on the same basis as channel 69, the conditions for which include the absence of radioastronomy services in channel 38 and no TV broadcasts in adjacent channels 37 and 39. <p>AMPS noted that the maps supplied for channels 38 to 40 coverage showed many</p> | <p>The shared licence arrangements for channel 38 described above include channels 39 and 40 where channel 38 is not available. We understand from discussions with PMSE stakeholders that all equipment now being built for use in channel 38 will include channel 39 and 40 in its tuning range. As a result, indoor spectrum availability will be UK-wide once equipment is available and outdoor spectrum will be close to UK-wide.</p> <p>The new shared licence is priced at the same level as the previous channel 69 shared licence.</p> <p>We consider that the introduction of new shared licensing arrangements and availability of funding removes the regulatory obstacles that were preventing existing shared channel 69 PMSE licensees from moving to channel 38.</p> <p>We would expect that any user who considers prior coordination to be unduly onerous to continue using channel 69 until the restrictions on channel 38 availability fall away in September 2011. In the meantime, we expect other PMSE users who want to take advantage of the new shared licence arrangements to comply with the terms of those licence conditions.</p> <p>The new licensing arrangements for channel 38, alongside the temporary inclusion of channels 39 and 40 in the new shared licence, means that equipment which tunes to channel 38, 39 and 40 can now be used across the UK as flexibly as equipment for channel 69, except in some limited outdoor areas where both radio astronomy and terrestrial television remain protected.</p> <p>For users that operate outdoors and move around the country, there may be no other option than to continue using channel 69</p> |

restrictions on indoor use, and the outdoor map shows large areas where no frequencies will be available therefore it does not seem possible that this plan can successfully mirror the utility of channel 69 prior to 2012 as stated, due to lack of nationwide outdoor access to spectrum. No viable alternative for channel 69 for film and TV production until these issues are resolved and equipment begins to be manufactured with some certainty.

equipment until channel 38 becomes sufficiently available. However, many licensees do not need to operate outdoors in the north west of England or Cambridgeshire, so the spectrum availability in channels 38-40 should fulfil their requirements.

Annex 2

Funding methodology

- A2.1 The purpose of this annex is to explain the approach that will be used in calculating the funding that will be made available towards replacement of different types of channel 69 equipment. The first section explains how funding will be calculated, the second section describes the inputs into the calculation and the source of this information, and the last section provides some examples. These are illustrative examples only and are intended to assist users in understanding our methodology.
- A2.2 The final rate card which we plan to publish at the start of the registration period will refer to specific models of equipment and enable greater certainty as to the sums available. The draft rate card is available at Annex 6. We invite users to indicate if they consider that any factual corrections are required, in particular if they consider items of eligible channel 69 have inadvertently been excluded from the list, or if items are described in an ambiguous manner, or if the comparator item selected is so different in functionality to the listed item as to be wholly inappropriate.
- A2.3 As discussed at paragraph 4.39, the funding scheme will provide the cost of modification for equipment which is modified, provided this is less than the funding that would have been provided on surrender of equipment and subject to the provision of proof that the equipment has actually been modified. Therefore, modification is not covered in detail in this annex.

Approach to calculating funding – contribution to replacement kit

- A2.4 The funding that will be paid to eligible PMSE users will be a contribution to the cost of purchasing replacement equipment. This is intended to reflect the additional costs incurred by users as a result of clearance of channel 69 in 2012, given that our statements prior to 2 February 2009 led them to reasonably expect that channel 69 would be available at least until 2018. No funding will be provided in relation to the period after 2018, as users had not been given any assurances that channel 69 would be available beyond 2018.
- A2.5 As explained in section 4, for PMSE users that replace their equipment the additional costs incurred are given by the replacement cost of new channel 38 equipment less the discounted remaining value of this equipment in 2018. Under this approach, users will be provided with funding covering the additional cost incurred as a result of purchasing replacement equipment in 2012 rather than in 2018. To facilitate timely and orderly migration to channel 38, funding will be calculated from the date on which equipment is surrendered (calculated on a weekly basis).

Inputs to the funding calculation for replacement equipment

- A2.6 The funding calculation for PMSE users who choose to replace their equipment is based on an assumed straight line depreciation schedule and depends on a number of key inputs as follows:
- the current cost of equivalent replacement equipment;
 - the asset life of replacement equipment;

- the date on which equipment is surrendered (rounded to the nearest week);
- the discount rate.

A2.7 An uplift of 20% will also be added to claims from users that are not VAT-registered to ensure that they benefit to the same degree from funding as VAT-registered users who will be able to reclaim or offset the VAT paid on purchases.

A2.8 Descriptions of these inputs and further details on how they have been or will be assessed are provided in table A2.1 below.

Table A2.1 – Description of inputs to the funding calculation

| Input | Description | Source |
|------------------------------------|--|--|
| Straight line depreciation profile | 'Straight-line depreciation' assumes an asset will lose an equal amount of value each year – so attributes depreciation equal to the total value divided by the assumed years of asset life each year, meaning that the same amount of depreciation is recorded each year. | <p>We tested the suitability of the straight-line depreciation profile for PMSE equipment against available evidence.</p> <p>We reviewed the depreciation policies in the accounts of a sample of PMSE users and found that the majority employed straight-line depreciation. Responses to the consultation also indicated that in many cases the value gained from the use of PMSE equipment remains constant throughout its life (i.e. hire companies charge the same rate for old and new equipment and the sound quality of equipment must remain at the same high standard for use in professional theatre and concert shows).</p> <p>The second hand prices of PMSE equipment were included in the scope of our equipment inventory study. Anecdotal interviews paired with a small sample of price data seem to indicate that the second-hand price of PMSE equipment is not determined by equipment age but that the price does step down when a model is superseded. This implies that the depreciation of channel 69 equipment is not linear. However, this information was inconclusive based on the small sample size.</p> <p>Therefore, on balance, given its relative simplicity and the lack of evidence on which to base an alternative assumption, we believe it is appropriate to employ a straight line depreciation assumption in this case.</p> |
| Cost of replacement equipment | The cost of purchasing new channel 38 equipment with the equivalent functionality as the redundant channel 69 equipment being surrendered. | <p>We gathered a list of equipment that will be made redundant by the clearance of channel 69 from information obtained from manufacturers. For each equipment model, we have information on the appropriate replacement model and the cost of this replacement. We have used recent new channel 69 equipment prices as a proxy for channel 38 equipment that is not yet on the market.</p> <p>The draft rate card is available at Annex 6.</p> |

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| <p>Asset life – replacement equipment</p> | <p>The number of years which the channel 38 replacement equipment is expected to function.</p> <p>The funding calculation will employ an asset life assumption of 15 years for all pieces of equipment.</p> | <p>We understand that the working life of a piece of equipment will vary between equipment types and between users. However, we have decided not to split equipment and users into asset life categories as we think the categories would be too arbitrary. We decided to set a standard asset life input for all equipment types for all claims in the interests of fairness and practicality.</p> <p>Information on asset life was included in the scope of the equipment inventory study that we commissioned — manufacturers were asked how long their equipment would be expected to last on average. Those manufacturers who responded to this question said that equipment generally had either a 10 or a 20 year asset life.</p> <p>We also received information about lifecycles from respondents to the consultation, the majority of whom indicated that they expected their equipment to last significantly longer than 10 years. Excluding those who said their equipment lasts ‘forever’, the average number of years PMSE users stated that they would use their equipment for is 16.8.</p> |
| <p>Date of equipment surrender</p> | <p>In order to facilitate early migration to channel 38, we will calculate the level of funding from the week in which equipment is surrendered if this occurs before 1 October 2012.</p> | <p>It will be up to each user when they want to surrender their equipment, within the time the scheme is operational.</p> |
| <p>Discount rate</p> | <p>The discount rate reflects the rate at which the value of future costs and benefits decreases as they move further into the future.</p> <p>In our calculation, this will be applied to the remaining value of the replacement equipment in 2018.</p> <p>The funding calculation will employ a discount rate assumption of 5% in all cases.</p> | <p>As noted above, we decided that we will not differentiate between different types of user or licensees when calculating compensation payments due to the difficulty of fairly and accurately allocating users to different PMSE categories.</p> <p>In determining the appropriate discount rate we weighed up the risk of overcompensating claimants by setting a discount rate that is too high against the risk of under compensation if the discount rate is too low. Overall, we consider that a real post-tax discount rate of 5% is a reasonable figure to use in calculating compensation for PMSE users, based on the data regarding commercial lending rates to SMEs, and an assessment of the potential cost of capital, taking into account the likely risk exposure of claimants. We consider that a higher discount rate would not be appropriate and that this would risk overcompensating users.</p> |

Funding calculation for replacement equipment

A2.9 As explained in section 4, the level of funding provided for replacing channel 69 equipment will be calculated based on the cost of purchasing equivalent channel 38 equipment, less the residual value of this equipment in 2018. To recognise the time value of money, the residual value of the equipment in 2018 is discounted to the year of surrender to give an equivalent value in present value terms.

