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## **PMSE clearing the 700 MHz band**

Support for PMSE equipment owners

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### **STATEMENT AND CONSULTATION:**

Publication Date: 23 August 2018

Closing Date for Responses: 04 October 2018

## About this document

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In October 2016 we published our spectrum management decision to work towards accelerating the 700 MHz clearance programme by 18 months and releasing the spectrum for use for mobile services in May 2020, instead of September 2021. As a result, we have served notice on PMSE users that they will no longer have access to spectrum in the 700 MHz band from 1 May 2020.

Government has decided to fund a grant scheme to support PMSE equipment owners that have to vacate the 700 MHz band earlier than expected. We have agreed with Government to design and run a grant scheme to disburse the funds.

This document sets out our conclusions on the eligibility criteria to be met by claimants and the principles underpinning the rate card. It also seeks the views of stakeholders on our approach to funding additional costs incurred by PMSE equipment owners through participating in the funding scheme.

# Contents

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## Section

1. Executive Summary	1
2. Introduction	5
3. Eligibility of PMSE equipment owners for funding	11
4. Determining the level of funding for eligible equipment	26
5. Additional costs	35
6. The claims process	38
7. Conclusion	43

## Annex

A1. Consultation response summary	44
A2. Consultation question	53
A3. Responding to this consultation	54
A4. Consultation response sheet	57
A5. Consultation coversheet	58

# 1. Executive Summary

- 1.1 This publication comprises a statement and a consultation. The statement sets out our decisions in relation to the equipment funding scheme for Programme Making and Special Events (PMSE) equipment owners affected by the clearance of the 700 MHz band (694 to 790 MHz). It takes account of the 22 responses submitted as part of the consultation published in April 2017 ('the April consultation').<sup>1</sup> The consultation element seeks the views of stakeholders on our proposal on additional funding to help equipment owners meet the costs incurred as a consequence of participating in the funding scheme.

## A grant scheme to support PMSE equipment owners

### Context

- 1.2 In October 2016, we published a statement ('the 2016 statement') setting out our decision on key aspects of the 700 MHz clearance programme, including our aim to accelerate the release of the 700 MHz band and complete it by May 2020, 18 months earlier than planned. In the 2016 statement we gave notice to PMSE users that from 1 May 2020 they will no longer have access to the 700 MHz band and we will not authorise its use for PMSE services beyond that date. In October 2017 we confirmed that the 700 MHz programme is on track to meet our target date for completion of clearance in Q2 2020.<sup>2</sup>
- 1.3 As part of its funding for the 700 MHz clearance programme, Government has agreed to fund a grant scheme to support PMSE equipment owners who will have to vacate the 700 MHz band earlier than expected. Funding will be equivalent to the estimated residual value of the PMSE equipment operating in the 700 MHz band that needs to be replaced at the time of clearance. We are also proposing in this document to apply an uplift to grant payments because of the costs eligible equipment owners will incur in participating in the funding scheme. Our proposal is to apply a 5% uplift to the payment a claimant receives for eligible equipment.
- 1.4 Under s1(5) of the Wireless Telegraphy Act 2006, Ofcom has the power to make grants for spectrum management purposes, subject to consent from HM Treasury.<sup>3</sup> Under these powers we will make grant payments to eligible claimants in accordance with the terms and eligibility criteria of the scheme.

### Eligibility for the scheme

- 1.5 Based on our consideration of stakeholders' responses to our April consultation, we have decided that claimants and equipment must satisfy the eligibility criteria below. In

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<sup>1</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/100965/700mhz-band-pmse-funding.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/100965/700mhz-band-pmse-funding.pdf)

<sup>2</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/106933/700mhz-clearance-timescale-review.pdf?utm\\_source=updates&utm\\_medium=email&utm\\_campaign=700mhz-update](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/106933/700mhz-clearance-timescale-review.pdf?utm_source=updates&utm_medium=email&utm_campaign=700mhz-update)

<sup>3</sup> Under section 1(7) of the 2006 Act.

considering stakeholders' comments we have decided to amend some of the eligibility criteria.

### Eligibility criteria that remain unchanged

1.6 The following eligibility criteria are in accordance with our proposals in the April consultation. In general, stakeholders either agreed with the proposal or did not provide any compelling argument in support of a contrary view on these criteria. The criteria are:

- Equipment owners must either have held a licence in the 700 MHz band between 17 October 2014 and 23 August 2018 or must be able to produce verifiable evidence that their business is based on hiring out PMSE equipment, rather than using it, and therefore does not require a licence.<sup>4</sup>
- Claimants can only claim for equipment that belongs to them.
- Equipment being claimed for must be in working order.

### Eligibility criteria that we have changed following consultation

1.7 As noted above we have amended some eligibility criteria from those proposed in the April consultation. Table 1 provides a summary of what was proposed, the decision and the rationale for the change.

**Table 1: Summary of changes to eligibility criteria**

Proposed in April Consultation	Decision	Rationale
Equipment being claimed for must have been purchased before 17 October 2016 -the date we served notice to PMSE users to clear the 700 MHz band	Equipment being claimed for must have been purchased before 23 August 2018	Stakeholders said that to be able to continue to provide their services they would need to buy equipment in the 700 MHz band. They said they could not fully consider alternatives until all information on available spectrum and funding is available. We consider that with publication of this statement, stakeholders have all the relevant information to make purchasing decisions
Equipment being claimed for would need to have more than	Equipment being claimed for need only have <b>some</b> of its	Stakeholders said that the loss of utility of equipment should

<sup>4</sup> While we have not changed the requirement that equipment owners must have held a licence (or must be able to produce verifiable evidence that their business is based on hiring out PMSE equipment), we have amended the dates between which they need to have held a licence.

50% of its tuning range in the 700MHz band	tuning range in the 700 MHz band	be determined by the equipment owner and not set by a tuning range threshold
Ancillary equipment – fell outside the category of equipment proposed in the April consultation	Ancillary equipment will be eligible, provided it meets the other appropriate eligibility requirements of the scheme. For example, ancillary equipment with a tuning range, such as an antenna, must have at least some of its tuning range in the 700 MHz band	Stakeholders highlighted that funding should cover equipment ancillary to transmitters and receivers as these are integral to the audio system as a whole

1.8 The changes in the eligibility criteria outlined in Table 1 means more equipment that operates in the 700 MHz band will fall eligible for funding.

### **700 MHz guard band**

1.9 Since publishing the April consultation, we have issued a statement on the continued use of the 694 MHz to 703 MHz band for PMSE services. In their responses to the April consultation stakeholders said that the guard band should not be a factor in determining eligibility for the funding scheme.

1.10 We have taken account of stakeholders’ views on the uncertainty about the usability of the guard band for PMSE. We have decided that although this spectrum will be available for PMSE after May 2020, it will not be included in determining eligibility for the funding scheme, i.e. the boundary of the 700 MHz band for funding purposes will remain as 694 MHz and not 703 MHz.

### **Tuning range of eligible equipment**

1.11 We have decided that only equipment which tunes to the 700 MHz band will be eligible for funding (noting our decision on the guard band outlined above). This means that equipment that only operates in spectrum below 694 MHz will not be eligible. Stakeholders contended that changes to the transmission frequencies below 694 MHz used for television broadcasting would mean some equipment operating below that frequency would have to be replaced.

1.12 While we note these views, the situation below 694 MHz is different to that in the 700 MHz band. PMSE use of the band is subject to the rights of the primary user (Digital Terrestrial Television), and users operating solely below 694 MHz will continue to have access to the spectrum on that secondary user basis, i.e. on a geographically interleaved basis with DTT. We therefore do not consider that PMSE equipment owners are losing

access to the spectrum below 694 MHz and therefore there has been no breach of PMSE's security of tenure in the band.

### **Proportion of replacement value to be funded**

- 1.13 In the April consultation we proposed that the minimum level of funding would be 47% of the estimated replacement cost based on an assumed average asset age of eight years. We agree with the submissions made by stakeholders that we had overestimated the average asset age and will therefore use a revised average asset age of six years based on equipment being submitted to the scheme in May 2020. This change means stakeholders will receive at least 60% of the estimated replacement cost of their equipment.
- 1.14 For equipment submitted to the scheme earlier than May 2020 we will adjust the asset age accordingly. Where stakeholders can provide verifiable evidence that their equipment is less than the average age assumed, we will use this as the asset age to calculate the level of funding.

### **Consultation on additional costs**

- 1.15 In their responses to the April consultation, stakeholders highlighted the costs associated with participating in the funding scheme. These are additional to equipment replacement costs, for example project management and administrative costs. We agree that participating in the scheme will place an additional burden on stakeholders.
- 1.16 In this document, therefore, we seek the views of stakeholders on a proposed approach for determining the level of uplift to grant payments we should apply to meet these costs. Our proposal is that a 5% mark-up is applied to the payment a claimant receives from the scheme for eligible equipment.

## 2. Introduction

### Background

- 2.1 The spectrum between 470 MHz and 790 MHz is used by Digital Terrestrial Television (DTT), Programme Making and Special Events (PMSE) services and White Space Devices (WSDs).<sup>5</sup> In November 2014, we published a statement ('the 2014 statement') setting out our decision to clear these services from the part of this spectrum between 694 MHz and 790 MHz ('the 700 MHz band') and to reallocate the frequencies for use for mobile data services.<sup>6</sup>
- 2.2 A programme of work to implement this decision is underway ('the 700 MHz clearance programme'). In October 2016 we published our statement ('the 2016 statement') which set out our aim to work towards accelerating the 700 MHz clearance programme by 18 months and release the 700 MHz band in Q2 2020.<sup>7</sup> In October 2017, we published a progress update which confirmed that the programme is on track to meet our target date for completion of 700 MHz clearance in Q2 2020.<sup>8</sup>
- 2.3 In the 2016 statement we served formal notice on PMSE users that their access to the 700 MHz band would cease from 1 May 2020 and therefore we would no longer authorise their use beyond this date. In November 2017 we published a statement ('the Guard Band statement') setting out our decision to modify this notice to allow audio PMSE services to access the band 694 to 703 MHz ('the guard band') beyond 1 May 2020.<sup>9</sup>
- 2.4 Previously, in our statement published in August 2010 on future spectrum access for PMSE ('the 2010 statement'), we had said that PMSE users' access to the 700 MHz band would "not be degraded for spectrum management reasons unless we have given five years notice, not to be triggered before September 2016".<sup>10</sup> The 2010 statement indicated that where security of tenure is breached for spectrum management reasons and this results in a loss to (certain) PMSE users (e.g. those who own equipment and need to replace it prematurely), they could expect some redress. This redress would be assessed at the time, in light of all relevant factors.
- 2.5 The clearance timeline means that PMSE users will have to vacate the band by May 2020, 16 months before the end of the period of security of tenure. In light of this, Government decided to provide funding to support (certain) PMSE equipment owners that have to vacate the 700 MHz band earlier than expected. We agreed with Government to design

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<sup>5</sup> The term PMSE refers to radio devices (e.g. wireless microphones, in-ear monitors and talk back intercoms) which are used for activities such as broadcasting, newsgathering, community events, theatre productions and concerts. WSDs are innovative new devices which are able to identify and make use of previously unused gaps in frequency bands.

<sup>6</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/46923/700-mhz-statement.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/46923/700-mhz-statement.pdf)

<sup>7</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0031/92659/Maximising-the-benefits-of-700-MHz-clearance-Statement.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0031/92659/Maximising-the-benefits-of-700-MHz-clearance-Statement.pdf)

<sup>8</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0022/106933/700mhz-clearance-timescale-review.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0022/106933/700mhz-clearance-timescale-review.pdf)

<sup>9</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0027/107775/statement-spectrum-audio-pmse.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0027/107775/statement-spectrum-audio-pmse.pdf)

<sup>10</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0034/58795/statement310810.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0034/58795/statement310810.pdf)

and run the grant scheme to disburse this funding. In April 2017 we published our consultation on support for PMSE equipment owners ('the April consultation')<sup>11</sup> setting out our proposals for how the grant scheme should operate, including the eligibility criteria that claimants and equipment should satisfy in order to be considered for funding.

- 2.6 This document sets out our decisions on funding for audio PMSE equipment owners. It also seeks further views from stakeholders on our approach to determining the level of funding for additional costs PMSE equipment owners will incur as a consequence of participating in the funding scheme.

## **We consulted on the arrangements for providing funding**

- 2.7 We also made proposals on the principles underpinning a rate card that will determine how much equipment owners will receive for eligible equipment. We said that Government had decided that equipment owners would receive the estimated residual value of their equipment. We proposed that we would determine the estimated residual value of a piece of equipment by applying a funding formula in which we would use inputs based on industry averages for the asset age and asset life of equipment.
- 2.8 We said that this would result in equipment owners receiving ca. 47% of the costs of equipment to replace eligible equipment claimed for under the scheme. We noted that we would develop the rate card listing all models of equipment which we expect to be eligible for the grant scheme, identify its equivalent replacement and how much funding will be made available.
- 2.9 Finally, we made proposals on how the claims process would operate. In particular, we proposed that:
- once we have finalised the rate card we would hold a registration process where equipment owners would need to register their intention to seek funding;
  - once the scheme opens, claimants would submit their claims and surrender their equipment, as well as providing proof of ownership; and
  - claimants who modify rather than replace equipment would need to provide verifiable evidence that their equipment has been modified.
- 2.10 We received 22 responses to the April consultation of which two were wholly confidential and two were partially confidential. We have published non-confidential responses on our website.<sup>12</sup> We summarise these responses in sections 2 to 5 and in Annex 1.