A2.10 The following hypothetical examples illustrate how the funding calculation will work in practice.

A2.11 **Example 1:** Funding calculation for equipment that is surrendered on 1 October 2012

| | Input | Key | Example |
|-------------|------------------------------------|-----------------------------|-------------|
| Inputs | Cost of replacement equipment | a | £1000 |
| | Asset life – replacement equipment | b | 15 |
| | Date of equipment surrender | c | 1/10/2012 |
| | Discount rate | d | 5% |
| Calculation | Funding period (in years) | $e = 6 + (1/10/2012-c)$ | 6.0 |
| | Annual depreciation | $f = a/b$ | £67 |
| | Cumulative depreciation to 2018 | $g = e*f$ | £400 |
| | Residual value on 31/12/2018 | $h = a-g$ | £600 |
| | Discount factor | $i = (1+d)^{-e}$ | 0.75 |
| | Discounted residual value | $j = i*h$ | £448 |
| | Funding | $k = a-j$ | £552 |

Note: The discount factor in row i is calculated to give the value of £1 in 2018 in the year of surrender, taking into account the discount rate. The funding period (e) is always equal to or greater than 6.

A2.12 As discussed in paragraph 4.80, PMSE users who surrender their equipment earlier will receive an uplift to their payment since the calculation would be based on a longer time period. The next example is the same as example 1, except that we have assumed that the user surrendered their equipment on 1 November 2011. This has the effect of increasing the amount of funding paid in this example from £552 to £616:

A2.13 **Example 2:** Funding calculation for equipment which is surrendered early

| | Input | Key | Example |
|-------------|---------------------------------|-----------------------------|-------------|
| Inputs | Price | a | £1000 |
| | Asset life | b | 15 |
| | Date of surrender | c | 01/11/2011 |
| | Discount rate | d | 5% |
| Calculation | Funding period (in years) | $e = 6 + (1/10/2012-c)$ | 6.92 |
| | Annual depreciation | $f = a/b$ | £67 |
| | Cumulative depreciation to 2018 | $g = e*f$ | £462 |
| | Residual value on 31/12/2018 | $h = a-g$ | £538 |
| | Discount factor | $i = (1+d)^{-e}$ | 0.71 |
| | Discounted residual value | $j = i*h$ | £384 |
| | Funding | $k = a-j$ | £616 |

Note: The discount factor in row i is calculated to give the value of £1 in 2018 in the year of surrender, taking into account the discount rate. The funding period (e) is always equal to or greater than 6.

A2.14 As noted above, an additional 20% will be added to claims made by users that are not VAT-registered to reflect the VAT rate that will be in use from January 2011. Therefore in example 2, if the user is not VAT registered the funding paid out would rise to $1.2 * £616 = £739$.

Annex 3

Impact assessment

Introduction

- A3.1 The analysis presented in this annex represents an impact assessment, as defined in section 7 of the Communications Act 2003.
- A3.2 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. This is reflected in section 7 of the Communications Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public or when there is a major change in our activities. However, as a matter of policy, we are committed to carrying out and publishing 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: http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf.

The citizen and consumer interest

- A3.3 On 30 June 2009, we published a statement setting out our decision to clear the 800 MHz band (the 800 MHz statement). This identified a substantial net benefit to citizens and consumers from aligning the UK’s digital dividend with the spectrum being identified for release by an increasing number of other European countries.
- A3.4 In order to achieve these benefits, the 800 MHz statement confirmed that, from 2012, PMSE users would be required to clear channel 69 but that channel 38 would be available for PMSE use on a UK-wide basis as a replacement for channel 69. The 800 MHz statement also confirmed that funding would be made available to eligible PMSE users in order to minimise disruption.
- A3.5 In August 2009, we published a consultation on the detailed arrangements for providing funding for affected PMSE users (“the funding consultation”). We asked for views on our proposed eligibility criteria, approach to verifying claims, methodology for calculating funding and the likely impact of the timing of the clearance of channel 69.
- A3.6 Putting in place a funding scheme which facilitates migration of PMSE users from channel 69, while ensuring that the funding is properly and prudently administered, is in the interest of citizens and consumers that benefit from the services provided by PMSE users.

Our policy objective

- A3.7 Our primary objective is to further the interests of citizens in relation to communications matters and the interests of consumers in relevant markets, where appropriate by promoting competition. In relation to the digital dividend, of which the 800 MHz band forms part, our overall objective is to maximise the total value to society that using this spectrum is likely to generate over time.

A3.8 We have four key objectives for future spectrum access for PMSE:¹²

- avoiding disruption to PMSE users that adversely affects their ability to provide a wide range of services to citizens, consumers and business customers;
- facilitating participation of the PMSE sector in a market-based approach to spectrum;
- promoting the optimal use of spectrum in relation to all potential uses and users over time; and
- avoiding the risks of regulatory and market failure.

A3.9 Our specific policy objective in relation to the funding scheme for PMSE users is to place eligible users in a position where they are no worse off, but no better off, than if we had not decided to clear channel 69 earlier than users may have reasonably expected.

Policy decisions

A3.10 We are faced with a number of decisions with regard to the design of the funding scheme. In this impact assessment we discuss the options we have considered in developing our policy for each of these decisions in turn. For completeness, matters relating to the timing of clearance and licensing arrangements picked up in the interim statement on future spectrum management, access and availability for PMSE (published on 15 April 2010) are also included.¹³

A3.11 The decisions discussed are as follows:

Eligibility

- whether users who held licences before, but not on, 2 February 2009 should be eligible for funding;
- whether equipment purchased between 2 February 2009 and 30 June 2009 should be eligible for funding; and
- whether equipment purchased after 30 June 2009 should be eligible for funding.

Calculation of claims

- what methodology should be used for calculating funding;
- whether we should distinguish between different types of users;
- whether incentives should be provided in the funding calculation for early migration;

¹² *Programme-making and special events: future spectrum access*, 30 June 2007
<http://www.ofcom.org.uk/consult/condocs/pmse/pmse.pdf>

¹³ *Programme-making and special events: future spectrum management, access and availability*, 15 April 2010. <http://www.ofcom.org.uk/consult/condocs/bandmanager09/statement/statement.pdf>

- whether we should provide additional funding to users that are not VAT-registered to account for the fact that they cannot reclaim or offset the VAT paid on items or services they buy;
- how many claims users should be allowed to submit, and the flexibility that should be provided as to when claims are processed; and
- whether any claims should be accepted without proof of ownership.

Timing of clearance and licensing arrangements

- the timing of clearance of channel 69 and overlap of channel 69 availability with channel 38 availability; and
- whether frequencies from channels 39 and 40 should be included the licences.

Eligibility

Licences held before 2 February 2009

A3.12 We said in the 800 MHz statement that there may be some PMSE users who had held channel 69 licences before the clearance of channel 69 was announced on 2 February 2009 but who had legitimate reasons for allowing those licences to lapse for a period prior to that date who might be eligible for funding. In the funding consultation, we proposed that any user who has held a valid licence for using channel 69 at any time during the 12 months prior to 2 February 2009 should be eligible for funding as long as it can justify why its licence lapsed and meets the other eligibility criteria.

A3.13 We have considered the following options:

- Option 1: PMSE users who did not hold a licence for channel 69 on 2 February 2009 should not be eligible for funding.
- Option 2: PMSE users who did not hold a licence for channel 69 on 2 February 2009 should be eligible for funding if they had held a licence for channel 69 during the preceding 12 months.
- Option 3: PMSE users who did not hold a licence for channel 69 on 2 February 2009 should be eligible for funding if they had held a licence for channel 69 during the preceding 36 months.

A3.14 In light of responses to the consultation, we also reconsidered the requirement for users that did not hold a channel 69 licence on 2 February 2009 to provide reasons for the licence lapse.

Table A3.1 – Consideration of policy options for licences held before 2 February 2009

| | Advantages | Disadvantages |
|--|--|--|
| Option 1: Only eligible if licensed on 2 February 2009 | This would reduce the risk of giving funding to lapsed PMSE users who are not genuinely affected by the changes. | PMSE users who use channel 69 for a recurring event (perhaps annual or seasonal), but who did not hold a licence for channel 69 on 2 February 2009, would not be |

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| | | eligible for funding. |
| Option 2: Eligible if licensed in preceding 12 months | PMSE users who use channel 69 for a recurring event (perhaps annual or seasonal), and had held a licence during the 12 months prior to 2 February 2009, would be eligible for funding. | There is a risk of including PMSE users who are not adversely affected by the changes because their equipment is no longer in use or to unlawful PMSE users (i.e. those who have deliberately left the legitimate, licensed sector). It would marginally increase the complexity associated with checking the licensee database. |
| Option 3: Eligible if licensed in the preceding 36 months | PMSE users who occasionally make licensed use of channel 69 but not every year would become eligible for funding. | There is a greater risk than under option 2 of extending funding to former PMSE users whose equipment is no longer in use and who are therefore not adversely affected by the changes, and to unlawful PMSE users. It would increase the complexity associated with checking the licensee database to a somewhat greater degree than under both other options. |
| Related issue arising under options 2 and 3: | | |
| Requirement for the provision of reasons for the licence lapse | This might reduce the risk of funding being given to those whose equipment is no longer in use and therefore who are not adversely affected by clearance and to unlawful PMSE users. | Providing evidence of their justification for license lapses would be onerous for claimants. Adequate evidence supporting the reasons for license lapses would be difficult for the administrator to assess due to the range of potential explanations that could be provided. This would make the delivery of the scheme more subjective, complex and costly. |

- A3.15 We have decided to implement option 2. PMSE users who did not hold a licence for channel 69 on 2 February 2009 will be eligible for funding if they did hold a licence for channel 69 during the preceding 12 months.
- A3.16 We estimate that this would increase the overall number of eligible users by approximately 10%, compared with option 1.
- A3.17 This decision strikes a balance between including those users who are genuinely disadvantaged by the clearance of channel 69 and excluding those who had no intention of continuing to use it (or who continued to use it without a licence).

A3.18 We have also decided not to require users that did not hold a channel 69 licence on 2 February 2009 but did hold a licence at some point in the preceding 12 months to provide reasons for the licence lapse. Providing justification for licence lapses would be onerous for claimants and difficult for the administrator to assess due to the range of potential explanations that could be provided. Therefore, claimants will be eligible so long as a licence was held at some point during the 12 months prior to 2 February 2009 (and they satisfy all the other eligibility criteria) and we will not require justification for lapses in that time.

Equipment purchased between 2 February 2009 and 30 June 2009

A3.19 We said in the 800 MHz statement that some users who needed to purchase channel 69 equipment between 2 February 2009 and the publication of the 800 MHz statement on 30 June 2009 for compelling and demonstrable reasons may be eligible for funding.

A3.20 In the funding consultation, we proposed that users who purchased equipment between 2 February 2009 and 30 June 2009 should be eligible for funding for this equipment as long as the user justifies its purchase and meets the other eligibility criteria.

A3.21 We have considered the following options:

- Option 1 – equipment purchased between 2 February and 30 June 2009 will not be eligible for funding.
- Option 2 – equipment purchased between 2 February and 30 June 2009 will be eligible for funding.

A3.22 We have also reconsidered the requirement that users that purchased channel 69 equipment between 2 February and 30 June 2009 should have to provide compelling reasons as to why they needed to purchase channel 69 equipment during this period.

Table A3.2 – Consideration of policy options for equipment purchase between 2 February 2009 and 30 June 2009

| | Advantages | Disadvantages |
|------------------------|---|---|
| Option 1: Not eligible | This would ensure that no funding is given to PMSE users who purchased equipment after the intention to clear channel 69 had been announced rather than choosing another option, such as renting equipment. | Some PMSE users may have needed to purchase equipment for UK-wide use between the date when we announced our proposal to clear the 800 MHz band and the date when we confirmed that channel 38 would be the replacement spectrum for channel 69. If these users purchased channel 69 equipment during that period, they would be disadvantaged if such equipment is not eligible for funding. |

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| Option 2: eligible | This ensures funding is provided to PMSE users who had little choice about purchasing channel 69 equipment because during this period because they needed equipment for UK-wide use and the replacement channel had not been confirmed. | It could be over-inclusive, and allow PMSE users to apply for funding even though they made their investment decisions in the knowledge that channel 69 would not be available in the longer term. It might be that another option, such as rental, was possible for some users. |
| Related issue arising under option 2: | | |
| Requirement for the provision of reasons for purchasing equipment | This would ensure that no funding is given to PMSE users who did not have demonstrable and compelling reasons for purchasing channel 69 equipment during this period | Providing justification for purchases would be onerous for claimants. Adequate justification for purchases would be difficult to assess objectively. The requirement would make the delivery of the scheme more complex and increase uncertainty for claimants. |

A3.23 We have decided to implement option 2, such that equipment purchased between 2 February and 30 June 2009 will be eligible for funding. We think it is reasonable to include equipment purchased during this period, as channel 38 had not at that stage been confirmed as the replacement for channel 69, and it would therefore have been rational for users to purchase channel 69 equipment if it was necessary for them to replace UK-wide equipment.

A3.24 We have also decided to remove the requirement that such users should provide evidence of compelling reasons for purchasing channel 69 equipment during this period, in the light of the problems this would create in terms of increasing the complexity of the scheme and introducing uncertainty for claimants.

Equipment purchased after 30 June 2009

A3.25 We said in the 800 MHz statement that some users who needed to purchase channel 69 equipment between 30 June 2009 and 1 January 2012, when channel 38 becomes available UK-wide, because their existing equipment is demonstrably in need of replacement and channel 38 equipment will demonstrably fail to meet compelling operational requirements, may be eligible for funding.

A3.26 In the funding consultation we proposed that channel 69 equipment purchased after 30 June 2009 would not be eligible for funding.

A3.27 We considered the following options:

- Option 1 – equipment purchased between 30 June 2009 and 1 January 2012 will not be eligible for funding.

- Option 2 – equipment purchased between 30 June 2009 and 1 January 2012 will be eligible for funding provided the PMSE user can provide evidence that their existing equipment is demonstrably in need of replacement and channel 38 equipment will demonstrably fail to meet compelling operational requirements.

Table A3.3 – Consideration of the policy options for equipment purchased between 30 June 2009 and 1 January 2012

| | Advantages | Disadvantages |
|--|--|--|
| Option 1: Not eligible | <p>This would simplify the scheme, as it would not require the administrator to make judgements about whether channel 38 equipment will demonstrably fail to meet compelling operational requirements.</p> <p>In light of the increased utility of channel 38, the likely availability of second hand channel 69 equipment and the possibility of renting channel 69 equipment, there should be few, if any, instances where the purchase of new equipment is necessary.</p> | <p>This would disadvantage PMSE users who have a genuine need to purchase channel 69 equipment after we confirmed on 30 June 2009 that channel 38 would be available but before it was due to become available UK-wide on 1 January 2012 (NB. regional restrictions on channel 38 use for PMSE will now end on 21 September 2011).</p> |
| Option 2: Eligible subject to evidence of compelling reasons | <p>This would compensate PMSE users who have a genuine need to purchase channel 69 equipment after we confirmed on 30 June 2009 that channel 38 would be available but before it was due to become available UK-wide on 1 January 2012 (NB. regional restrictions on channel 38 use for PMSE will now end on 21 September 2011).</p> | <p>It would add complexity to the scheme as it would require the administrator to make judgements about whether channel 38 equipment will demonstrably fail to meet compelling operational requirements.</p> <p>The announcement of this option could encourage users to make inefficient purchases of channel 69 equipment going forward on the understanding that they would receive funding for it.</p> |

A3.28 We have decided not to extend eligibility to channel 69 equipment purchased after 30 June 2009. By this date, licensees had been notified of the decision to clear channel 69 as well as the decision on the replacement channel.

A3.29 There have been significant developments to address the availability of UK-wide spectrum which closely mirrors the utility of channel 69. Flexible shared licensing for channel 38 (including channels 39 and 40 where channel 38 is currently unavailable for PMSE use) means that users can use operate in channels 38-40 indoors across the UK and outdoors in most locations. We also expect that there will be channel 69 equipment available on the second hand market and on the rental market during

this period. Hence, there are alternatives available which should reduce the impact on any PMSE users requiring UK-wide spectrum access prior to 2012.