## **We seek stakeholders' input on funding additional costs**

- 2.11 Government has decided to provide additional funding to help equipment owners meet the costs they will incur as a result of participating in the funding scheme. We are seeking stakeholders' views on our proposed methodology for determining the level of additional

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<sup>11</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0021/100965/700mhz-band-pmse-funding.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0021/100965/700mhz-band-pmse-funding.pdf)

<sup>12</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-1/support-pmse-equipment-owners>

funding. A consultation question is contained in section 5 and information on how to respond to this question is contained in the annexes to this document. Consultation responses should be received by **4 October 2018**.

## **We also seek comments from stakeholders on the rate card**

- 2.12 We have prepared a draft version of the rate card that sets out for potential claimants the equipment our research says should be considered eligible for the funding scheme, the equipment we identify as comparable models for determining the replacement cost of equipment and the current retail price of those models.
- 2.13 We have published a draft rate card on our website at [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0019/117523/pmse-equipment-rate-card.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0019/117523/pmse-equipment-rate-card.pdf). We invite stakeholders to review and propose factual corrections where we have either:
- neglected to include a piece of equipment on the rate card that, under the criteria set out in this statement, should fall eligible for the scheme; or
  - misidentified the appropriate piece of replacement equipment.

We will not consider submissions on the categories of equipment that should be eligible for funding, on which we have made decisions as set out in this statement. Stakeholders may submit corrections by emailing [UHFSI@ofcom.org.uk](mailto:UHFSI@ofcom.org.uk). Responses should be received by 20 September 2018.

## **Legal context**

### **Ofcom's specific duties and powers related to spectrum management**

- 2.14 Ofcom's responsibilities for spectrum management are set out primarily in two Acts of Parliament which confer on us specific functions, powers and duties in respect of spectrum (and the other sectors we regulate): the Communications Act 2003 (the '2003 Act') and the Wireless Telegraphy Act 2006 (the 'WT Act').<sup>13</sup>
- 2.15 Among our functions and powers in relation to spectrum are the making available of frequencies for use for particular purposes and the granting of rights of use through wireless telegraphy licences and licence exemptions. They also include the power to make grants if, in our opinion, doing so is likely to promote the efficient use in the UK of the spectrum for wireless telegraphy or the efficient management of that use. We can make grants to wireless telegraphy licence holders and other persons on such terms and conditions as we consider appropriate. HM Treasury consent is required to make such grants and for the relevant terms and conditions.

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<sup>13</sup> The European Common Regulatory Framework for electronic communications (in particular, the Framework Directive and the Authorisation Directive) sets the broad legal framework for how spectrum use should be authorised and managed in the UK and aims to harmonise the regulation of electronic communications networks and services throughout the European Union

- 2.16 Our principal duties, set under the 2003 Act, when carrying out our functions and exercising our powers, are to further the interests of citizens and consumers, where appropriate by promoting competition. In doing so, we are required (among other things) to secure the optimal use of spectrum and the availability throughout the UK of a wide range of electronic communications services. We must also have regard to the desirability of promoting competition in relevant markets; the desirability of encouraging investment and innovation in relevant markets; the desirability of encouraging the availability and use of high speed data transfer services throughout the United Kingdom; and the different needs and interests, so far as the use of the electro-magnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to make use of it.
- 2.17 We have reached the decisions set out in this document by reference to these statutory duties. Those decisions are consistent with these duties and support our decision to make available the 700 MHz band for more valuable use for mobile data services, pursuant to our duty to secure optimal use. They help us to encourage the availability and use in that band of those high-speed data transfer services whilst, at the same time, helping to maintain the use of spectrum for PMSE.
- 2.18 That is, we have decided that mobile data services would make more valuable use of the 700 MHz band. In order to clear that band for such use, it is necessary to remove its availability to PMSE users, with the exception of the 694 to 703 MHz guard band, which we decided (after consultation) to make available for PMSE use.
- 2.19 However, among other considerations, we recognise the demand for spectrum for PMSE use and the benefits that flow from it. Likewise, and particularly important, that PMSE users had security of tenure in the 700 MHz band and may incur losses for which they can expect some redress where they own equipment they are no longer able to use as a result of Ofcom's clearance decisions.
- 2.20 In these particular circumstances, it is appropriate to pay grants. They could protect the interests of relevant PMSE equipment owners and facilitate their continued provision of PMSE services (and maintain the benefits derived from them) where they have a specific expectation of secure spectrum tenure, whilst helping to secure the benefits of using the 700 MHz band for mobile data. We may use the powers we have under section 1(5) of the WT Act to make grants where doing so is likely to promote efficient spectrum use.
- 2.21 The eligibility criteria we have decided to adopt flow from the foregoing analysis. Any grants we make according to these criteria would be subject to HM Treasury consent as required under section 1(7) of the WT Act.

## **Impact assessment**

- 2.22 Section 7 of the 2003 Act provides that where we are proposing to do anything for the purposes of or in connection with the carrying out of our functions and it appears to us that the proposal is important, we are required to carry out and publish an assessment of the likely impact of implementing the proposal or a statement setting out our reasons for thinking that it is unnecessary to carry out such an assessment. Where we publish such an

assessment, stakeholders must have an opportunity to make representations to us about the proposal to which the assessment relates.

- 2.23 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. As a matter of policy Ofcom is committed to carrying out 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.<sup>14</sup>
- 2.24 In the April consultation document, we set out, and consulted upon, the impact of our proposed decisions (which we are now making). The analysis in that document was an impact assessment as defined in section 7 of the 2003 Act. In so far as this document contains proposals for consultation (about funding additional costs), we have set out in it our assessment of the impact of our proposed approach.

## Equality impact assessment

- 2.25 Ofcom is required by statute to assess the potential impact of all its functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. Equality Impact Assessments (EIAs) also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- 2.26 The decisions set out in this document follow the decisions we made in the 2014 and 2016 statements to clear the 700 MHz band and the notice we gave to PMSE users about the use of that band. In reaching those decisions we conducted an EIA to understand if changes of use of the 700 MHz band could disproportionately affect any particular group of consumers or raise specific issues for groups that are protected under equality laws. In relation to the decisions set out in this statement, we have not identified any further differential impact of our proposals in relation to the identified equality groups.

## The structure of this document

- 2.27 The rest of this document is structured as follows.
- Section 3 sets out the decision on the eligibility criteria that claimants will have to meet in order to access the grant scheme.
  - Section 4 sets out the decision on the approach we will take when calculating funding entitlements.
  - Section 5 outlines stakeholder comments on additional costs and requests further views on the level of funding to be awarded for these costs.
  - Section 6 takes account of stakeholder views on the operation of the funding scheme.

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<sup>14</sup> <https://www.ofcom.org.uk/consultations-and-statements/better-policy-making-ofcoms-approach-to-impact-assessment>

- Section 7 sets out next steps.
- Annex 1 summarises the themes from the responses stakeholders submitted to the April consultation.
- Annexes 2 to 5 set out how to respond to the consultation question on our proposed approach to funding additional costs.

## 3. Eligibility of PMSE equipment owners for funding

### Summary of consultation proposals on eligibility criteria

- 3.1 As a guiding principle for assessing who should be eligible for the grant scheme, we proposed in the April consultation that those eligible should be PMSE equipment owners operating legally who will incur a loss attributable to Ofcom's decision that they should lose access to the 700 MHz band in May 2020. In accordance with this principle, we proposed that to be considered eligible for funding, claimants should meet the following criteria.
- They must either have held a licence in the 700 MHz band in the past two years (17 October 2014 – 17 October 2016) or be able to produce verifiable evidence that their business is based on hiring out PMSE equipment rather than using it and therefore does not require a licence.
  - Claimants would only be able to claim for equipment that belongs to them.
  - Equipment being claimed for must be in working order.
  - Equipment being claimed for must have been purchased before we issued notice in the 2016 statement.
  - Equipment being claimed for must have more than 50% of its tuning range in the 700 MHz band.
- 3.2 We then asked the following question.

Question 1: Do you agree with our proposed criteria for who should be eligible for the grant scheme?

### Summary of responses on eligibility criteria

- 3.3 There was agreement from stakeholders with many of our proposals on eligibility. However, there were other areas where stakeholders disagreed or raised concerns. The key issues on the eligibility criteria stakeholders highlighted were as follows:
- Stakeholders said that there should be no equipment purchase cut-off date for eligibility for the scheme.
  - Some stakeholders said that ancillary equipment that may be rendered obsolete by the 700 MHz clearance was not covered by our proposals in the April consultation document and should be eligible for the scheme.
  - Many stakeholders highlighted that our concurrent consultation on allowing access for audio PMSE services to the 700 MHz guard band would impact upon the eligibility of some equipment for funding. They said that the guard band should not be a factor in determining eligibility for the funding scheme.

- The majority of stakeholders argued that eligibility for the funding scheme should not be limited to equipment that has more than 50% of its tuning range in the 700 MHz band. Rather, effectively, all equipment impacted upon by the 700 MHz clearance should be eligible for the funding scheme, including both equipment that has 50% or less of its tuning range in the 700 MHz band and equipment that tunes wholly below 694 MHz.
- Stakeholders also commented on other issues, specifically proof of ownership and PMSE operators who do not own equipment.

3.4 In this section we cover these views in more detail, setting out our responses and the reasoning on the decisions we have taken on each issue. The main area of focus is the eligibility of equipment that tunes below 694 MHz. This is addressed in detail below.

### **Equipment purchase cut-off date**

3.5 Many stakeholders, such as Plus 4 Audio and Television Film Services, said that the 2016 cut-off date is not appropriate. PMSE equipment owners will need to continue to buy equipment in the 700 MHz band to meet customer needs and replace damaged equipment.<sup>15</sup>

3.6 We acknowledge the views of stakeholders that PMSE equipment owners will need to continue to buy equipment in the 700 MHz band for the reasons they have identified. However, beyond a certain point, PMSE equipment owners will have received all the information needed relating to the 700 MHz clearance to make an informed decision on what equipment to purchase. After this time, the loss of the utility of the equipment will no longer be attributable to our decision to clear the 700 MHz band in 2020 rather than 2021.

3.7 That said, the October 2016 date we identified in the consultation was not the date when equipment owners were in possession of all relevant information. It is not until the publication of this statement that equipment owners will have possessed full information on which to base future purchasing decisions.

### **Our decision**

3.8 Based on our consideration of stakeholder responses we have decided to extend the cut-off date for equipment purchases. To be eligible for funding, equipment must now have been purchased before 23 August 2018, the date of publication of this statement.

### **Ancillary equipment**

3.9 Under our proposals in the April consultation ancillary equipment fell outside the categories of equipment eligible for funding. However, stakeholders, including BEIRG and Autograph Sound Recording, said that ancillary equipment should be considered eligible

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<sup>15</sup> [Plus 4 Audio consultation response](#); [Television Film Services consultation response](#).

for funding.<sup>16</sup> Stakeholders gave examples of ancillary equipment that will be affected by the loss of the 700 MHz band. For instance, Plus 4 Audio said that some ancillary equipment, such as microphone covers, will only fit the model of equipment they were made for, meaning they will be rendered useless should that model be made obsolete by the 700 MHz clearance.<sup>17</sup> Hand Held Audio said that microphone heads, battery packs and flight casings were examples of equipment that will require replacement along with the equipment they will surrender to the funding scheme.<sup>18</sup>

### Our decision

- 3.10 We consider that it is appropriate to make ancillary equipment eligible for the funding scheme, as we did for the channel 69 funding scheme, where it can no longer be used as a result of its related eligible equipment being made unusable by the clearance of the 700 MHz band. The level of funding will be the same for ancillary equipment as for other equipment, i.e. 60% of the cost of the equivalent replacement.
- 3.11 If ancillary equipment can continue to be used with other equipment following the 700 MHz clearance, then it will not represent a loss for which an equipment owner can expect redress and therefore will not fall eligible for funding. Ancillary equipment will be eligible for the scheme only if it satisfies all the eligibility criteria for the funding scheme, barring the tuning range requirement in the event that the ancillary equipment has no tuning function, and:
- it operates with another piece of equipment being surrendered to the scheme; and
  - it cannot be used with an alternative piece of PMSE equipment.

### The 700 MHz guard band

- 3.12 At the same time as the consultation on the funding scheme, we published a consultation proposing that we should continue to make the 700 MHz guard band available for use by PMSE.<sup>19</sup> We indicated in the consultation on the funding scheme that the decision we reached on the guard band might impact upon the funding available to PMSE equipment owners.
- 3.13 In November 2017 we published a statement confirming that PMSE users would have access to the 700 MHz guard band beyond May 2020.<sup>20</sup> We made our decision on the use of the guard band on the grounds of spectrum efficiency.
- 3.14 Stakeholders, including Better Sound, ITN and Presteigne Broadcast Hire, highlighted the implications of Ofcom's decision on the continued availability of the guard band for the funding scheme. Stakeholders such as Presteigne Broadcast Hire pointed to the popular

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<sup>16</sup> [BEIRG consultation response; Autograph Sound Recording consultation response.](#)

<sup>17</sup> [Plus 4 Audio consultation response.](#)

<sup>18</sup> [Hand Held Audio consultation response.](#)

<sup>19</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0016/100942/700-mhz-guard-band-pmse.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0016/100942/700-mhz-guard-band-pmse.pdf)

<sup>20</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0027/107775/statement-spectrum-audio-pmse.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0027/107775/statement-spectrum-audio-pmse.pdf).