Methodology – calculation of claims

- A3.30 In our discussion of policy objectives, we set out our four key objectives for future spectrum access for PMSE users. We stated that the specific objective of the funding scheme was to leave eligible PMSE users in a position where they are no worse off, but no better off, than if early clearance had not been implemented.
- A3.31 In the funding consultation we said that we need to design a methodology for assessing the amount of funding payable for each piece of eligible equipment. In determining the most appropriate methodology, we proposed to consider the following factors:
- i) providing accurate funding for each claim;
 - ii) minimising administration and compliance costs;
 - iii) providing incentives for timely and orderly migration;
 - iv) dealing with claims quickly; and
 - v) ensuring a simple, transparent and predictable process.
- A3.32 We said that a methodology which balances these factors would be consistent with our four key objectives for future spectrum access for PMSE and that minimising administration costs and seeking to provide accurate funding for eligible claims are important aspects of ensuring prudent use of public funds.
- A3.33 As discussed in section 4, these principles received support from many stakeholders. We have decided to use them in assessing options for how claims are calculated.
- A3.34 As we explain in section 4, eligible users will be able to choose to either replace or modify channel 69 equipment. If users choose to modify rather than replace their equipment, we will pay for the cost of the modification provided that this is no greater than the contribution to replacement we would otherwise make available, and subject to proving the equipment has actually been modified.

Methodology for assessing the funding for replacement of equipment

- A3.35 In assessing the appropriate methodology, we have given careful consideration to balancing users' concerns about being left in a worse position due to the need to replace or modify channel 69 equipment in 2012 with the need to avoid inappropriate expenditure of public funds by providing too much funding to users. In this regard, we consider that the additional costs incurred by PMSE users can be assessed by considering what would have happened without early clearance and comparing this to what will happen if clearance takes place in 2012. Given that users' had a reasonable expectation that channel 69 would be available until 2018, we consider that they would have been expected to have to replace channel 69 equipment in 2018 at the latest.
- A3.36 As a result of our decision to clear channel 69 in 2012, users will be required to purchase replacement equipment earlier than would otherwise have been the case.

However, in assessing the additional costs incurred by PMSE users, it must also be recognised that the replacement channel 38 equipment will continue to have an economic value in 2018 that reflects its remaining useful life beyond the end of the period in which users had a reasonable expectation that channel 69 would be available. We consider that an appropriate measure of the additional costs incurred by a PMSE user is the cost of new replacement channel 38 equipment at the date of surrender of channel 69 equipment, less the discounted residual value of the channel 38 equipment in 2018.¹⁴

A3.37 In this context, we have considered two options for the methodology used to calculate funding for equipment that is replaced:

- Option one – compensation based on the reduction in the residual book value of channel 69 equipment over the period when PMSE users could reasonably have expected continued access to channel 69 (i.e. from the date of equipment surrender to 2018).
- Option two – compensation based on the replacement cost of new channel 38 equipment less the residual value of this equipment in 2018, discounted to 2012. Under this option, funding is therefore explicitly based on the cost of replacement.

Table A3.4 – Consideration of the options for calculating funding for replacement

| | Advantages | Disadvantages |
|--|---|---|
| Option 1 – The reduction in the residual book value of channel 69 equipment from the date of surrender to 2018 | <p>This option takes into account the fact that PMSE users only had a reasonable expectation of continued access to channel 69 until 2018.</p> <p>It would take into account the remaining life of the asset, such that equipment which reaches the end of its accounting life before 2018 would receive less funding (since its residual value would fall to zero before this date).</p> | <p>This option would not provide sufficient funding since it would not reflect the additional costs incurred by PMSE users. In particular, it is likely to under-compensate users since funding would be based on the historical purchase price of channel 69 equipment. This could be lower than the replacement cost of channel 38 equipment both because of changes in equipment prices through time and because of any differences between the prices of equipment for the two channels.</p> <p>There is a risk that some users may have difficulty in purchasing replacement equipment if they are unable to raise the money required to cover the difference between the actual cost of replacement equipment and the grant provided in 2012. We consider that this concern is most likely to apply in relation to smaller non-professional</p> |

¹⁴ The residual value of channel 38 equipment is discounted to 2012 to recognise the fact that costs and benefits decreases the further into the future that they are incurred. This effect, which is referred to as the ‘time value of money’, is captured by discounting future costs and benefits to give an equivalent present value.

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| | | <p>users. (We note, however, that such users would have the option of migrating to channel 70, or of modifying existing equipment to operate in channel 38.)</p> <p>It could increase administrative and compliance costs due to the need to determine the historical purchase price and asset age of surrendered equipment. This may also mean that it takes longer to deal with claims.</p> <p>This option is dependent on historical data that is likely to be difficult to obtain and verify, and could therefore be considered less simple, transparent and predictable.</p> <p>The fact that users are under-compensated for the additional costs they incur may give them an incentive to delay migrating channel, and hence this approach may fail to provide incentives for timely and orderly migration.</p> |
| <p>Option 2 - Contribution to the cost of channel 38 equipment based on the additional costs incurred by PMSE users</p> | <p>This would provide the most accurate funding, since it would more closely reflect the additional costs incurred by PMSE users. In particular, it uses replacement cost rather than historical purchase to value equipment.</p> <p>It would provide better incentives for timely and orderly migration because it provides a level of funding that more accurately reflects the additional costs incurred by users when they migrate.</p> <p>It would involve lower administration and compliance costs, and allow claims to be dealt with more quickly, because data on current equipment should be easier to obtain than historical prices.</p> <p>The use of current prices would also make the process more</p> | <p>This option might be considered complicated/difficult to understand. For example, it involves a present value calculation of the remaining value of the new equipment in 2018.</p> <p>This option relies on data on current prices for replacement equipment which might be difficult to obtain, particularly as some equipment might not yet be on the market.</p> <p>Even though this option provides funding that more closely reflects the additional costs incurred as a result of clearing channel 69 in 2012, there is still a risk that some users may have difficulty in purchasing replacement equipment if they are unable to raise the money required to cover the difference between the actual cost of replacement equipment and the grant provided in 2012.</p> |

| | | |
|--|---|---|
| | <p>simple, transparent and predictable than under option 1.</p> | <p>We consider that this concern is most likely to apply in relation to smaller non-professional users. (We note, however, that such users would have the option of migrating to channel 70 or of modifying existing equipment to operate in channel 38.)</p> |
|--|---|---|

A3.38 In light of this assessment, we have decided that the methodology for calculating claims should be based on option two, since this best reflects the additional costs incurred by PMSE users as a result of clearing channel 69 in 2012 and hence provides the most accurate funding. In addition, option two also performs better against the other criteria since it involves lower administration and compliance costs, provides better incentives for timely and orderly migration, and could help to ensure that claims are dealt with quickly and that the process is simple, transparent and predictable.

A3.39 This option involves the provision of a standardised amount of funding for each type of channel 69 equipment surrendered, rather than an item by item assessment of value based on the repair of the equipment surrendered. Therefore, we have not undertaken a separate impact assessment on the decision to use standardised values to calculate funding as this was part of the funding methodology decision.

Assessing the funding for modification of equipment

A3.40 In our funding consultation we stated that where equipment is modified rather than surrendered, users will be compensated for the cost of modification, up to the amount of funding that would have been provided as a contribution to the replacement cost. We have decided that the funding provided for modification will be subject to proving the equipment has actually been modified. Therefore, all the options we considered for how to determine the funding for modification:

- include the requirement that a receipt for the modification be presented to the scheme administrator; and
- will be capped at the amount of funding that the user would have received as a contribution to the replacement cost had they chosen to surrender that equipment (as indicated on the rate card).

A3.41 In this context, we have considered three options for the methodology used to calculate funding for equipment that is replaced:

- Option one – Users receive the amount documented on the receipt they present to the administrator as proof of modification.
- Option two – A list of the amount to be provided for modification for each piece of equipment would be included in the rate card.
- Option three – Users receive the amount documented on the receipt they present to the administrator, capped by either:

- A common maximum payment for all items; or
- An item-specific maximum payment (as specified in the modification rate card).

Table A3.5 – Consideration of the options for calculating funding for modification

| | Advantages | Disadvantages |
|--|---|---|
| <p>Option 1 - Receipt only: Users receive the amount documented on the receipt they present to the administrator as proof of modification.</p> | <p>This option would provide more accurate funding on a case by case basis.</p> <p>It carries lower risk of over- or under-compensating users who wish to modify their equipment; and</p> <p>This option most closely resembles what we said in our consultation, namely to provide the ‘full cost of modification’.</p> | <p>This option would create some uncertainty in the funding estimate even after registration.</p> <p>It could incentivise those carrying out modification to inflate prices.</p> <p>It could be complex to implement as the administrator would need to check each receipt and pay out accordingly.</p> <p>There is a risk of claimants falsely inflating the amount they were charged as there is no limit to the amount users could claim for modification other than the amount they would have received for surrender. But this could be mitigated in part by monitoring claims over a set percentage of the contribution to replacement that would otherwise have been paid.</p> |
| <p>Option 2 – Modification Rate card: A list of the amount to be provided for modification for each piece of equipment would be included in the rate card.</p> | <p>Allows certainty of funding for users and a more accurate calculation of the overall level of funding to be paid out after the registration period.</p> <p>Lower risk that scheme will deter competitive pricing for modification services if users are given the amount that is on the rate card regardless of the amount on the receipt.</p> | <p>We do not have sufficient information to populate the rate card accurately for every channel 69 item, therefore this option would be infeasible to implement without estimating appropriate amounts for some items.</p> <p>One approach would be to base the amount received for modification on a proportion of the replacement value, eg 30%. However, it could be argued that this does not represent the ‘full cost of modification’ as promised.</p> |

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| | | <p>Carries the risk of over or under-compensating some users.</p> <p>Depending how it is implemented, this option could influence market prices for modification services (by encouraging providers to inflate their modification prices up to the rate card amount)</p> |
| <p>Option 3 - Receipt with cap:</p> <p>Users receive the amount documented on the receipt they present to the administrator, capped by either:</p> <p>A common maximum payment for all items; or</p> <p>An item-specific maximum payment (as specified in the modification rate card).</p> | <p>This option increases the certainty of the amount of funding needed for the scheme relative to option 2.</p> <p>This option retains the accuracy of the funding provided to a large extent but ensures that modifiers cannot inflate their prices beyond a certain point. (However, it could incentive modifiers to inflate prices up to the level of the maximum payment).</p> | <p>By providing the same cap for all equipment, this option might lead to overcompensation in some cases and under compensation in others.</p> <p>Depending on the level of the cap, this option could decrease the incentive for some users to modify their equipment even where this is efficient and below the amount that would be provided for surrender.</p> |

A3.42 In light of this assessment, we have decided that the methodology for calculating funding for modification should be based on option one, since this best reflects the additional costs incurred by PMSE users, who choose to modify their equipment, as a result of clearing channel 69 in 2012 and hence provides the most accurate funding. In addition, option one is also feasible to implement in a fair manner.

Aggregation by type of equipment user

A3.43 We have considered whether to distinguish between light, medium and heavy users of equipment on the basis that the lifecycle of equipment may be somewhat greater in the hands of a light user.

A3.44 We considered the following options:

- Option one – to distinguish between different types of equipment user, for example light, medium and heavy users
- Option two – not to distinguish between different types of equipment user

Table A3.6 – Consideration of the options for distinguishing between types of user

| | Advantages | Disadvantages |
|--|------------|---------------|
|--|------------|---------------|

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|--|---|--|
| <p>Option 1: distinguish between different types of equipment user</p> | <p>This might make the calculation of funding more accurate, since the type of user could affect the remaining useful life of equipment.</p> | <p>The potential gain in accuracy is debatable, since it is unclear to what extent the degree of use drives the expected life of equipment. For example, some heavy users may maintain equipment to a higher standard than light users.</p> <p>There is a risk of over-compensation, as more users may argue that they are 'light users' than is in fact the case, if this would result in receipt of a higher level of funding.</p> <p>There is a risk of disputes over categorisation of users.</p> <p>This option would add to the complexity of the funding programme and potentially slow down the speed with which claims are processed.</p> <p>Distinguishing between users would make the scheme less simple, transparent and predictable.</p> |
| <p>Option 2: not distinguish between types of equipment user</p> | <p>It would reduce the subjectivity and complexity of the funding programme and increase certainty for users.</p> <p>The process would be more simple, transparent and predictable, and claims could be processed more quickly.</p> | <p>Funding may be less accurate, since the same lifetime would be assumed for each model of equipment regardless of the use to which this equipment is put.</p> |

A3.45 We have decided not distinguish between different types of users (option 2). We think that it would add to the complexity of the funding programme to do so because separate rate cards would be required for each category of user. It would also be extremely difficult to establish what would constitute convincing evidence of the category each user should fall into and thus to distinguish between user types. This would not help minimise administration and compliance costs, ensure claims are dealt with quickly, or ensure a simple, transparent and predictable process.

Early migration

A3.46 A timely and orderly migration from channel 69 is important from a spectrum efficiency point of view, since it will allow the release of spectrum for new uses and will help to minimise disruption to the PMSE sector.

A3.47 We considered two options for how funding for replacement should be calculated for equipment surrendered in advance of the clearance date:

- Option one – to calculate funding from 1 October 2012 when equipment can no longer be used in channel 69.
- Option two – to calculate funding from the date on which equipment is surrendered, if that date falls before 1 October 2012.

Table A3.7 – Consideration of the options for early migration

| | Advantages | Disadvantages |
|--|--|--|
| Option 1: calculate funding from 1 October 2012 | Since funding would not vary depending on the date on which equipment is surrendered, this option would help ensure a simple, transparent and predictable process. | This option does not provide any incentive for users to surrender early. This could jeopardise an orderly migration if too many PMSE users delay ordering new equipment or modifying existing equipment until late in the clearance timetable. |
| Option 2: calculate funding from date of surrender | This would allow PMSE users to receive more funding if they surrender early and could therefore promote a more timely and orderly migration. It would help ensure claims are dealt with quickly, since claims are more likely to be spread over the course of the scheme rather than all concentrated close to the date at which channel 69 ceases to be available. | This option could increase the complexity of the scheme. Given that funding will vary depending on the date on which funding is approved (or equipment is surrendered), the process could be considered less simple, transparent and predictable. |

A3.48 We have decided to implement option two and to calculate funding from the date on which equipment is surrendered (to the nearest week), if this occurs before 1 October 2012.

A3.49 Although this decision will increase the complexity of the scheme, we believe that this cost is outweighed by the benefits to the sector of a smooth migration. In addition, it may also improve the workability of the scheme, as it is likely to help spread out the timing of claims and hence to reduce administrative bottlenecks at the final clearance date.

Users who are not VAT-registered

A3.50 We considered whether funding payments to users who are not able to reclaim or offset VAT, because they are not VAT registered, should be increased by the current VAT rate (this will be 20% from 4 January 2011) in order for them to benefit

to the same degree from funding as VAT-registered users. We considered the following two options:

- Option one – to give all users funding based on pre-VAT prices, regardless of VAT status.
- Option two – to provide an additional 20% increase to the funding paid to non-VAT registered claimants.

Table A3.8 – Treatment of non-VAT registered claimants

| | Advantages | Disadvantages |
|--|---|--|
| Option 1: exclude VAT from all payments. | This option would be simple to implement and avoid additional fraud risk as claimants would not benefit from being dishonest about their VAT status. | Under this option, claimants who are not able to reclaim or offset VAT on the purchase of new equipment would be disadvantaged by comparison with those able to do so. |
| Option 2: provide an additional 20% to non-VAT registered claimants. | <p>Increasing payments to users that are not VAT-registered by the current VAT rate recognises they are in a different position to VAT-registered users and takes into account stakeholder concerns about our treatment of smaller users.</p> <p>This ensures that all users to benefit to the same degree from grants and that grants more closely reflect the economic cost to non-VAT registered users of early clearance.</p> | In the situation where a non-VAT registered claimant does not use the funding to buy VAT-able goods and services this could possibly put them in a position where they are over-compensated relative to other claimants. |

- A3.51 We have decided to implement option two, providing an additional 20% increase to the funding paid to non-VAT registered claimants.
- A3.52 We will ask users to declare their VAT-status when registering for funding and review claims after this stage and before making payments. We will ask claimants for their VAT-registration number if they are VAT-registered and ask for a statement of turnover. The terms and conditions of grant will require users to declare the statements made are accurate in all respects at the time of registration and the payment of the grant.
- A3.53 Any false statements regarding VAT status or other eligibility requirements will invalidate a user's entire claim, lead to proceedings under the terms and conditions to recover the sums paid and, in the case of deliberate false statements, may be investigated as criminal fraud.
- A3.54 We have decided to use the 20% VAT-rate which is planned from 4 January 2011 as we currently anticipate making funding payments from Q1 2011. The rate in use

at the time we start making funding payments will be used throughout the scheme even if VAT changes again to avoid adding complexity and uncertainty and in line with other assumptions we have made in designing the scheme (e.g. in relation to inflation when calculating the discount rate).