Sennheiser N-GB range of equipment that has ca. 47% of its tuning range between 703 MHz and 790 MHz.<sup>21</sup> Many stakeholders objected to the inclusion of the guard band in calculations for determining the eligibility of equipment for the scheme, saying its usability is uncertain and that if Ofcom decide to award the guard band spectrum to PMSE audio it should be excluded from funding calculations.

### **Our decision**

- 3.15 We have taken account of stakeholders' views on the uncertainty about the usability of the guard band for PMSE and have decided, in light of this uncertainty, to exclude the guard band for the purposes of determining the eligibility of equipment for the funding scheme. Therefore, the boundary of the 700 MHz band for the purposes of the funding scheme will remain at 694 MHz. The Sennheiser N-GB range will be eligible for the funding scheme.

### **Other issues**

#### **Proof of ownership**

- 3.16 The BBC said it welcomed the option to provide proof of ownership via an endorsed asset register but raised concerns that such a register needed to have been in existence prior to the consultation.<sup>22</sup>
- 3.17 Asset registers do not need to have been in existence prior to the consultation. This was the approach we took in the channel 69 funding scheme. We note that an endorsed asset register will be used by Ofcom as proof of the claimant's ownership of equipment for the purposes of making grants, subject to the consent of HM Treasury.

#### **PMSE operators who do not own equipment**

- 3.18 Stakeholders, such as BEIRG, said that project management costs will fall on PMSE equipment operators who do not necessarily own equipment. BEIRG said that groups such as theatres will face significant costs as a result of Ofcom's decision to clear the 700 MHz band – for example the costs of running an additional rehearsal.<sup>23</sup>
- 3.19 We do not consider that these PMSE stakeholders should be eligible for the funding scheme because they are not PMSE users to whom the assurances on security of tenure given in August 2010 applies. These assurances were given in order to provide a reasonable period of certainty for PMSE users so that they can make efficient decisions to invest in new equipment. Theatres and other PMSE stakeholders who do not own equipment will not have made these investment decisions based on our statements on security of tenure and therefore are not entitled to redress in light of our decision to clear PMSE from the 700 MHz band in May 2020.

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<sup>21</sup> [Presteigne Broadcast Hire consultation response.](#)

<sup>22</sup> [BBC consultation response.](#)

<sup>23</sup> [BEIRG consultation response.](#)

## Summary of proposals on the tuning range of eligible equipment

3.20 We set out in the April consultation that not all equipment that tunes between 470 to 790 MHz will be affected by the 700 MHz clearance in the same way. We proposed that the eligibility criteria for equipment should be based on the loss of utility of equipment experienced due to Ofcom's decision that PMSE should lose access to the 700 MHz band in May 2020. The extent to which such loss occurs depends on the tuning range of the PMSE equipment in question and where it operates within the 700 MHz band. We considered three categories of equipment for eligibility for the scheme:

- equipment that tunes wholly in the 700 MHz band;
- equipment that tunes wholly below 694 MHz; and
- equipment that straddles the 700 MHz band and the spectrum below 694 MHz.

### Equipment that tunes wholly in the 700 MHz band

3.21 We proposed that all of this equipment should be eligible for the funding scheme. Our reasoning was that it would lose the entirety of its tuning range and would therefore be rendered obsolete.

### Equipment that tunes wholly below 694 MHz

3.22 We proposed that equipment that tunes below 694 MHz should not be eligible for the funding scheme. We said that the 700 MHz clearance could in theory have an impact on this type of equipment in some locations because there would be localised changes in the availability of spectrum for PMSE due to the DTT reconfiguration. However, we also noted the following factors that suggested that users of this equipment would not suffer a material loss in practice and hence should not be eligible for funding:

- Most PMSE equipment that tunes wholly below 694 MHz is likely to have a sufficiently broad tuning range to cope with changes in interleaved spectrum access below 694 MHz.
- Even if changes in spectrum availability mean that a piece of equipment becomes unusable in one area, affected PMSE equipment owners will have other options, for example:
  - a hire company will be able to continue to hire out their equipment into areas of the country where the tuning range of the equipment matches the available interleaved spectrum; or
  - users in fixed locations that do not have the option of using their equipment in another area should be able to recover the residual value of their equipment by reselling it.
- In some circumstances it will be possible to continue to use this equipment indoors as the regulations do not restrict indoor use of some classes of equipment e.g. wireless microphones.

## Equipment that straddles the 700 MHz band and the spectrum below 694 MHz

3.23 We proposed that equipment that has more than 50% of its tuning range in the 700 MHz band should be eligible for the funding scheme. Our reasoning was that such equipment would suffer a significant reduction of its utility as a result of the loss of access to the 700 MHz band, whereas equipment with a smaller proportion of its tuning range in the 700 MHz band is likely to be substantially unaffected by clearance.

3.24 We asked the following questions.

Question 2: Do you agree with our assessment of the impact clearance will have on equipment which operates exclusively below 694 MHz?

Question 3: Do you agree with our analysis of the impact clearance will have on equipment which straddles the 700 MHz band and the spectrum below 694 MHz?

Question 4: Do you have any evidence that an alternative boundary for the tuning range of equipment should be drawn?

## Summary of stakeholder responses on tuning range

3.25 Broadly speaking, the submissions made by stakeholders questioned our provisional views on the categories of equipment that should fall eligible for the funding scheme. This included our provisional view that equipment that tunes solely below 694 MHz would not be substantially affected by clearance and that, of equipment that straddles the spectrum below 694 MHz and the 700 MHz band, only equipment with more than 50% of its tuning range in the 700 MHz band would be materially affected.

3.26 Respondents generally took the view that the eligibility requirement on tuning range must be broadened to include all equipment affected by the 700 MHz clearance, including equipment that tunes wholly below 694 MHz as well as equipment that straddles the band that has less than or equal to 50% of its tuning range in the 700 MHz band.

## Equipment excluded by the 50% tuning range threshold

3.27 Some stakeholders, such as The Warehouse Sound, objected to the 50% tuning range threshold that we proposed in the April consultation on the grounds that any loss of tuning range represents a loss of equipment utility for which compensation should be paid.<sup>24</sup>

3.28 Some stakeholders, including the BBC and Television Film Services, said that some equipment would be significantly affected by the loss of the 700 MHz band, yet would fall ineligible given the requirement that greater than 50% of its tuning range should lie in the

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<sup>24</sup> [The Warehouse Sound consultation response.](#)

700 MHz band.<sup>25</sup> They said that, under our proposals, the following types of equipment would be excluded from funding:

- **Equipment that has a wide RF switching bandwidth.** Stakeholders, such as Television Film Services, said that this equipment would lose a substantial proportion of its tuning range, though this would not be greater than 50%. For example, the Wisycom MRK960 receivers and transmitters will lose 100 MHz of their tuning range, though this constitutes only 27% of the equipment's overall bandwidth. Owners of such equipment will have paid a premium for the additional flexibility enabled by an extended tuning range. BEIRG suggested that Ofcom could consider changing the eligibility criteria so that it is based on an absolute loss of spectrum access rather than a percentage in order to include affected users in the funding scheme.<sup>26</sup>
- **Duplex talkback equipment.** Stakeholders, including the BBC and Wigwam Acoustics, said that duplex talkback equipment would not be captured by the funding scheme under the proposed eligibility criteria.<sup>27</sup> Frequency duplex equipment that has half of the duplex pair in the 700 MHz band and half below 694 MHz will be made obsolete as a result of the 700 MHz clearance, yet it may not have more than 50% of its tuning range in the 700 MHz band. Stakeholders queried whether this equipment would be eligible for funding.
- **Other equipment with more than a few MHz but less than 50% of its tuning range in the 700 MHz band.** Some stakeholders, such as BEIRG, said that the analysis that led us to propose a tuning range threshold of 50% would exclude from the funding scheme some equipment that was losing a substantial part of its tuning range.<sup>28</sup> The BBC said that the market research that led to our proposal of a 50% tuning range did not represent the whole market.<sup>29</sup>

3.29 Some stakeholders suggested an alternative approach to the tuning range eligibility criteria. The BBC said that instead of setting a fixed boundary of 50%, it might be simpler to compensate users who wish to surrender their equipment, regardless of the precise percentage of the tuning range that has been affected.<sup>30</sup> Stage Electrics pointed out that end users are best placed to judge whether their equipment is in need of replacement due to clearance, and that if a PMSE equipment owner believes their equipment is still usable for their purposes then they will have no need to claim funding.<sup>31</sup>

## Our response

3.30 Some stakeholders indicated that duplex talkback equipment, which would not lose more than 50% of its tuning range as a result of the loss of the 700 MHz band, would nonetheless be rendered useless. We consider that there is merit to this point. Under our

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<sup>25</sup> [BBC consultation response; Television Film Services consultation response.](#)

<sup>26</sup> [BEIRG consultation response.](#)

<sup>27</sup> [BBC consultation response; Wigwam Acoustics consultation response.](#)

<sup>28</sup> [BEIRG consultation response.](#)

<sup>29</sup> [BBC consultation response.](#)

<sup>30</sup> [BBC consultation response.](#)

<sup>31</sup> [Stage Electrics consultation response.](#)

consultation proposals, such equipment would not fall eligible for the scheme because it does not have more than 50% of its tuning range in the 700 MHz band. This would fail to recognise that such equipment will be materially impacted upon as a result of the loss of the 700 MHz band. In these circumstances, the owners of such equipment will incur a loss as a result of the 700 MHz clearance in 2020. Furthermore, based on the assurances given to PMSE on security of tenure in the 2010 statement, they would have had a legitimate expectation that such equipment would continue to be usable until 2021.

- 3.31 Some equipment with a wide tuning range will suffer a sizeable loss of utility in terms of the number of MHz that will no longer be available to it, though more than 50% of its tuning range will remain available. Since users purchased this equipment to achieve the flexibility offered by a very wide tuning range, we agree that users might consider this to amount to a significant loss of functionality. They might therefore consider that they have suffered a material loss.
- 3.32 Stakeholders indicated that the research that led us to propose the 50% tuning range, was not representative of the whole of the market. Further market analysis undertaken since the April consultation has indicated that there is equipment that, while it will not lose more than 50% of its tuning range, may lose more than a few MHz of its tuning range as result of the loss of the 700 MHz band. In some cases, this loss of tuning range might amount to a material loss.

### **Availability of spectrum below 694 MHz after 700 MHz clearance**

- 3.33 Many stakeholders, including BEIRG, Terry Tew Sound and Light and ITN, said that following the reconfiguration of DTT in the spectrum below 694 MHz, the spectrum available below 694 MHz for PMSE services would be reduced, with some locations severely affected.<sup>32</sup> Using Ofcom's indicative post-clearance spectrum map, BEIRG highlighted the reduced availability of spectrum in Liverpool, where it would, in BEIRG's view, be "impossible" to use any of the channels currently available to PMSE.<sup>33</sup> Terry Tew Sound and Light said that spectrum availability at key studio locations such as Elstree and Salford would be of particular concern and that the majority of its operations will be spectrum constrained.<sup>34</sup> ITN said that some large installations would probably experience shortages of spectrum in areas where DTT has been reconfigured and that compensation should be given for such equipment as if it were unusable.<sup>35</sup>
- 3.34 Some stakeholders, including Presteigne Broadcast Hire, said that a lack of available spectrum would require the PMSE sector to shift towards digital equipment that maximises spectral efficiency.<sup>36</sup>

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<sup>32</sup> [Better Sound Limited consultation response.](#)

<sup>33</sup> [BEIRG consultation response.](#)

<sup>34</sup> [Terry Tew Sound and Light Consultation Response.](#)

<sup>35</sup> [ITN consultation response.](#)

<sup>36</sup> [Presteigne Broadcast Hire consultation response.](#)

## Our response

- 3.35 We acknowledge the concerns of stakeholders that there will be an impact on the availability of spectrum for PMSE below 694 MHz due to the reconfiguration of DTT below 694 MHz as part of the 700 MHz clearance. The amount of spectrum available to PMSE users will depend on their location and the use they make of the spectrum. Such users of the spectrum below 694 MHz will, nevertheless, continue to have access to it on the same basis as before: as secondary users on a geographic interleaved basis with DTT.
- 3.36 We note that we carried out an analysis of the availability of spectrum for PMSE for the 2014 700 MHz clearance cost benefit analysis.<sup>37</sup> This analysis indicated that the majority of events will be able to continue following the 700 MHz clearance (though we note the evidence from Terry Tew Sound and Light that some studio locations may be particularly severely affected).<sup>38</sup> Users will need to adapt to changes in spectrum availability as they occur and make appropriate operational and production decisions in light of the changing spectrum environment below 694 MHz.
- 3.37 We also note that we have made further spectrum available in the 960 MHz to 1164 MHz bands and that additional spectrum has been harmonised for use by audio PMSE, for example 823 to 832 MHz, 1785 to 1805 MHz<sup>39</sup> and 1518 to 1525 MHz<sup>40</sup> which are available for use in the UK. This spectrum was not included in our original impact assessment and could be used to help meet spectrum demand for some events

## Retuning of equipment

- 3.38 Stakeholders, such as the Spectrum for Programme Makers' Forum, said that the view we took in the April consultation on the ability of equipment that operates below 694 MHz to retune to new frequencies was not accurate. They noted that some talkback equipment does not have significant frequency agility and may need to be replaced.<sup>41</sup>

## Our response

- 3.39 We acknowledge the examples of equipment that stakeholders identified as liable to become obsolete as a result of the DTT reconfiguration on account of the limitations of their tuning range. For example, talkback equipment with narrow tuning ranges. However, we remain of the view that most equipment will continue to have sufficient tuning range to retain its utility. As noted previously, frequency duplex equipment which has one half of its duplex in the 700 MHz band will be eligible for funding.