A3.55 Payments for modification for users that are not able to reclaim or offset VAT will cover the cost of modification plus the VAT they are charged

Number of claims and surrender of equipment

A3.56 In the funding consultation we said it was important that eligible equipment is only claimed for on one occasion and that this could be ensured by asking PMSE users to surrender their equipment on receipt of funding. While we said this would reduce the risk of false or inaccurate claims, we recognised that it would not necessarily be efficient to require users to give up their channel 69 equipment while it is still available for PMSE use.

A3.57 A number of stakeholders commented on the need for PMSE users to retain use of some or all of their equipment until the cut-off date for PMSE use of channel 69. Stakeholders also commented on the importance of early access to funding to allow investment ahead of the switch to channel 38.

A3.58 We considered the following options:

- Option one – Allowing multiple claims per user;
- Option two – Allowing only one funding payment per applicant and requiring all equipment listed on each application to be surrendered before or at the time at which the payment is made; or
- Option three – Allowing only one claim per user, with flexible surrender of equipment (i.e. users complete only one claim covering all their equipment, but can phase their surrender of this equipment and therefore their receipt of funding).

Table A3.9 – Consideration of options for number of claims and surrender of equipment

| | Advantages | Disadvantages |
|--|--|---|
| Option 1: Allow multiple claims per user | <p>This option would increase the flexibility of the scheme from the users' perspective, as they would not need to carry out one large inventory at the registration stage of the scheme. This would particularly benefit large users.</p> <p>It would provide more accurate funding for users who identify further pieces of eligible equipment after the registration stage.</p> | <p>This option would increase the administrative costs of the scheme.</p> <p>It would mean the Government (who are providing funding) would have less certainty over the budget requirement, with a consequential risk for claimants as to availability of funds later in the process.</p> <p>It would also create greater scope for fraud.</p> |
| Option 2: Allow | This option would allow tracking of | This option would be quite |

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|---|---|---|
| <p>only one claim per user, with one surrender date per user</p> | <p>the scheme's progress as we would have an understanding of the potential number of claims the scheme will receive overall by the completion of registration.</p> <p>Allowing only one claim per claimant would limit the scope for fraud and the administrative cost of the scheme compared to allowing multiple applications.</p> | <p>restrictive to users as it would not facilitate a phased purchase of new equipment.</p> <p>This option might cause a spike of equipment surrender close to the clearance date, possibly increasing costs and reducing the speed with which claims are processed.</p> <p>This option could lead to large compliance costs for PMSE businesses with larger equipment stocks, due to the burden of registration and the logistics of surrendering all eligible equipment simultaneously. It could have a particularly negative impact on businesses that cannot afford to replace all their equipment at the same time.</p> <p>Users who inadvertently fail to mention all their equipment on their claim due to an oversight would not receive funding in respect of that equipment.</p> |
| <p>Option 3: To allow only one claim, with flexible surrender</p> | <p>Because it allows phased return of equipment (and collection of funds), this option allows PMSE users the flexibility to surrender their equipment as best suits their business needs.</p> <p>This option would have a lower administrative burden than option 1, but higher than option 2 as it could involve separate equipment surrender dates.</p> <p>This option increases certainty about the amount of funding to be paid out compared to option 1.</p> | <p>This option involves stakeholders carrying out a significant task in the registration phase, as they need to compile a complete inventory of their eligible equipment. Therefore, it could involve significant compliance costs for businesses with large equipment holdings.</p> <p>This option could increase administrative costs compared to option 2, due to the need to process equipment surrender and payment at multiple dates.</p> <p>Users who inadvertently fail to mention all their equipment on their claim due to an oversight would not receive funding in respect of that equipment.</p> |

A3.59 We have decided that each applicant should be allowed to submit only one application for funding, with flexibility as to when equipment is surrendered or modified (option three). We believe this limits the scope for fraud and the

administrative cost of the scheme compared to allowing multiple applications. This option allows PMSE users the flexibility to surrender their equipment as best suits their business needs. At the same time, it retains the benefits to the scheme of allowing only one claim per user in terms of ability to plan ahead and the minimisation of fraud.

Proof of ownership

A3.60 To avoid fraudulent claims, ensure claims satisfy the eligibility criteria, and to confirm identity, claimants will be required to produce supporting evidence when making a claim for funding.

A3.61 In the funding consultation we stated that receipts (or equivalent proof of purchase) could be used by the scheme administrator to verify that the claimant owns the equipment for which they are applying for funding. However, we acknowledged that some PMSE users may not have kept receipts for their equipment and asked stakeholders to comment on other evidence that could potentially be used to verify proof of ownership. We suggested that such evidence could include asset inventories or detailed insurance records.

A3.62 Most respondents indicated that they have some form of proof of ownership for their channel 69 equipment in the form of receipts, asset inventories and/or detailed insurance records. However it is likely that some – particularly smaller – parties have no proof of ownership for their equipment, despite fitting all the other eligibility criteria.

A3.63 We considered the following options:

- Option one – Not to accept any claims without proof of ownership;
- Option two – To accept all claims without proof of ownership;
- Option three – To accept claims up to a threshold level without proof of ownership.

Table A3.10 – Consideration of options for requiring proof of ownership

| | Advantages | Disadvantages |
|---|---|---|
| Option 1: Require proof of ownership for all claims | This option would limit the opportunity for fraud as users would not be eligible for funding if they cannot prove they own the equipment for which they are making a claim. This would help increase the accuracy of funding. | <p>We understand that small community users might not need to keep records for business reasons. Hence, the implementation of option 1 could lead to such users being under-compensated, reducing the accuracy of funding.</p> <p>This option would involve checking proof of ownership for each piece of equipment for which a claim was made – increasing administration and compliance costs, and potentially slowing down the processing of claims.</p> |

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| <p>Option 2: No requirement for proof of ownership</p> | <p>This option would ensure no eligible users were left out of the scheme due to a lack of proof of ownership, thus possibly providing more accurate funding.</p> <p>Administration and compliance costs would be lower, since proof of ownership would not need to be provided or checked. This could also speed up the processing of claims.</p> | <p>This option could increase the scope for fraud, since users may claim for equipment which they do not own. For instance, licensed users might claim for equipment belonging to unlicensed users. This would reduce the accuracy of funding.</p> |
| <p>Option 3: Allow claims without proof of ownership up to a threshold</p> | <p>This option would allow small community users access to the scheme without proof of ownership, thus improving accuracy of funding.</p> <p>Compared with option 1, it would help ensure claims are processed quickly by reducing the number of claims for which proof of ownership needs to be checked.</p> <p>The implementation of a threshold would reduce this risk of fraud compared with option 2.</p> | <p>This option would increase the risk of fraudulent claims compared with option 1, reducing the accuracy of funding.</p> <p>Some larger users without proof of ownership for their equipment may not receive full compensation for all the additional costs incurred.</p> <p>This option would still involve a compliance burden on larger businesses with more stock.</p> |

A3.64 We have decided that claims under a certain threshold should be accepted without proof of ownership (option 3) on the basis of proportionality. Above this threshold, claims should be supported by some kind of proof of ownership, such as receipts, asset inventories, or detailed insurance records.

A3.65 We believe, provided the threshold is set at an appropriate level, option 3 strikes a suitable balance between limiting the impact of fraud on the scheme and providing fair funding to the majority of users. Businesses who will submit larger claims are likely to need to keep records of their assets for a variety of purposes including taxation, insurance and customer cataloguing.

A3.66 We acknowledge that this option will still leave scope for some fraudulent claims (i.e. licensed users claiming for equipment that is in fact owned by unlicensed users). However, we feel that limiting the size of any such claims through the use of a threshold is an appropriate compromise between limiting exposure to the risk of fraud and unfairly excluding genuine claims due to a lack of evidence.

A3.67 We have decided to set this threshold such that proof of ownership will be required for all claims for equipment with a total replacement value above £6000 (as indicated by the estimated replacement cost shown on the rate card).