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<sup>37</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0025/28492/consultation-future-use-700MHz-band.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0025/28492/consultation-future-use-700MHz-band.pdf)

<sup>38</sup> [Terry Tew Sound and Light Consultation Response.](#)

<sup>39</sup> Commission Implementing Decision 2014/641/EU

<sup>40</sup> ERC Recommendation 25-10

<sup>41</sup> [Spectrum for Programme Makers' Forum consultation response.](#)

## Use in alternative locations

- 3.40 Some stakeholders, including Plus 4 Audio and Stage Electrics, said that Ofcom's assumptions about the ability of hire companies to rent equipment into alternative areas where it remains unaffected by the DTT reconfiguration were unrealistic. Plus 4 Audio said that it would be impractical for rental companies to seek out other areas to rent into and added that touring companies would need to carry multiple sets of equipment to serve the tour.<sup>42</sup> Stage Electrics also stated that it would be impractical for hire companies to ringfence equipment for use only in certain areas.<sup>43</sup>
- 3.41 The BBC said that it would not be possible in operational terms to switch equipment over between locations due to logistical challenges and the costs involved.<sup>44</sup> It stated that it would not be operationally feasible to shut down two production studios while equipment is swapped over, whereas new equipment can be installed in parallel so there is no studio downtime.

### Our response

- 3.42 The option to use equipment in alternative locations primarily applies to hire companies and equipment owners with multiple venues, such as broadcasters' studios. Equipment owners that operate in a fixed location, such as a school or conference venue, do not have the option of moving equipment to a different location to match spectrum availability. However, we do not fully agree with stakeholders' comments regarding being unable to use equipment in alternative locations.
- 3.43 While some hire companies may have procured equipment to satisfy a particular event or venue on long-term hire, for example in a studio or theatre, such that it is similar to a fixed location, we are still of the opinion that if this equipment needs to be replaced it can be hired to other events or venues. Hire companies, in general, tend to cover a broad range of events and clients across the UK, thereby providing opportunity to hire equipment that may have limited utility in one location to areas where its utility is maximised.
- 3.44 We acknowledge the BBC's concerns about the logistical challenges presented by swapping equipment between locations. However, we consider that this equipment will remain usable in multiple locations across the UK and shifting equipment between locations is a necessary part of adapting to a new spectrum environment, not a compensable effect of the loss of security of tenure in the 700 MHz band.

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<sup>42</sup> [Plus 4 Audio consultation response](#).

<sup>43</sup> [Stage Electrics consultation response](#).

<sup>44</sup> [BBC consultation response](#).

## Resale market

- 3.45 Many stakeholders, including BEIRG, the Digital Television Group, ITN and the BBC objected to our claim that equipment owners should be able to resell their equipment as a way of recovering its residual value or said that they should not be required to do so.
- BEIRG queried our assumption about the potential for the recovery of residual value via resale on several grounds. It submitted that:
    - the resale value of PMSE equipment diminishes quickly;
    - the potential for large amounts of equipment to come onto the market following the DTT clearance would further reduce its value;
    - professional users are reluctant to buy second hand equipment; and
    - there is no established market for second-hand PMSE equipment.<sup>45</sup>
  - The Digital Television Group said that its PMSE Implementation Group considers selling equipment unfeasible and that Ofcom has provided no evidence of the value of the secondary market.<sup>46</sup>
  - ITN said that PMSE users should not have to sell their equipment themselves to recoup some of their losses, while the BBC said that Ofcom (or its agents) might consider taking on the task of selling sub-694 MHz equipment itself if it believed there to be a secondary market for it.<sup>47</sup> The Warehouse Sound Services highlighted that the resale of equipment comes with associated costs for equipment owners.<sup>48</sup>

### Our response

- 3.46 There may be some avenues through which an equipment owner might sell PMSE equipment (e.g. eBay). There may also be a number of potential buyers, given that a number of users in different areas may be seeking to replace equipment, providing a new market opportunity. However, we note the potential for an increase of equipment onto the market following the DTT reconfiguration, the potential need for stakeholders to dispose of large inventories of equipment rather than just individual items, the contended reluctance of PMSE equipment owners to buy used equipment and that such equipment will not be usable in all areas of the UK.

## Mixing of systems

- 3.47 Some stakeholders, including Television Film Services, Autograph Sound Recording and Presteigne Broadcast Hire, said that in many cases entire radio systems would need to be replaced due to the 700 MHz clearance and not just specific pieces of equipment. These systems could include equipment that tunes wholly below 694 MHz and equipment that

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<sup>45</sup> [BEIRG consultation response.](#)

<sup>46</sup> [Digital Television Group consultation response.](#)

<sup>47</sup> [ITN consultation response; BBC consultation response.](#)

<sup>48</sup> [The Warehouse Sound Services consultation response.](#)

straddles the spectrum below 694 MHz and the 700 MHz band. Stakeholders gave two reasons for the need to replace these systems:

- Television Film Services said that the practical difficulties of maintaining systems by two different manufacturers on a single production site would be prohibitively expensive for equipment owners given the multiple spare parts such a set up would require.<sup>49</sup>
- Other stakeholders argued that for reasons of audio quality or spectral efficiency it is not feasible to have audio systems made up of older analogue equipment and the newer and more efficient digital equipment that equipment owners would need to purchase to replace it. BEIRG and Autograph Sound Recording said that, while technically feasible, mixing analogue and digital equipment in a single sound system would result in a mixture of latency times and compromise production quality.<sup>50</sup> The Royal National Theatre said that users will need to replace equipment below 694 MHz to achieve necessary spectral efficiency.<sup>51</sup>

### **Our response**

3.48 We acknowledge stakeholders' views on the need to replace whole systems as it is impractical to mix systems on operational and/or cost grounds. This includes the issues raised concerning the compatibility of digital and analogue equipment, such that they cannot be used as part of the same audio system.

## **Our decision on which PMSE equipment will be eligible for funding**

3.49 Having taken account of stakeholder responses, we set out our decision on each category of equipment below. In reaching our decision, we have taken account of the fact that the reason for paying grants is that, where PMSE equipment owners incur losses as a result of losing access to the 700 MHz band before September 2021 and without having been given five years' notice, they can expect some redress. We have also taken account of the principle that those eligible for the scheme should be PMSE equipment owners operating legally who will incur a loss attributable to Ofcom's decision that they should lose access to the 700 MHz band in May 2020.

### **Equipment that tunes solely in the 700 MHz band**

3.50 No responses said that equipment that tunes solely in the 700 MHz band should be ineligible for funding. This equipment will lose access to the entirety of its tuning range and users will lose access to the 700 MHz band without having been given five years' notice. Therefore, we have decided that such equipment will be eligible for funding.

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<sup>49</sup> [Television Film Services consultation response.](#)

<sup>50</sup> [BEIRG consultation response; Autograph Sound Recording consultation response.](#)

<sup>51</sup> [Royal National Theatre consultation response; BBC consultation response.](#)

## **Equipment that tunes solely below 694 MHz**

- 3.51 Having evaluated the responses and evidence presented by stakeholders, we consider that there is the potential for some reductions in utility in equipment that tunes solely below 694 MHz. However, there are important differences between the situation below that frequency and the case of the 700 MHz band.
- 3.52 In particular, the use that PMSE users currently make of the spectrum between 470 and 790 MHz is subject to the rights of the primary user (DTT), such that PMSE users are not given guaranteed access to the same frequencies in the same locations on a long-term basis. The clearance of the 700 MHz band will affect all owners of equipment in that band who will be unable to use it on any basis. By contrast, users operating solely below 694 MHz will continue to have access to the spectrum in the manner that is consistent with their status as secondary users i.e. on a geographically interleaved basis with DTT. Consequently, PMSE equipment owners are not losing access to the spectrum below 694 MHz and therefore there has been no breach of PMSE's security of tenure in the band.
- 3.53 Accordingly, our decision is that the entitlement to redress does not extend to owners of PMSE equipment operating only below 694 MHz. They will not be eligible for funding.

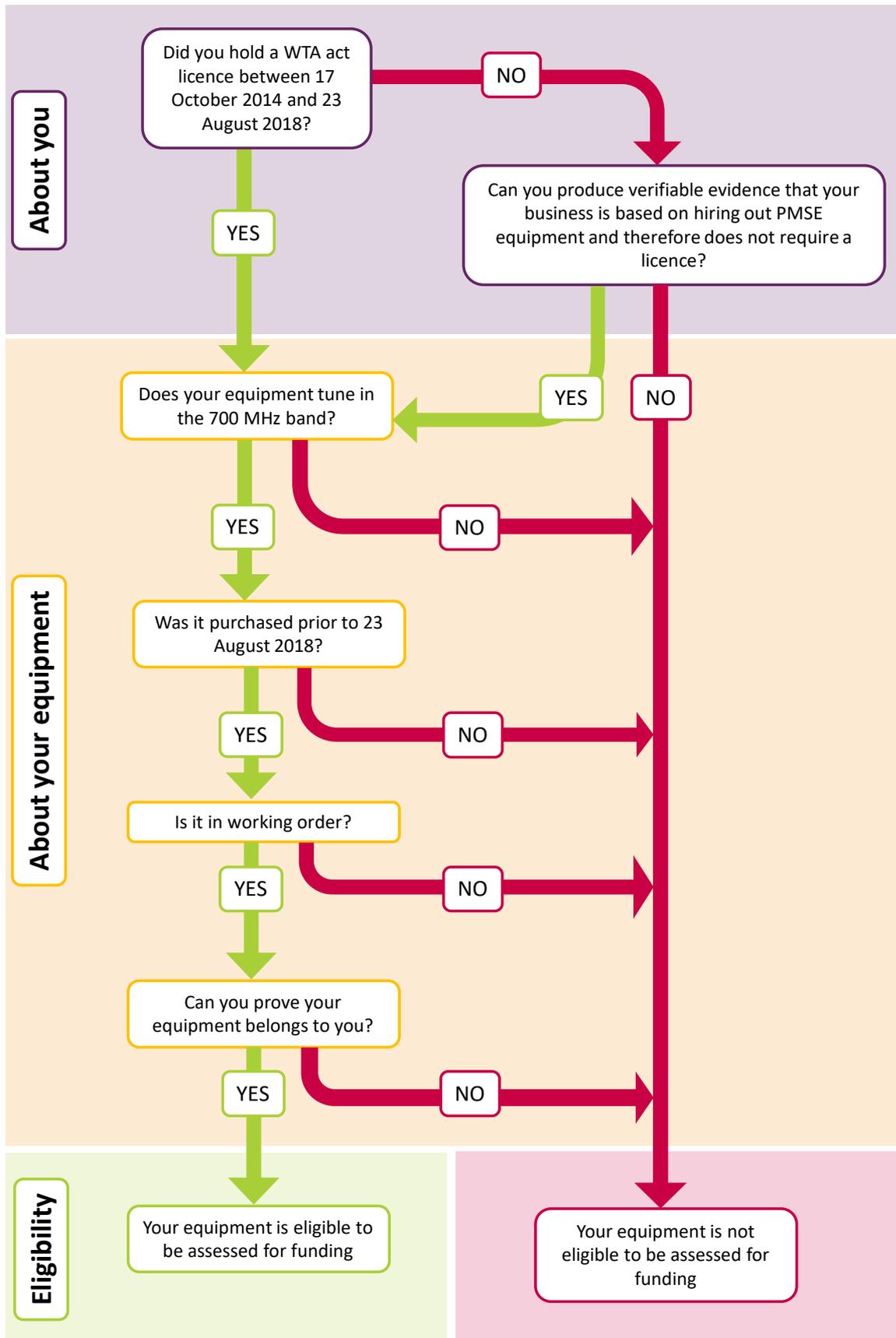
## **Equipment that straddles the 700 MHz band and the spectrum below 694 MHz**

- 3.54 Having taken account of evidence and views submitted by stakeholders, we agree that equipment owners are best placed to judge whether their equipment has suffered a reduction in utility that necessitates its replacement. We have therefore decided to remove the limit on tuning range for eligible equipment. Any equipment that tunes in the 700 MHz band should be eligible for the funding scheme, providing that some part of its tuning range is within that band.
- 3.55 This approach is consistent with our position that redress is being made available for users whose security of tenure has been breached by the decision to make the 700 MHz band available for use by mobile in May 2020. Owners of equipment that straddles the 694 MHz boundary will lose access to the 700 MHz band 16 months earlier than they could have expected in light of the indications we gave in our August 2010 statement.

## **How to assess eligibility of equipment for the scheme**

- 3.56 Figure 1 sets out how an equipment owner can assess whether they are eligible for the funding scheme.

Figure 1: Eligibility criteria for PMSE equipment, excluding ancillary equipment



## Exceptional circumstances claims

### Proposals on exceptional circumstances

3.57 In the April consultation, we proposed that where an applicant fails to meet the eligibility criteria but considers that there are exceptional circumstances that mean they should nonetheless be included in the grant scheme, they can make their case to us. We said we would consider such applications on a case-by-case basis.

### Decision on exceptional circumstances

3.58 No stakeholders disagreed with this proposal. Therefore, the scheme administration will include an 'exceptional circumstances' process in which we will consider claims from stakeholders who believe that exceptional circumstances may mean they should be eligible to receive funding.

## Summary of decisions on eligibility criteria

3.59 Based on consultation responses we have decided that the criteria for eligibility for the funding scheme are as follows.

- Equipment owners must either have held a licence in the 700 MHz band between 17 October 2014 and 23 August 2018 or must be able to produce verifiable evidence that their business is based on hiring out PMSE equipment rather than using it and therefore does not require a licence. This is a change from the consultation proposal.
- Claimants can only claim for equipment that belongs to them.
- Equipment being claimed for must be in working order.
- Equipment being claimed for must have been purchased before 23 August 2018. Again, this is a change from our consultation proposals.
- Equipment being claimed for must have at least some of its tuning range in the 700 MHz band. This represents a change from the consultation.
- Ancillary equipment that cannot be used because its related eligible equipment is made unusable by the clearance of the 700 MHz band will be eligible for funding. Ancillary equipment will have to satisfy the eligibility criteria, except for the tuning range requirement in the event that the equipment has no tuning function. This is an expansion of our consultation proposals about the scope of equipment eligible for funding.

## 4. Determining the level of funding for eligible equipment

### Summary of proposals on the level of funding

- 4.1 In the April consultation we noted that, given the volume of equipment we anticipate applicants will claim for, we did not think it feasible to do case-by-case assessments of the level of funding for each individual piece of equipment. Rather, we proposed to develop a rate card listing all models of equipment we expect to be eligible for the grant scheme and set out how much funding will be made available in respect of each model.
- 4.2 We proposed that we would base the level of funding on the residual value of equipment and would calculate such funding based on the asset life and asset age of eligible equipment. We set out our proposed approach to gathering the information needed to determine asset life and asset age. We explained that we based our assessment of asset life and age on the 2013 PMSE equipment survey and also on previous analysis from the Channel 69 funding scheme in 2010.
- 4.3 We noted that asset life may vary depending on a variety of factors such as quality of the equipment, intensity of use, level of maintenance and use environment. We said that determining asset age on a case by case basis would require accurate information on the age of each piece of equipment being claimed for. We suggested that a significant proportion of claimants may not have the documentation necessary to prove how old their equipment is and therefore it would not be practicable to do a case-by-case assessment of the age of each piece of equipment being claimed for.
- 4.4 Given the difficulties in assessing asset life and asset age we proposed to use industry averages for these values. We proposed an average asset life of 15 years and an average asset age of 8 years.<sup>52</sup>
- 4.5 We proposed to apply the following formula to calculate the amount of funding awarded in respect of a given type of equipment.

$$F_i = RC_i \left(1 - \frac{A}{L}\right)$$

Where  $F_i$  is the funding for each  $i$  piece of equipment,  $RC_i$  is the current cost of replacing that model of equipment,  $A$  is the age of the equipment at the time of clearance and  $L$  is the expected asset life of the equipment. Assuming clearance on the 1 May 2020, the above formula gave a funding value equal to 47% of the cost of the appropriate replacement equipment to that being surrendered.

- 4.6 We asked the following questions:

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<sup>52</sup> A drafting error discovered following the consultation meant that the consultation document gave the equipment age as 8.5 years whereas it should have read 8 years. We have corrected this error here.

Question 5: Do you agree with the proposed formula to estimate the level of funding?

Question 6: Do you agree with our approach to calculating asset life?

Question 7: Are you aware of any developments which would mean data from the 2013 equipment survey or the 2010 Channel 69 statement are likely to misrepresent average asset life?

Question 8: Do you agree with the use of an average asset age for the estimation of funding entitlements? If not, do you have any suggestions for an alternative approach?

Question 9: Are we correct in our assumption that a large proportion of PMSE equipment owners will not have evidence of when they purchased their equipment?

Question 10: Do the data in the 2013 equipment survey provide a reasonable basis for calculating average equipment age? If not do you have an alternative approach for gathering relevant data for making this calculation?

4.7 In the following section we summarise stakeholders' responses to the above questions, then provide our assessment of these and set out our reasoning behind our decision on the level of funding.

## Summary of responses

### Estimated residual value

4.8 On the whole, stakeholders disagreed with the proposal to base the level of funding on the residual value of equipment and to provide equipment owners with ca. 47% of the replacement cost of eligible equipment. Some stakeholders, such as Wigwam Acoustics and Autograph Sound Recording, said that the level of funding should be equal to or significantly closer to 100% of the replacement cost of equipment.<sup>53</sup> Stakeholders presented different reasons for adopting this view.

- Some stakeholders, including BEIRG and Hand Held Audio, said that the proposal to offer residual value equivalent to ca. 47% of the replacement cost of equipment would affect the financial sustainability of some businesses, particularly small ones.<sup>54</sup>
- Wigwam Acoustics said that the use of residual value does not reflect the fact that equipment retains its hire value for a hire company irrespective of the age of the equipment.<sup>55</sup>

4.9 BEIRG raised the issue of the methodology we used to determine the level of funding awarded to PMSE equipment owners. It argued that there are better alternatives than the formula proposed in the consultation for determining the amount of funding that will be made available to PMSE equipment owners. BEIRG said that equipment owners would only

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<sup>53</sup> [Wigwam Acoustics consultation response](#); [Autograph Sound Recording consultation response](#),

<sup>54</sup> [BEIRG consultation response](#). [Hand Held Audio consultation response](#).

<sup>55</sup> [Wigwam Acoustics consultation response](#).

have expected to replace their equipment in 2026 (at the end of the equipment's asset life) rather than 2021 (at the end of PMSE's security of tenure in the 700 MHz band). Applying the funding formulae used in either 2010 (for the channel 69 funding scheme) or 2014 (for the 700 MHz cost benefit analysis for the 700 MHz clearance) and incorporating this 2026 date would have a "more positive" outcome for PMSE users.<sup>56</sup>

## Our response

- 4.10 We recognise that the decision to clear PMSE from the 700 MHz band in May 2020 will have an impact on equipment owners in that they will have to replace equipment earlier than they expected. However, we do not agree with the arguments stakeholders presented for an increase in funding to a level significantly closer to 100% of the cost of replacement equipment (and the overall level of funding available is in any event a decision for Government).
- We do not have evidence that the failure to award the full value of equipment may affect the financial sustainability of PMSE businesses.
  - With regards to responses arguing that full replacement costs should be funded, the fact that, for example, an equipment hire company charges the same for its equipment regardless of its age does not mean that all equipment has the same value (i.e. full replacement value). As assets age, their ability to generate future revenue decreases and this is reflected in the asset depreciation. An eight-year-old asset may generate the same revenue in a year as a brand new one, but it will only do so for another seven years before the asset expires and needs replacing, whereas a new asset will generate revenue for 15 years.<sup>57</sup>
  - Furthermore, asset owners have generated revenues from the use of the asset during its life and have therefore received a return on the portion of the capital that was invested and has already been depreciated. Funding early replacement acknowledges that PMSE users already received a return on the depreciated part of the asset and that clearance will limit their ability to materialise the expected return on the remainder (i.e. non-depreciated part) of the asset.
  - In response to BEIRG's comments on the methodology and parameters used for determining the level of funding available to PMSE, we disagree that it would be appropriate to mix the parameters and methodologies in the way that BEIRG have suggested.
- 4.11 We have therefore decided that the basis for the funding scheme will be the residual value of equipment.

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<sup>56</sup> [BEIRG consultation response](#).

<sup>57</sup> Assuming a 15 year asset life

## Additional costs

- 4.12 The majority of stakeholders contended that there are additional costs associated with the 700 MHz clearance that the funding proposed in the April consultation did not address. For example, stakeholders noted that they would incur costs as a result of gathering in equipment for surrender to the scheme and associated administrative costs.

### Our response

- 4.13 We have assessed stakeholder comments related to additional costs and consider this issue separately in section 5.

## Replacement cost

- 4.14 The BBC queried the relationship between replacement cost, retail price and the original purchase price of equipment. It said that replacement equipment will be more expensive than the original equipment purchased. It therefore asked for clarification on the relationship between expected replacement cost and the funding formula being proposed.<sup>58</sup>

### Our response

- 4.15 Each item of equipment eligible for funding will be allocated a current replacement model with equivalent functionality. The “replacement cost” input into the funding formula will be the retail price of the model of equipment comparable to the model being replaced. Funding will be provided at a percentage of the retail price of the identified equivalent equipment, with that percentage determined by the asset age and average asset life of equipment (discussed below). This amount also serves as the maximum amount of funding that will be provided for equipment that is modified.
- 4.16 The provisional list of current equipment eligible for funding and the comparable replacement we have identified is available on the draft rate card published on our website.<sup>59</sup>

## Asset life

- 4.17 Around half of respondents, including the BBC, BEIRG and ITN, either said they knew of no relevant developments since the previous funding surveys or chose not to respond to this question.<sup>60</sup>
- 4.18 Other stakeholders disagreed with our overall approach, though their reasons for doing so differed. Some, such as Autograph Sound Recording and The Warehouse Sound Services, disagreed with the use of asset life in determining the value of a piece of PMSE equipment.

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<sup>58</sup> [BBC consultation response](#).

<sup>59</sup> See [https://www.ofcom.org.uk/data/assets/pdf\\_file/0019/117523/pmse-equipment-rate-card.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0019/117523/pmse-equipment-rate-card.pdf)

<sup>60</sup> [BBC consultation response](#); [BEIRG consultation response](#); [ITN consultation response](#).

Autograph Sound Recording said that rental companies derive the same return from a piece of equipment, irrespective of its age and that asset life is therefore irrelevant to calculating the level of funding.<sup>61</sup> The Warehouse Sound Services said that properly maintained equipment can overtake its residual value in terms of its rental value.<sup>62</sup> The Spectrum for Programme Makers' Forum said that where equipment owners can demonstrate that the age of their equipment differs from the average their level of funding should be determined on that basis.<sup>63</sup>

- 4.19 Some stakeholders, including Television Film Services and Plus 4 Audio, made other comments related to the asset life we proposed. Television Film Services indicated that some older equipment can be more valuable than new equipment.<sup>64</sup> Plus 4 Audio and Hand Held Audio said that in some instances older equipment from the 700 MHz band continues to be in use today, implying that the asset life we had proposed was too low.<sup>65</sup>

### **Our response**

- 4.20 While we note stakeholders' objections to our approach to calculating asset life, most of these relate to the Government's decision to offer PMSE equipment owners the residual value of their equipment rather than a level of funding closer to 100% of the replacement cost of equipment. In addition, stakeholders who disagreed with our approach did not present alternative approaches to calculating asset life that had clear advantages over our proposal.
- 4.21 Furthermore, few respondents indicated that there were developments to suggest that facts had changed in a material way since the 2013 survey or 2010 channel 69 statement. As we set out in the April consultation, given the volume of equipment we anticipate applicants will claim for as part of the grant scheme, we do not consider it would be feasible to do case-by-case assessments of the level of funding to provide for each individual piece of equipment.
- 4.22 Therefore, we have decided to use an average asset life of 15 years as an input into the funding formula. This is the same asset life that we adopted in the funding scheme for channel 69.

### **Asset age**

- 4.23 Some respondents, such as the BBC and Sky, either agreed with the use of an average equipment age as we proposed in the April consultation or had no comment to make.<sup>66</sup>
- 4.24 However, the large majority of stakeholders disagreed with the use of an average asset age for the estimation of funding entitlements. Stakeholders, including the Royal National

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<sup>61</sup> [Autograph Sound Recording consultation response.](#)

<sup>62</sup> [The Warehouse Sound Services consultation response.](#)

<sup>63</sup> [Spectrum for Programme Makers' Forum](#)

<sup>64</sup> [Television Film Services consultation response.](#)

<sup>65</sup> [Plus 4 Audio consultation response;](#) [Hand Held Audio consultation response.](#)

<sup>66</sup> [BBC consultation response;](#) [Sky consultation response.](#)

Theatre and Warehouse Sound, said that the use of an average asset age would result in some equipment owners being disadvantaged and that this would not be offset by the fact that other equipment owners would benefit.<sup>67</sup> Others, such as City Varieties Music Hall, indicated that the age of equipment should be irrelevant when calculating funding levels.<sup>68</sup>

- 4.25 Many stakeholders also disagreed with the figure for average asset age that we proposed in the consultation. Some stakeholders, including Autograph Sound Recording, BEIRG and Wigwam Acoustics said that PMSE equipment owners would have increased their inventory since the time of the 2013 equipment survey we proposed to use to determine the equipment age input.<sup>69</sup> [X].
- 4.26 Many stakeholders, including BEIRG, Wigwam Acoustics, Better Sound and Presteigne Broadcast Hire, took the view that equipment owners will start replacing their equipment in 2018 (on the assumption the funding scheme would be operating in 2018). This is 18 months earlier than the 2020 date we proposed using to determine the average age of equipment in the consultation. These stakeholders argued that the average asset age at the time of equipment replacement should reflect the earlier point at which claimants would cease using their equipment.<sup>70</sup>

## Our response

### We have revised the average asset age input to the funding formula

- 4.27 Most stakeholders responded to our consultation with the view that the proposed average asset age was too high. Only one stakeholder provided a confidential indication of a specific asset age they considered more appropriate than the eight years we set out in the consultation. However, other respondents indicated that they had increased their equipment stocks since the 2013 equipment survey. This represents evidence that was not available to us at the time we made our consultation proposals and suggests that a significant proportion of equipment is younger than the eight years proposed.
- 4.28 Separately, we also considered the effect of our decision to broaden the eligibility criteria for the funding scheme to include equipment purchased up to the date of publication of this statement. Effectively, the average age of PMSE equipment submitted to the scheme will be younger than would have been the case under our consultation proposals. Whereas previously no equipment would have been submitted to the scheme that had been purchased after 17 October 2016, now equipment purchased in 2017 and 2018 will be eligible.