Timing of clearance and licensing arrangements

Timing of clearance of channel 69 and overlap with channel 38

- A3.68 As set out in section 2 we announced our decisions on the final date for clearing channel 69 in the interim statement on future spectrum management, access and availability published on 15 April 2010. We set out our analysis of the options below.
- A3.69 In the 800 MHz statement, we confirmed that channel 69 (and the rest of the 800 MHz band) will remain available for PMSE use until at the least 1 January 2012 when protection for radio astronomy was due to end (these restrictions will now end on 21 September 2011.) We said that the timing would depend on the outcome of the Government-expedited the work to resolve the key questions outlined in the Independent Spectrum Broker's report for Digital Britain, and that it may be possible PMSE access to some or all of the 800 MHz band to extend beyond 1 January 2012 up to the completion of DSO at the end of 2012.
- A3.70 The timing of clearance of channel 69 is one of the key variables impacting on the feasibility of a smooth and orderly migration for PMSE users. The longer the overlap of availability of channels 69 and its replacement, channel 38, the better for PMSE users. At the same time, clearance of channel 69 is also key to the availability of the top 2 x 10 MHz in the 800 MHz band suitable for new mobile services. The earlier channel 69 is cleared, the sooner this could allow roll-out of some services to consumers ahead of clearance of the full 800 MHz band.
- A3.71 In reaching a decision on when to clear channel 69, we therefore have to consider any costs to citizens and consumers arising from the impact on PMSE users and their ability to provide services, balanced against any benefits of the availability of new services earlier than would otherwise have been the case.
- A3.72 We considered the following options:
- Option 1 – To require complete clearance of PMSE from channel 69 by 1 January 2012
 - Option 2 – To require complete clearance of PMSE from channel 69 by 31 December 2012
 - Option 3 – To phase out the availability of channel 69 for PMSE use

Table A3.11: Consideration of options for timing of channel 69 clearance

| | Advantages | Disadvantages |
|---|---|--|
| Option 1: To require complete clearance of channel 69 by 1 January 2012 | This option would free up the channel earlier than other options for the deployment of new services which might benefit citizens and consumers. | This option would provide a three month period, from September 2011, when channel 38 was available fully across most of the UK. It would not allow for a substantial overlap for those users who require UK-wide coverage. The absence of an overlap period has the potential to cause disruption to PMSE users which |

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| | | <p>may in turn impact on citizens and consumers. Several PMSE users who responded to the funding consultation said they would go out of business if they are forced to stop using channel 69 before channel 38 is fully available.</p> <p>There is a concern among some PMSE users that the market for channel 38 equipment may not have developed sufficiently by 1 January 2012 to allow all PMSE users to re-equip in time.</p> |
| <p>Option 2: To require clearance by 31 December 2012</p> | <p>This option would allow PMSE users the greatest flexibility in moving to channel 38.</p> <p>There is less likely to be a constraint to migration caused by the availability of channel 38 equipment under this option than under either other option.</p> | <p>This option might result in the timing or value of the 800 MHz award being jeopardised, as it would delay opportunity for future users to prepare services for release through testing.</p> <p>Mobile network operators have said that if they were successful in the award of the spectrum, they would want access to the top 2 x 10 MHz in the 800 MHz band from the beginning of 2012 across the UK. Therefore this option could potentially disadvantage their future customers. However, it is not clear that making channel 69 available from 1 January 2012 will necessarily give consumers access to new services much sooner.</p> |
| <p>Option 3: To phase out the availability of channel 69</p> | <p>As channel 38 will offer broadly equivalent utility to channel 69 across the UK from mid-2012, this option would decrease disruption to PMSE compared with option one but would allow some flexibility for the timing of alternative use.</p> <p>Timing of roll-out, including technical and commercial testing, would be facilitated with less risk to PMSE use than option 1.</p> <p>This option carries less risk that the availability of channel 38 equipment would be a constraint on migration than option 1.</p> | <p>The phasing of availability and the implementation of different availability in different areas might cause some uncertainty for users.</p> |

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| | This option seeks to balance the effect of future mobile customers with the effects on PMSE users and their customers. | |
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A3.73 We have decided to implement option 3. PMSE users should retain access to channel 69 until at least 1 July 2012 in all of the UK and until at least 1 October 2012 in London, Northern Ireland and the north east of England (the Tyne Tees television region). PMSE users will remain the primary users of channel 69 during this period, although this should not preclude new licensees carrying out some technical testing in channel 69 where that is possible.

Licensing arrangements

A3.74 We announced shared licensing arrangements for channels 38, 39 and 40 on 16 December 2009 and new licences were available from 4 January 2010. We addressed this matter earlier than other issues raised in the funding consultation because PMSE users who need to operate on a UK-wide basis had stressed the urgency of including frequencies from channels 39 and 40 in the shared licences for channel 38.

A3.75 As noted above, PMSE use of channel 38 is restricted in parts of the north west of England and Cambridgeshire by protection for radioastronomy. These restrictions were due to end on 1 January 2012; but they will now finish three months earlier on 21 September 2011.

A3.76 To help users who require UK-wide access to move to channel 38 before protection for radio astronomy ends, we proposed in the funding consultation to include channels 39 and 40 in the new channel 38 shared licence on the following terms:

- the channels should be made available only where there are restrictions on channel 38 availability (whether from radio astronomy or from terrestrial television);
- the channels should be made available such that PMSE users should not have access to significantly more than the 8 MHz spectrum available in channel 38;
- existing coordinated use of channels 39 and 40 should remain protected;
- PMSE users should check the JFMG website before using their equipment to see which of the three channels are available in each relevant location; and
- Channel 69 should continue to be included in the shared licence.

A3.77 We said that this would eliminate indoor restrictions and significantly reduce outdoor restrictions – such that there would only be two relatively minor areas where there was no spectrum availability for PMSE users.

Options considered

A3.78 We considered the following options:

- Option one – to include channels 39 and 40 in the new shared licensing arrangements; or
- Option two – not to include channels 39 and 40 in the new shared licensing arrangements.

Table A3.12 – Consideration of options for licensing arrangements

| | Advantages | Disadvantages |
|---|--|--|
| Option 1: to include channels 39 and 40 in the licensing arrangements | <p>Eliminates indoor spectrum restrictions and significantly reduces outdoor restrictions for wireless microphones.</p> <p>Likely to facilitate earlier migration to channel 38 for some PMSE users.</p> <p>Consistent with technical capabilities of standard PMSE equipment.</p> | <p>Reduces the amount of channels 39 and 40 available for coordinated use.</p> <p>Extra layer of advanced coordination may lead to confusion amongst PMSE users and/or increase in unlawful use.</p> |
| Option 2: not to include channels 39 and 40 in the licensing arrangements | <p>Maintains level of coordinated spectrum availability in channels 39 and 40.</p> <p>Easier to understand for PMSE users.</p> | <p>Restriction zones are not reduced and there is no additional incentive on PMSE users to migrate early.</p> |

A3.79 We considered that there were clear benefits in adding channel 39 and 40. The downsides were either minor by comparison (slightly reduced scope for coordinated use of channels 39 and 40) or can be managed by improved information provision and/or enforcement action. As a result, we decided to add channels 39 and 40 to shared licences.

Annex 4

Equality impact assessment

- A4.1 We must have due regard to any potential impacts our proposals may have on race, disability and gender equality. We fulfil this obligation through conducting an Equality Impact Assessment (EIA) and ensuring that we meet our duty of furthering the interests of citizens and consumers. We also consider any relevant wider equality issues.
- A4.2 A potential impact on disability has been identified in relation to the decisions set out in this statement and is discussed at paragraphs A4.5-A4.10.
- A4.3 Concerns about the impact of our funding policy and methodology for calculating payments on individuals and community groups have been raised. While no specific issues in relation to the equality groups have been identified at this stage, we discuss the issues at paragraphs A4.11-A4.14 for completeness below.
- A4.4 We have identified risks in relation to the administration of the funding scheme and set out how we plan to mitigate and monitor them at paragraphs A4.15-A4.16.

Replacement spectrum and funding arrangements to support move from channel 69

Audio induction loop feedback systems

- A4.5 In the 15 April 2010 interim statement on future spectrum management for PMSE we set out our response to concerns to that moving from channel 69 to replacement spectrum may have a particularly adverse impact on people with hearing loss and others that benefit from the use of audio induction loop feedback systems. The representations and our response is described below for completeness.
- A4.6 In response to our consultation on clearing the 800 MHz band, RNID and the BBC said that the impact on people with hearing loss that benefit from the use of audio induction loop feedback systems needed to be considered when assessing any replacement spectrum for PMSE. RNID was concerned that the wider implications for induction loop systems, and the resulting barriers for people with hearing loss who rely on them, had not been considered with due care or that suitable and equivalent solutions had been proposed. RNID said that the proposals could potentially cause significant difficulty to existing deployments and that the availability and cost of new equipment might also pose problems.
- A4.7 Similar concerns were raised by the Faculty of Health, Liverpool John Moores University in response to our funding consultation. It questioned the impact of the decision on its ability to comply with the Disability Discrimination Act through providing induction loop systems and provide services for students absent on long-term sick or those who are not native English speakers). It said that it was concerned about finding funding to purchase replacement equipment and whether suitable replacements would be available.
- A4.8 We discussed this issue with RNID and took their arguments into account when reaching decisions on clearing the 800 MHz band. We understand that whilst wireless microphones are a key input into induction loop systems, the successful

operation of those systems is not dependent on any specific frequency that the microphone operates at. We also understand that it is likely that a significant amount of equipment currently used for this purpose may be able to retune to and use frequencies in channel 70 (863-865 MHz) on a licence-exempt basis. Where existing equipment cannot retune to available frequencies, the replacement spectrum that we have identified and the funding arrangements set out in this statement should ensure that the service for these stakeholders continues. Only the microphones would need to be replaced in these circumstances; the existing induction loops would still operate with the new equipment.