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<sup>67</sup> [Royal National Theatre consultation response](#); [Warehouse Sound consultation response](#).

<sup>68</sup> [City Varieties Music Hall consultation response](#).

<sup>69</sup> [Autograph Sound Recording consultation response](#); [BEIRG consultation response](#); [Wigwam Acoustics consultation response](#).

<sup>70</sup> [BEIRG consultation response](#); [Wigwam Acoustics consultation response](#), [Better Sound consultation response](#), [Presteigne Broadcast Hire consultation response](#).

- 4.29 These factors mean that the average age proposed in the consultation overestimates the average age of eligible equipment, and therefore claimants would, on average, receive less than the properly estimated residual value of their equipment.
- 4.30 We judge that it would be appropriate to allow for a reduction in the average asset age input of one year to reflect evidence submitted from stakeholders that they have increased their equipment stocks since the 2013 equipment survey. We further consider that it would be appropriate to allow a reduction in the asset age input of one year to reflect the fact that we have extended the cut-off date for eligibility for the scheme such that equipment eligible for the scheme will be younger than was previously the case.
- 4.31 Therefore, we have decided to reduce the average asset age by two years overall, from eight years to six years. This means that the minimum level of funding available to eligible PMSE equipment owners will increase from 47% to 60% of the equipment replacement cost.

#### We will perform bespoke calculations in some instances

- 4.32 Some stakeholders disagreed with the use of an average equipment age to estimate funding entitlements on the grounds that some claimants would end up being disadvantaged by the use of an average figure.
- 4.33 We have taken account of this view and have decided that where stakeholders can provide verifiable evidence of the age of the equipment it is appropriate for them to recover the commensurate value. Therefore, we have decided that where stakeholders can prove that their equipment is less than six years old (or the deemed age under the sliding scale discussed below) at the date of its submission to the scheme, we will use this evidence to determine the appropriate asset age input into the funding formula. Acceptable forms of proof will need to meet three criteria:
- the equipment has to be new at the time of purchase, i.e. cannot be used or second-hand equipment;
  - the proof of equipment age will need to be able to be related to a specific piece of equipment, i.e. it cannot simply be a generic invoice; and
  - the date that the equipment was purchased will need to be verifiable.

#### We will adopt a sliding scale based on equipment submission date

- 4.34 We also took note of the view from stakeholders that they will begin replacing equipment and submitting it to the funding scheme earlier than 2020. However, we do not agree with stakeholders that we could reasonably assume that *all* PMSE users would begin to replace their equipment earlier. Some stakeholders may continue using their equipment until 2020 to extract as much value as possible; others may stop using their equipment earlier.
- 4.35 Therefore, we conclude that the fairest and simplest approach is to reflect in the asset age input the fact that equipment owners will cease using their equipment at different times. To assess when an equipment owner has stopped using their equipment, we will use the date that an equipment owner submits their equipment to the funding scheme. This will effectively result in the adoption of a “sliding scale” of equipment ages.

- 4.36 To assess the age of the equipment to be used in the funding formula, we will divide the duration of the funding scheme into month-long windows. Equipment submitted at any time during the last month of the funding scheme (April 2020) will be assessed as being six years old. Equipment submitted to the funding scheme in March 2020 will be assessed as being five years and eleven months old, in February 2020 it will be assessed as five years and ten months old, and so on.
- 4.37 For equipment that is verified as being younger than the average asset age, the funding amount will be based on actual age of equipment at the point of surrender to the scheme, i.e. date of surrender minus date of purchase.
- 4.38 We acknowledge that some stakeholders, such as Presteigne Broadcast Hire and Television Film Services, expressed concern about the use of such a sliding scale of equipment ages during the channel 69 scheme in their consultation responses.<sup>71</sup> However, we consider that it is appropriate, so far as it is practicable, to make sure that the funding equipment owners receive from the grant scheme reflects the average asset age and residual value of their equipment.

## How equipment modification will be funded

### Proposals on funding for equipment modifications

- 4.39 We proposed to fund the cost of modifications so long as the modifications are not more expensive than the funding that would have been available to an equipment owner had they decided to replace their equipment instead.

### Decision

- 4.40 There were no objections to this proposal from stakeholders. Therefore, we have decided to fund the costs of equipment modifications so long as the modifications are not more expensive than the funding that would have been available to an equipment owner had they decided to replace their equipment instead.
- 4.41 We set out our decision on the proof that will be required to receive payment for equipment modification in section 6.

## Summary of decisions on funding level

- 4.42 Funding will be available to PMSE on the following basis.

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<sup>71</sup> [Presteigne Broadcast Hire consultation response](#); [Television Film Services consultation response](#).

- Stakeholders will receive funding proportional to the estimated residual value of eligible PMSE equipment, plus a further allowance to cover incremental costs that stakeholders will incur as a result of participating in the funding scheme.
- We will use a formula to calculate the value that eligible equipment will receive, which will be set out on the final version of the rate card.
- We will use an average asset life of 15 years.
- We will use an average asset age of six years in the funding formula, as well as a sliding scale of asset age to reflect when equipment owners submit their equipment to the funding scheme. The effect is that they will receive at least 60% of the estimated replacement value of their equipment<sup>72</sup> based on equipment surrender in May 2020.
- Where equipment owners can provide verifiable evidence that their equipment is younger than six years (or whatever is the equipment's presumed age at the date of its submission to the scheme) the actual age of the equipment will be used in the funding formula to calculate the level of funding.
- We will fund equipment modifications that are not more expensive than the funding that would have been available to a claimant for equipment replacement.

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<sup>72</sup> The replacement value of equipment may differ from the cost of originally purchasing that equipment.

## 5. Additional costs

### Stakeholder responses

- 5.1 In their consultation responses, stakeholders made submissions about the additional costs they may face as a consequence of the 700 MHz clearance.
- 5.2 Most stakeholders, including Autograph Sound Recording, the BBC and the Digital Television Group, said that funding should reflect more than the losses that will arise as a result of equipment being made unusable. They said that there are other costs arising from the 700 MHz clearance that should be included in the funding scheme.<sup>73</sup>
- 5.3 The costs identified by stakeholders included the following.
- The Digital Television Group noted that stakeholders would incur the incremental costs associated with surrendering equipment. These include re-planning PMSE installations to ascertain the changes that are required, preparing chartered accountant endorsed asset registers, finding proof of ownership and swapping out equipment that needs to be surrendered to the funding scheme.<sup>74</sup>
  - Plus 4 Audio identified additional costs associated with the 700 MHz clearance. These include employee hours involved in bringing new equipment into hire use, electrical testing, rack building and re-barcoding. Plus 4 Audio also referred to the interest charges that may be accrued as a result of the need for financing to cover equipment replacement.<sup>75</sup>
  - Hand Held Audio highlighted the additional costs associated with the reprogramming of software systems and stock management systems.<sup>76</sup>
- 5.4 Autograph Sound Recording said that Ofcom had previously calculated that PMSE equipment owners would encounter additional expenses associated with the 700 MHz clearance roughly equal to 5% of the value of equipment.<sup>77</sup> It asked why, when Ofcom had recognised that PMSE equipment owners would incur this cost, it had not included this in the consultation proposals on funding.
- 5.5 Stakeholders, including BEIRG, the BBC and Sky, further said that additional costs such as project management are being covered by the DTT infrastructure grant scheme that Ofcom is administering for the 700 MHz clearance. They questioned why such costs are not also being covered in the case of the funding being provided to PMSE equipment owners.<sup>78</sup>

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<sup>73</sup> [Autograph Sound Recording consultation response](#); [BBC consultation response](#); [Digital Television Group consultation response](#).

<sup>74</sup> [Digital Television Group consultation response](#).

<sup>75</sup> [Plus 4 Audio consultation response](#).

<sup>76</sup> [Hand Held Audio consultation response](#).

<sup>77</sup> [Autograph Sound Recording consultation response](#);

<sup>78</sup> [BEIRG consultation response](#); [BBC consultation response](#); [Sky consultation response](#).

## Our response

### Decision on additional costs

- 5.6 Stakeholders identified a broad range of costs in their responses to the April consultation. These costs relate to work such as preparing asset registers, swapping out equipment for surrender, testing equipment, re-barcoding equipment and training staff. We agree that it would be appropriate for stakeholders to receive funding to help meet costs they will incur as a result of participating in the funding scheme.
- 5.7 Only equipment owners who are eligible claimants and surrender equipment to the funding scheme will be eligible for funding for their additional costs as it is only these stakeholders who will incur costs as a result of participating in the funding scheme

### Proposals on implementation of this decision

- 5.8 We think it unlikely to be appropriate to undertake a case-by-case assessment of the costs incurred by each equipment owner. This is likely to be a lengthy and complicated process that would only delay the time before a PMSE equipment owner could return to business as usual. This would not be consistent with our goal of securing the optimal use of spectrum and securing the benefits that flow from PMSE's access to spectrum.
- 5.9 Therefore, we propose that the best approach to reflecting the additional costs that stakeholders will incur is to apply a single mark-up across all stakeholders. As Autograph Sound indicated in its consultation response, in our cost benefit analysis for the 700 MHz clearance, we concluded from information submitted by BEIRG on one company's experience during the channel 69 clearance that decommissioning costs were incurred equal to approximately 5% of the replacement cost of the equipment the company decommissioned.<sup>79</sup> We indicated in the cost benefit analysis that for other businesses, where less equipment was installed in venues, costs would be lower.
- 5.10 We therefore propose that a 5% mark-up is applied to the payment a claimant receives from the scheme for eligible equipment (rather than the cost of the equipment a claimant decommissions) to help stakeholders meet costs they will incur as a result of the 700 MHz clearance. We propose that this mark-up should be assessed on each claim from a stakeholder during the scheme, i.e. if an equipment owner submits their equipment in stages, they will receive payment for additional costs after each stage.
- 5.11 The impact of our proposals would be that, across eligible PMSE equipment owners, they will receive what appears to Ofcom to be a reasonable estimation of the average costs such owners may incur in participating in the scheme. Payment is in relevant stages, where appropriate. This would avoid a situation whereby stakeholders incur costs then have to wait until the end of the scheme to receive redress for them.
- 5.12 We would welcome stakeholders' input on the consultation question below.

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<sup>79</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/46923/700-mhz-statement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/46923/700-mhz-statement.pdf).

Consultation question A: Do you agree with the proposal to reflect the costs of participating in the funding scheme by adding a 5% mark-up to the payment made to a claimant?

- 5.13 For details of how to respond to this question please see the consultation response sheet and consultation principles in annexes 2 to 4.

## 6. The claims process

### Our consultation proposals

6.1 In the April consultation we said that we had yet to determine whether we would appoint a scheme administrator or whether we would administer the scheme ourselves. We set out a general structure for the scheme that would apply irrespective of who ran the scheme. We proposed the following.

- PMSE equipment owners would need to register their intention to seek funding through the scheme shortly before the grant scheme opens. This would enable budgeting and planning for the administration of the grant scheme.
- Claimants would have to surrender the equipment they wish to claim against to allow the scheme administrator to carry out appropriate checks.
- Claimants would have to provide proof of ownership to support their application.
- Unlicensed hire companies would have to produce verifiable information that their business is based on hiring out equipment rather than using it and therefore does not require a licence.

6.2 We also proposed that equipment owners who wish to claim for equipment modification will need to provide verifiable evidence that their equipment has been modified, in addition to meeting the other eligibility criteria.

6.3 We asked the following question.

Question 11: Do you have any comments on our proposals for how the claims handling process should operate?

### Summary of responses

#### Administrative burden

6.4 The Spectrum for Programme Makers' Forum said that the proposals we had made seemed onerous and that this was the experience of equipment owners in the channel 69 funding scheme.<sup>80</sup> The BBC queried why Ofcom had decided to require both surrender of equipment and documentary evidence when requiring only the submission of previously licensed equipment would be sufficient.<sup>81</sup>

#### Our response

6.5 We recognise that participating in the funding scheme will create an administrative burden for stakeholders. In so far as possible we have sought to minimise this. However, a certain

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<sup>80</sup> [Spectrum for Programme Makers' Forum consultation response.](#)

<sup>81</sup> [BBC consultation response.](#)

amount of administrative work is necessary given the need to mitigate the risk of fraud – an issue BEIRG raised in its response – which requires clear processes to which all parties adhere.<sup>82</sup>

- 6.6 Therefore, participation in the funding scheme will require the submission of both equipment and proof of ownership. This will ensure, for example, that only a single claim is made for each piece of equipment by those entitled to make the claim, and that public money is only paid out to eligible claimants for eligible equipment acquired legally.

## Timescale

- 6.7 Many stakeholders, including Autograph Sound Recording, Plus 4 Audio and the Spectrum Programme Makers Forum, said that the claims process must begin in 2018 because companies will begin replacing equipment at the start of clearance rather than the end.

- 6.8 [✂].

### Our response

- 6.9 We note stakeholders' views that the scheme needs to start accepting submissions in 2018. We will begin the equipment submission phase of the funding scheme as early as practicable, given the planning and implementation time needed to set up a scheme to process claims from and disperse funding to a large number of equipment owners.
- 6.10 We are in the process of finalising details of scheme administration with Government and will provide an update to stakeholders in the near future.

## Submission of equipment to the scheme

- 6.11 Stakeholders, including Plus 4 Audio, Autograph Sound Recording and Royal National Theatre, drew Ofcom's attention to the need for flexibility when it comes to the surrender of equipment to accommodate the business needs of PMSE equipment owners.<sup>83</sup>
- 6.12 The Warehouse Sound Services suggested that Ofcom might consider not allowing for equipment surrender at all.<sup>84</sup>

### Our response

- 6.13 We considered a number of options whereby we might not require equipment owners to submit their equipment to the scheme. However, we did not find an option that allowed sufficient guarantees that the risk of fraud could be appropriately minimised.
- 6.14 We are conscious of stakeholders' need for flexibility when it comes to administration of the scheme given the needs of their business. We have made the scheme as flexible as possible so that stakeholders have a sufficient period to submit their equipment to the

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<sup>82</sup> [BEIRG consultation response](#).

<sup>83</sup> [Plus 4 Audio consultation response](#); [Autograph Sound Recording consultation response](#); [Royal National Theatre consultation response](#).

<sup>84</sup> [The Warehouse Sound Services consultation response](#).

scheme and can time when they wish to submit their equipment in accordance with business needs.

## Early clearance events

6.15 Stakeholders, including the Spectrum for Programme Makers' Forum and the BBC, asked how they could go about claiming for equipment affected by early clearance events, including PMSE equipment operating in Channels 55 and 56.<sup>85</sup>

### Our response

6.16 We are aware that some clearance events will have occurred before the scheme is open for submission of equipment. In order to claim for this equipment, owners will need to retain it and submit it to the scheme as soon as it opens.

## Publicising the scheme

6.17 The Royal National Theatre said that the scheme should be well publicised.<sup>86</sup>

### Our response

6.18 We will communicate information of the scheme to licensees via email and will make details of the scheme available on the Ofcom website. We will also look to publish the scheme in trade press.

## Decision on the structure of the funding scheme

### Stakeholder views on the rate card

6.19 We have developed the provisional rate card listing equipment that will be eligible for funding. It is important that the rate card is factually correct. That is, that it accurately records pieces of equipment eligible for funding under the scheme in accordance with the decisions set out in this statement.<sup>87</sup> We have therefore made it available for stakeholders to view on our website at

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0019/117523/pmse-equipment-rate-card.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0019/117523/pmse-equipment-rate-card.pdf). We invite stakeholders to submit comments and proposed amendments where

we have either:

- neglected to include a piece of equipment on the rate card that, under the criteria set out in this statement, should fall eligible for the scheme; or
- misidentified the appropriate piece of replacement equipment.

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<sup>85</sup> [Spectrum for Programme Makers' Forum consultation response](#); [BBC consultation response](#).

<sup>86</sup> [Royal National Theatre consultation response](#).

<sup>87</sup> Ofcom is not re-opening our decisions on the categories of equipment that are eligible and consultation on the rate card is not an opportunity to repeat submissions on that issue.

We will not consider submissions on the categories of equipment that should be eligible for funding on which we have made decisions as set out in this statement.

- 6.20 Stakeholders may submit comments by emailing [UHFSI@ofcom.org.uk](mailto:UHFSI@ofcom.org.uk). Stakeholders should submit comments by 20 September 2018.
- 6.21 Following this process, we will take account of the suggested changes that are accepted on the final version of the rate card. This will be available once registration for the scheme is launched.

## Registration

- 6.22 Prior to the grant scheme launching we will hold a registration process where PMSE equipment owners will register their intention to seek funding through the scheme. Registration will take place shortly before the grant scheme opens. Prospective claimants will have to sign up to the grant scheme terms and conditions, list the equipment they wish to claim for and indicate the timeframe within which they wish their claim to be processed.

## Verifying claims and calculating awards

- 6.23 Once the grant scheme formally opens, claimants will submit their claim to the scheme administrator. Claimants will have to surrender the equipment they wish to claim against.
- 6.24 Claimants will have to provide evidence that they own the equipment to which their application relates. The type of evidence that we require claimants to provide in support of their application will be at least one of the following:
- receipts of purchase for equipment;
  - certified asset register entries to identify equipment and/or when equipment was acquired; and
  - relevant insurance documentation.
- 6.25 Unlicensed hire companies will need to produce verifiable evidence that their business is based on hiring out equipment, rather than using it and therefore does not require a licence. The information that such claimants might provide includes but is not limited to the following:
- rental agreements, orders, invoices or contracts;
  - company documentation (e.g. memorandum and articles of association setting out the objects of the company); and
  - marketing materials (e.g. brochures, advertising and directory listings etc.).
- 6.26 Using the information provided by claimants, the scheme administrator will check and verify that the claimants meet the eligibility criteria.
- 6.27 Once the scheme administrator is satisfied that the claim meets all the necessary criteria, it will calculate the amount of the award using the rate card (including any adjustment to reflect the date of surrender). An uplift will be added to the claim value (our proposal as set out in section 5 is a 5% mark-up) to account for costs incurred in participating in the

scheme. In addition, 20% in funding will be paid to claimants who are not VAT registered to recognize that they will not be able to offset or reclaim VAT on items or services they buy.

- 6.28 The scheme administrator will then, subject to the requirement for HM Treasury consent, arrange payment to the appropriate PMSE licensee or, in the case of an unlicensed hire company, to the entity that registered with the grant scheme.

## **Payment in relation to equipment modifications**

### **Proposal on equipment modification**

- 6.29 We proposed that claimants who modify rather than replace equipment would need to provide verifiable evidence that their equipment has been modified as well as meeting all other eligibility criteria.

### **Decision**

- 6.30 There were no responses disagreeing with our proposals on equipment modification. Therefore, we have decided that equipment owners claiming for modifications will need to provide evidence that these modifications have taken place.

# 7. Conclusion

## Overall conclusion

- 7.1 On the bases set out in this document, our judgment is that the decisions we have reached on the grant scheme are an appropriate means of Ofcom making decisions to distribute the funding that Government has decided to make available.
- 7.2 One effect of these decisions is that PMSE equipment owners will be eligible for funding in respect only of losses they necessarily incur that are attributable to Ofcom's decision to bring forward clearance of the 700 MHz band in advance of September 2021. A further effect will be to support the clearance of the band and to help realise both the benefits of the use of that band for mobile data services and the continued use of spectrum for PMSE services. Each of these impacts is consistent with Ofcom's functions, powers and duties as set out in this document. We also consider that our decisions on eligibility, the rates at which grants will be made and the process for making claims will, for the reasons explained, provide value for money.

## Next steps

- 7.3 The provisional version of the rate card is now available on our website.<sup>88</sup> We invite stakeholders to submit additions and corrections by 20 September 2018. Those which are accepted will be included in the final version of the rate card made available when registration for the scheme opens.
- 7.4 We also seek stakeholders' input on a consultation question on additional costs. The consultation period will close on **4 October 2018**. Shortly after this date we will publish our final decision on additional costs.

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<sup>88</sup> See [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0019/117523/pmse-equipment-rate-card.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0019/117523/pmse-equipment-rate-card.pdf)

# A1. Consultation response summary

- A1.1 We received 22 responses to the April consultation, of which 2 were wholly confidential and 2 were partially confidential. We have taken the responses carefully into account in making our decisions and have published all non-confidential responses on the Ofcom website.<sup>89</sup> We set out the main points from stakeholder responses below, along with references to where we have addressed these issues in the main text or direct responses where appropriate. Some stakeholders chose to answer the questions we asked in the consultation, but others diverged from them. Therefore, we have structured the summary of consultation responses by theme.
- A1.2 We also received submissions on a small number of topics which we have not addressed in the main document. In those cases we provide a brief response below.

## Eligibility criteria

### Equipment excluded by the 50% tuning requirement

Stakeholders, such as BEIRG, the BBC and Wigwam Acoustics, identified equipment that was excluded from funding by the 50% eligibility requirement, including duplex equipment and equipment with a broad tuning range. <sup>90</sup>	<i>We have removed the requirement that equipment must have 50% of its tuning range in the 700 MHz band. We address this point in section 3.</i>
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### Availability of spectrum for PMSE

Stakeholders including, BEIRG, Terry Tew Sound and Light and the BBC, said that there would be a shortage of spectrum for PMSE following the 700 MHz clearance. <sup>91</sup>	<i>We have made further spectrum available for PMSE in the 960-1164 MHz bands. We address this point in section 3.</i>
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### Impact of reconfiguration of DTT network on availability of spectrum below 694 MHz

Stakeholders, such as Autograph Sound Recording, BEIRG, the BBC and Royal National Theatre, highlighted the impact of the reconfiguration of DTT on equipment on	<i>We recognise that the amount of spectrum available to PMSE below 694 MHz will be reduced in certain areas. However, we do not consider that this equipment should be eligible</i>
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<sup>89</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-1/support-pmse-equipment-owners>

<sup>90</sup> [BEIRG consultation response](#); [BBC consultation response](#); [Wigwam Acoustics consultation response](#).

<sup>91</sup> [BEIRG consultation response](#); [Terry Tew Sound and Light consultation response](#); [BBC consultation response](#).

equipment that tunes below 694 MHz. <sup>92</sup> They submitted that equipment that tunes below 694 MHz should be eligible for the funding scheme.	<i>for the funding scheme. We address this point in section 3.</i>
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## Purchase cut-off date

Stakeholders, such as Autograph Sound Recording, Plus 4 Audio and Presteigne Broadcast Hire, said that it will be necessary for equipment owners to continue to make purchases after the proposed purchase cut-off date. <sup>93</sup>	<i>We consider there is a need for a cut-off date, but that a later date would be more appropriate than the date identified in the consultation. We address this point in section 3.</i>
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## Proof of ownership

<p>The BBC said that it would be concerned if proof of ownership required a certified asset register to have existed before the consultation.<sup>94</sup></p> <p>The Digital Television Group said that in some cases equipment has been purchased as part of a package so sourcing asset registers for each piece of equipment is often not possible.<sup>95</sup></p>	<p><i>Asset registers do not need to have been in existence prior to the consultation. This was the approach we took in the channel 69 funding scheme. We note that this endorsed asset register will be used by Ofcom as proof of the claimant's ownership of equipment for the purposes of making grants, subject to the consent of HM Treasury.</i></p> <p><i>An asset register is only one of the ways that claimants can prove ownership of equipment.</i></p>
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## Eligibility of PMSE users who do not own equipment

Stakeholders, such as BEIRG, said that theatres and studios will face a cost burden due to clearance and should receive compensation from the scheme. <sup>96</sup>	<i>We do not agree that theatres and studios should be eligible for a funding scheme for PMSE equipment owners. We address this point in section 3.</i>
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<sup>92</sup> [Autograph Sound Recording consultation response](#); [BEIRG consultation response](#); [BBC consultation response](#); [Royal National Theatre consultation response](#).

<sup>93</sup> [Autograph Sound Recording consultation response](#); [Plus 4 Audio consultation response](#); [Presteigne Broadcast hire consultation response](#).

<sup>94</sup> [BBC consultation response](#).

<sup>95</sup> [Digital Television Group consultation response](#).

<sup>96</sup> [BEIRG consultation response](#).

## Impact of the 694 to 703 MHz band on eligibility for the funding scheme

Stakeholders, including Better Sound and Presteigne Broadcast Hire, said that the 694 to 703 MHz band's usability is questionable. <sup>97</sup> They argued it would lead to some equipment being ineligible for the scheme and should be excluded from funding calculations.	<i>We address this point in section 3.</i>
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## Hiring of equipment

Stakeholders, including Stage Electrics and Plus 4 Audio, considered it impractical to reserve some equipment for hiring into particular areas. <sup>98</sup>	<i>We consider that while this would involve an adjustment on the part of PMSE equipment owners, businesses could make these adjustments in their working practices as part of adapting to a new spectrum environment. We consider this issue in section 3.</i>
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## Resale of equipment

Stakeholders, including BEIRG, Autograph Sound Recording and Plus 4 Audio, questioned the view in the consultation that stakeholders would be able to resell unusable equipment that tunes below 700 MHz and realise its residual value in that way. <sup>99</sup>	<i>We consider this issue in section 3.</i>
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## Determining the level of funding for eligible equipment

### Residual value

Stakeholders, including Television Film Services and Autograph Sound Recording, said that 47% funding was not enough and should be significantly nearer to 100% of the replacement cost of equipment. <sup>100</sup>	<i>The overall level of funding is a matter for Government. As far as it concerns Ofcom, we consider stakeholders' submissions about funding equivalent to 100% of the replacement cost of equipment in section 4.</i>  <i>The level of funding available is the same for all users.</i>
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<sup>97</sup> [Better Sound consultation response](#); [Presteigne Broadcast Hire consultation response](#).