- A4.9 We also consider that Liverpool John Moores University and other similar institutions will be able to make alternative arrangements to maintain their services using the replacement spectrum and funding available for PMSE users. We do not think they are disadvantaged to a greater extent than other PMSE users.
- A4.10 We are open to working with RNID and other relevant institutions such as educational establishments to ensure PMSE users who use wireless microphones as an input for induction loop systems are aware of the options in terms of retuning equipment to channel 70 or purchasing appropriate replacement equipment. We will also make sure these groups are aware of the funding arrangements and the implications for them.

Individuals, charities and community organisations

Level of funding

- A4.11 PMSE users are a diverse community, ranging from small community users (e.g. amateur theatre groups or churches) to large professional companies (e.g. equipment hiring companies such as Autograph Sound Recording Ltd). Some users, particularly some community users, may cater for specific ethnic, gender or disability groups. To date, explicit concerns have only been raised with regard to a potential negative impact on disability groups (specifically those with hearing loss) as discussed at paragraphs A4.5-A4.10. However stakeholders have also raised concerns that elements of the funding policy could have a negative impact on community users. As community users could include those from specific ethnic, gender or disability groups we also discuss these concerns and how we will take account them into account when reaching policy decisions.
- A4.12 Some stakeholders have said that providing funding for less than the full replacement value of equipment could have a particular impact on community PMSE users. The campaigning group Save Our Sound UK asserted in its November press release that without replacement funding “charitable and community organisations will have to divert funds from core services”.¹⁵ In response to our funding consultation CLAS said that for charities, including churches, once an asset has been bought its value is normally zero and therefore the full replacement cost of equipment is required to compensate these users for the loss of channel 69. Otherwise the funding will have to be found from charitable sources and unfairly disadvantage these groups as they operate different accounting practices from commercial companies.

¹⁵ <http://saveoursound.wordpress.com/>

Design of methodology for calculating funding

- A4.13 ITN, the Institute of Broadcast Sound (IBS) and the Association of Professional Recording Services (APRS) raised concerns that the factors we proposed to take into account when designing the funding methodology could potentially exclude individual or community users. ITN and IBS also said that the different circumstances of professional and community users should be factored into any classifications used to value equipment. These users may not have the relevant receipts for equipment: over 50% of respondents to the consultation indicated that they did not have receipts for some or all of their equipment. If the system is not designed taking account of these factors, community users from diversity groups could potentially be negatively impacted.
- A4.14 We have taken these representations into account when designing the methodology. In particular:
- We understand that small users for whom PMSE equipment does not form a core part (or indeed any part) of a business might not have had reason to retain receipts or other proof of ownership. Therefore we have decided to set a £6000 threshold for the total replacement value of claims (as indicated by the estimated replacement cost shown on the rate card), below which users will be able to claim without proof of ownership.
 - The scheme will allow for the provision of at least a minimum level of funding for all equipment in working order, regardless of age. This will address concerns from small community centres and churches that funding might not be available for older wireless microphones and ancillary equipment.
 - We have decided that users who are not VAT registered will receive a 20% increase to the funding they receive, recognising that they would not be able to reclaim or offset VAT paid on new equipment.

Administration of the funding scheme

- A4.15 We have identified some risks of negative impacts on certain groups that could arise as a result of the way the scheme is administered:
- If we do not communicate the funding policy effectively to users from all parts of the PMSE community there is a risk that some users that would be eligible for funding, including those from diversity groups, will not know how to access it.
 - The application process could negatively impact on some disability groups if different accessibility requirements are not taken into account.
 - Some PMSE users may require technical assistance with selecting and installing replacement equipment, this could potentially be a greater problem for community users than professional users.
- A4.16 To mitigate these risks we plan to:
- Communicate with affected PMSE users about the scheme arrangements to make sure as many people as possible are aware of the changes.
 - Ensure the funding scheme administrator puts in place arrangements – i.e the availability of application forms in large type and online and offline access to

Clearing the 800 MHz band – moving programme-making and special events from channel 69

information – to ensure people are not excluded from the scheme as a result of a disability.

Annex 5

Glossary of abbreviations

| | |
|-------------------|--|
| AMPS | Association of Motion Picture Sound |
| APRS | Association of Professional Recording Services |
| BEIRG | British Entertainment Industry Radio Group |
| BECTU | Broadcasting Entertainment Cinematograph and Theatre Union |
| BIS | Department for Business Innovation and Skills |
| CEPT | European Conference of Postal and Telecommunications Administrations |
| Channel 38 | 606-614 MHz |
| Channel 69 | 854-862 MHz |
| Channel 70 | 863-865 MHz |
| CLAS | Churches' Legislation Advisory Service |
| DL | Downlink |
| DSO | Digital switchover |
| Duplex gap | 821-832 MHz |
| DTT | Digital terrestrial television |
| EU | European Union |
| FDD | Frequency-division duplexing |
| IBS | Institute of Broadcast Sound |
| ISB | Independent Spectrum Broker |
| MHz | Megahertz |
| mW | Milliwatt |
| PLASA | Professional Light and Sound Association |
| PMSE | Programme-making and special events |
| RFID | Radio-frequency identification |
| RNID | The Royal National Institute for Deaf People |
| UHF | Ultra-High Frequency |

| | |
|------------|-------------------------|
| UL | Uplink |
| VAT | Value added tax |
| W | Watt |
| WTA | Wireless Telegraphy Act |

Annex 6

Rate card

List of eligible equipment models, replacement cost and available funding

- A6.1 As set out in section 4 (and annex 2) above, many respondents to our consultation emphasised that clearance means that they will have to replace their channel 69 equipment with equipment suitable for other spectrum, and that we should therefore consider the cost of replacement equipment, rather than the loss of value of the existing channel 69 equipment, when calculating the amount of funding.
- A6.2 The Government has decided that funding should be based on a contribution to the cost to PMSE users of replacing their channel 69 equipment, to reflect the cost of bringing forward investment in new equipment. To implement this policy we need information about the channel 69 equipment affected by clearance that is currently in the market, and the replacement cost for each item.
- A6.3 To establish what channel 69 equipment is affected by clearance, we asked manufacturers to provide a detailed list (including series and model number) of equipment which tunes to channel 69 but not to channel 38. To establish the replacement cost, we asked manufacturers to identify for each item of channel 69 equipment, an item of channel 38 equipment which would offer equivalent functionality, and the price of that item. Where there is no current channel 38 equipment which offers equivalent functionality, we asked manufacturers to provide details of a current channel 69 item, and its price.
- A6.4 We have calculated the amount of funding available for each item against the replacement price provided by manufacturers, using the methodology set out in this statement. The amount of funding available for each item, assuming it remains in use until the last date when channel 69 is available, is set out on the following pages. We refer to this as the rate card.
- A6.5 While every reasonable effort has been made to ensure that the information provided on the draft rate card is accurate, the rate card is in draft form and is provided for indicative purposes only. Nothing in the rate card constitutes an offer of funding to any individual or company and applications for funding will be assessed individually and on the basis of Ofcom and Government decisions and subject to the consent process noted at paragraphs 5.17-5.20.

We invite factual corrections to the rate card

- A6.6 It is important that the rate card is as accurate and complete as possible. We invite corrections in particular if existing channel 69 equipment is not listed or is ambiguously described, or if the comparator model used for calculating funding is obviously inappropriate given the functionality of the respective model and its comparator.
- A6.7 Users can suggest corrections by visiting the website www.pmsefunding.co.uk or by contacting the scheme administrator by phone on 0800 011 3617. Any suggested corrections must be received by 2 September 2010.

- A6.8 We will consider suggestions for factual corrections and may contact those suggesting them and manufacturers as appropriate for further information. Factual corrections which are accepted will appear in the final rate card. The final rate card will be published on 23 September when the scheme is launched and the registration period starts.
- A6.9 The rate card is available to download at www.pmsefunding.co.uk or here on our website
http://stakeholders.ofcom.org.uk/binaries/consultations/pmse_funding/statement/annex6.pdf