<sup>98</sup> [Stage Electrics consultation response](#); [Plus 4 Audio consultation response](#).

<sup>99</sup> [BEIRG consultation response](#); [Autograph Sound Recording consultation response](#); [Plus 4 Audio consultation response](#).

<sup>100</sup> [Television Film Services consultation response](#); [Autograph Sound Recording consultation response](#).

Plus 4 Audio said it understood that some large corporations are already being offered up to 100% funding. <sup>101</sup>	
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## Financial consequences

Stakeholders, such as BEIRG, said that only making a 47% contribution to the cost of replacement equipment will have serious consequences for the sustainability of some businesses. <sup>102</sup>	<i>The funding available to PMSE equipment owners will be at least 60% of the estimated replacement value of equipment, plus a mark-up on account of additional costs. We consider this issue in sections 4 and 5.</i>
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## Additional costs

Stakeholders, including Autograph Sound Recording, the BBC and ITN, identified a range of additional costs that equipment owners will incur due to the 700 MHz clearance and said that these costs are being covered in the case of DTT. <sup>103</sup>	<i>The overall level of funding is a matter for Government, who have taken the view that an uplift to reflect the additional costs stakeholders will incur is appropriate. We consider this issue in section 5.</i>
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## Alternative funding formulae

BEIRG argued that equipment owners would have expected to replace their equipment in 2026 rather than 2021. <sup>104</sup> Using this date, along with the formulae from 2010 or 2014 would have left the PMSE sector better off.	<i>We consider this issue in section 4.</i>
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## Asset life

Stakeholders, such as Autograph Sound Recording, said that asset life is irrelevant to calculating the value of an asset. <sup>105</sup> Others, such as Plus 4 Audio, said that equipment has longer lifespans than proposed in the consultation. <sup>106</sup>	<i>We consider that asset age is relevant to the value of an asset and consider that 15 years is the appropriate value. We discuss this issue in section 3.</i>
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<sup>101</sup> [Plus 4 Audio consultation response.](#)

<sup>102</sup> [BEIRG consultation response;](#) [Royal National Theatre consultation response.](#)

<sup>103</sup> [Autograph Sound Recording consultation response;](#) [BBC consultation response;](#) [ITN consultation response.](#)

<sup>104</sup> [BEIRG consultation response.](#)

<sup>105</sup> [Autograph Sound Recording consultation response.](#)

<sup>106</sup> [Plus 4 Audio consultation response.](#)

## Equipment age

<p>Stakeholders, including City Varieties Music Hall, said that equipment age is irrelevant when calculating funding levels.<sup>107</sup> Others, such as BEIRG and Autograph Sound Recording, said that the equipment age proposed in the consultation was too old.<sup>108</sup> Reasons given included that equipment owners would have increased their inventories since the 2013 equipment survey and that we had assumed that equipment owners would cease using their equipment in 2020.</p>	<p><i>We consider that our consultation proposals assumed an asset age that was older than appropriate. We have decided to lower the average asset age, use a sliding scale to reflect the date that equipment is submitted to the funding scheme and perform individual calculations for some users. We discuss this issue in section 5.</i></p>
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## Relation between replacement cost and the funding formula

<p>The BBC asked for clarification over the relationship between the replacement cost of equipment and the funding formula, given that replacement equipment will sometimes be more expensive than the original equipment purchased.<sup>109</sup></p>	<p><i>The “replacement cost” input into the funding formula will be the retail price of the model of equipment comparable to the model being replaced.</i></p>
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## PMSE budgeting

<p>Stakeholders, including BEIRG, said that the proposed funding makes the wrong assumptions about how PMSE companies budget for equipment and ignores the fact that these businesses are cash poor.<sup>110</sup></p>	<p>We consider that paying grants at the level we have decided will help facilitate PMSE users’ continued provision of PMSE services and maintain the benefits derived from them.</p>
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## The claims process

### Scheme flexibility

<p>Stakeholders, including Autograph Sound Recording, emphasised the need for flexibility</p>	<p><i>We have made the scheme as flexible as possible so that stakeholders have sufficient time to submit their equipment to the scheme</i></p>
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<sup>107</sup> [City Varieties Music Hall consultation response.](#)

<sup>108</sup> [BEIRG consultation response;](#) [Autograph Sound Recording consultation response.](#)

<sup>109</sup> [BBC consultation response.](#)

<sup>110</sup> [BEIRG consultation response.](#)

to allow companies to take account of business needs when submitting equipment. <sup>111</sup>	<i>and can time when they wish to submit their equipment to the scheme in accordance with business needs. We discuss this further in section 5.</i>
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## Equipment no longer available

The Digital Television Group, said that it was not clear how equipment that is no longer available will be dealt with via the rate card process. <sup>112</sup>	<i>For each piece of equipment, including equipment that is no longer available, we have set out in the rate card a comparable model of equipment and the retail price of that piece of equipment.</i>
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## The channel 69 funding scheme

The Digital Television Group said that the process from the channel 69 funding scheme should be reviewed and used to highlight where timescales could be reduced. <sup>113</sup>	<i>We have drawn on experience from the channel 69 funding scheme in designing the scheme for PMSE equipment owners affected by the 700 MHz clearance.</i>
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## Treatment of equipment surrendered to the scheme

Stakeholders, including Plus 4 Audio, said that equipment surrendered to the funding scheme must be taken out of circulation. <sup>114</sup>	<i>We are aware that some stakeholders were unhappy with the resale of equipment as part of the channel 69 funding scheme and have taken this into account in our decision on administration of the funding scheme.</i>
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## Equipment surrender

Stakeholders, including Presteigne Broadcast Hire and Television Film Services, made a range of suggestions regarding surrender of equipment. <sup>115</sup> These suggestions included that Ofcom should allow for staggered submission, must not penalize for submission close to the deadline and might consider not requiring surrender of equipment.	<i>We have attempted to make the scheme as flexible as possible. However, our responsibility to minimise fraud necessitates surrender of equipment (and before payment is made). We will not penalize for submission close to the deadline, however the age of stakeholders' equipment will be determined by the date it is</i>
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<sup>111</sup> [Autograph Sound Recording consultation response.](#)

<sup>112</sup> [Digital Television Group consultation response.](#)

<sup>113</sup> [Digital Television Group consultation response.](#)

<sup>114</sup> [Plus 4 Audio consultation response.](#)

<sup>115</sup> [Presteigne Broadcast Hire consultation response;](#) [Television Film Services consultation response.](#)

	<i>submitted to the scheme. We discuss this issues in section 5.</i>
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## Publicising the scheme

The Royal National Theatre said that the scheme should be well publicised. <sup>116</sup>	<i>We will contact licence holders with details of the funding scheme and will make information available on our website. We discuss this issue in section 5.</i>
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## Replanning of COM7 and COM 8 multiplexes

Stakeholders, including the BBC and Spectrum for Programme Makers' Forum, asked how equipment owners can claim for PMSE equipment affected by early clearance events. <sup>117</sup>	<i>We consider that equipment owners should retain this equipment for later submission to the funding scheme. We consider this issue in section 5.</i>
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## Other issues

### Ofcom's overall approach

BEIRG said that the funding scheme should be based on the PMSE sector being left no worse off than at present as a result of the 700 MHz clearance, as set in the Lamy report on the future use of the 700 MHz band. <sup>118</sup>	<i>We recognise the demand for spectrum for PMSE use and the benefits that flow from it. Likewise, and particularly important, that PMSE users had security of tenure in the 700 MHz band and may incur losses for which they can expect some redress where they own equipment they are no longer able to use as a result of Ofcom's clearance decisions. We consider that paying grants could, in this instance, protect the interests of relevant PMSE equipment owners and facilitate their continued provision of PMSE services (and maintain the benefits derived from them) where they have a specific expectation of secure spectrum tenure, while helping to secure the benefits of using the 700 MHz band for mobile data.</i>
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<sup>116</sup> [Royal National Theatre consultation response.](#)

<sup>117</sup> [BBC consultation response; Spectrum for Programme Makers' Forum consultation response.](#)

<sup>118</sup> [BEIRG consultation response.](#)

## Large operators

<p>Presteigne Broadcast Hire said that large hire companies who supply equipment for the events with the heaviest spectrum demands should be recognised as having different needs to smaller operators.<sup>119</sup></p>	<p><i>We are conscious of the diversity of the PMSE sector. We consider that the funding scheme should be equitable for all equipment owners.</i></p>
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## Market distortion

<p>Stakeholders, including Presteigne Broadcast Hire and Television Film Services, said the consultation proposals had the potential to distort the overall PMSE market by putting operators with equipment in the 700 MHz band in a position to purchase new, more effective equipment.<sup>120</sup></p>	<p><i>We consider that equipment owners who operate in the 700 MHz band had security of tenure in the band and will suffer a loss attributable to Ofcom's decision to clear the 700 MHz band and are therefore entitled to some redress in this case.</i></p>
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## The future of the 694 to 703 MHz band

<p>Some stakeholders commented on the issue of whether the 7694 to 703 MHz band should continue to be available to PMSE (as opposed to the impact of our decision on the guard band on eligibility for the funding scheme). Some, such as Hand Held Audio, said that PMSE equipment owners should not be given access to this band on the grounds that it was a way of excluding equipment from eligibility for the funding scheme.<sup>121</sup> Autograph Sound Recording said that PMSE should be given access to the band.<sup>122</sup> Other stakeholders, including Digital Television Group and The Warehouse Sound Services, said that uncertainty over the band adds to the uncertainty surrounding PMSE.<sup>123</sup></p>	<p><i>We reached a decision on the future of this band in our statement published in November 2017.<sup>124</sup></i></p>
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<sup>119</sup> [Presteigne Broadcast Hire consultation response.](#)

<sup>120</sup> [Presteigne Broadcast Hire consultation response; Television Film Services consultation response.](#)

<sup>121</sup> [Hand Held Audio consultation response.](#)

<sup>122</sup> [Autograph Sound Recording consultation response.](#)

<sup>123</sup> [Digital Television Group consultation response; The Warehouse Sound Services consultation response.](#)

<sup>124</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0027/107775/statement-spectrum-audio-pmse.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0027/107775/statement-spectrum-audio-pmse.pdf)

## Future spectrum availability for PMSE

Stakeholders, including Autograph Sound Recording and BEIRG, addressed future spectrum availability for PMSE, with BEIRG suggesting that Ofcom should reinvestigate the potential for PMSE to operate in areas of spectrum covered by ERC Recommendation 25-10. <sup>125</sup>	<i>We have made new spectrum available to audio PMSE in the bands from 960 to 1164 MHz.<sup>126</sup> Additional spectrum has been harmonised for use by audio PMSE, for example 823 to 832 MHz, 1785 to 1805 MHz and 1518 to 1525 MHz.</i>
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## Equipment for 960-1164 MHz bands

Stakeholders, such as BEIRG, highlighted the lack of certainty about the availability of equipment for the new spectrum for PMSE and the failure of the scheme to incentivise industry to purchase equipment in the new spectrum. <sup>127</sup>	<i>We recognise the concerns of PMSE equipment owners over the availability of equipment for the 960-1164 MHz bands. The reason for paying grants is that, where PMSE equipment owners incur losses as a result of losing access to the 700 MHz band before September 2021 and without having been given five years' notice, they can expect some redress.</i>
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<sup>125</sup> [Autograph Sound Recording consultation response](#); [BEIRG consultation response](#).

<sup>126</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/new-spectrum-audio-pmse>

<sup>127</sup> [BEIRG consultation response](#).

## A2. Consultation question

Consultation question A: Do you agree with the proposal to reflect the costs of participating in the funding scheme by adding a 5% mark-up to the payment made to a claimant?

## A3. Responding to this consultation

### How to respond

- A3.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on **4 October 2018**.
- A3.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-1/support-pmse-equipment-owners>. You can return this by email or post to the address provided in the response form.
- A3.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [UHFSI@ofcom.org.uk](mailto:UHFSI@ofcom.org.uk), as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).
- A3.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Vaughan John  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A3.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
  - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A3.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A3.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A3.8 We welcome joint responses.
- A3.9 It would be helpful if your response could include direct answers to the question asked in the consultation document. The question is listed at Annex 2. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A3.10 If you want to discuss the issues and questions raised in this consultation, please contact Vaughan John on 020 7981 3093 or by email to [vaughan.John@ofcom.org.uk](mailto:vaughan.John@ofcom.org.uk).

## Confidentiality

- A3.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, [www.ofcom.org.uk](http://www.ofcom.org.uk), as soon as we receive them.
- A3.12 If you think your response should be kept confidential, please specify which part(s) this applies to and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A3.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A3.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

## Next steps

- A3.15 Following this consultation period, Ofcom plans to publish a statement in November 2018.
- A3.16 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

## Ofcom's consultation processes

- A3.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 4.
- A3.18 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A3.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Jacqui Gregory, Ofcom's consultation champion:

Jacqui Gregory  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A4. Consultation response sheet

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A4.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### During the consultation

- A4.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A4.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A4.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A4.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A4.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A4.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

# A5. Consultation coversheet

## BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

## CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

## DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)