

Intellect response to the Ofcom Consultation:

**Intellect Response to Ofcom's second consultation
on coexistence of new services in the 800 MHz band
with digital terrestrial television**

About Intellect

Intellect is the trade association for the UK technology industry. In 2007, the industries Intellect represents accounted for 8% of UK GDP, £92bn of Gross Added Value and employed 1.2m people.

Intellect provides a collective voice for its members and drives connections with government and business to create a commercial environment in which they can thrive. Intellect represents over 750 companies ranging from SMEs to multinationals. As the hub for this community, Intellect is able to draw upon a wealth of experience and expertise to ensure that its members are best placed to tackle challenges now and in the future.

Our members' products and services enable hundreds of millions of phone calls and emails every day, allow the 60 million people in the UK to watch television and listen to the radio, power London's world leading financial services industry, save thousands of lives through accurate blood matching and screening technology, have made possible the Oyster system, which Londoners use to make 28 million journeys every week, and are pushing Formula One drivers closer to their World Championship goal.

In the past 12 months 14,500 people have visited Intellect's offices to participate in over 550 meetings and 3,900 delegates have attended the external conferences and events we organise.

Response

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

Yes; in addition to enabling the building of early momentum, establishing MitCo prior to auctions could also facilitate the process of building trust and co-operation between the mobile and DTT interests. We also note that it should be possible to start to identify the holders of most of the posts on the Supervisory Board before the 800 MHz licensees are known. As DTT services need to be afforded appropriate protection before LTE services are turned on, MitCo needs to be sufficiently operationally ready for a rapid network roll-out by the 800MHz licensees.

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

Yes – Intellect broadly agrees with the proposals on MitCo's constitution and governance.

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

Intellect believes that, given the pivotal task of balancing diverse interests and securing the collaboration between mobile operators and DTT / broadcast players, it would be preferable for the Chairperson of the Supervisory Board to be a senior Government official and to add a couple of independent voting members (so that voting would not be dependent only on the number of members with broadcasting and mobile perspectives). Also, in the event that more than 3 operators obtain 800 MHz licences and therefore are represented on the Board, the proposed number (currently three) of broadcast / DTT representatives should also be revisited to match the number of licensed operators.

Intellect has concerns that Ofcom seems to envisage the main role of the Supervisory Board to be largely the auditing of achievement of KPIs set in advance of the auction. It is unlikely that this task (and the associated frequency of meetings) would attract membership of the Supervisory Board of sufficient seniority. Intellect suggests that the Supervisory Board should have a broader oversight role, with a clear mandate to approve MitCo's strategy and objectives. The routine auditing of KPIs can be left to a subcommittee. Ofcom needs to ensure that the Supervisory Board has sufficient funding to discharge its responsibilities.

Intellect agrees with its role in approving and validating MitCo's interference forecasting model and system, as well as any changes to it, and reviewing Mitco's KPIs. It should possess the relevant expertise to do this. However, care should be taken in not creating a duplication of modelling and forecasting activities in the Supervisory Board that will exist in Mitco, Ofcom and other stakeholders. Perhaps there is merit in selecting the Ofcom model as the interference prediction model for MitCo and then the Supervisory Board could oversee the predictability of the model and its development by MitCo. To this end, to test the predictability of the model the Supervisory Board could ensure that MitCo undertakes drive testing and field based market research.

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

The principle objective of MitCo should be to ensure that DTT households are adequately protected from LTE interference. The gain share mechanism should be aimed at incentivising network based mitigation. Given that the funding of MitCo is derived from the new 800 MHz mobile licensees, Intellect believes that the majority of any gain share should revert to those operators, as a whole.

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

The consultation hardly addresses an important aspect of consumer relations. Only around 15% of interference cases are known to be solvable by a filter fitted at the TV receiver input (the standard domestic installations). For the other 85% (or up to around 2 million households with communal aerial systems and domestic amplifiers), it is unclear what proportion of these are solvable by a filter fitted at the TV receiver input. For the others, it is unclear what proportion will know whether they have a communal antenna system or domestic amplifier, or how this can be ascertained without a house visit by MitCo. The lack of any detailed information on DTT households with domestic amplifiers and the type of antenna installation in place poses a considerable challenge to MitCo's ability to effectively manage the mitigation process and Intellect encourages Ofcom to address this point as a matter of urgency.

It is clear that MitCo will have interactions with many people who will be dissatisfied when they are told that they must pay to have a filter fitted ahead of a domestic amplifier, or by the owner of a communal antenna system who is unwilling to do it.

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

Intellect agrees that some KPIs need to be set in advance of the licence award, but the Supervisory Board should be able to refine them in the light of experience (with endorsement by Ofcom as a formality if needed). The proposed KPIs sound fine in theory, but there are a number of aspects that are arbitrary, impractical to achieve and/or cannot be verified. For example,

- the radius in KPI 1 seems arbitrary, and the distance needed in practice will obviously depend on the base station transmit power and other factors.
- In KPI 1, the 99.9% target for sending of information is probably higher than the reliability of address databases and the contractual performance of postal delivery operators.
- In KPI 2, the licensee is required to send filters to householders using communal antenna systems, even when the interference may not be solved by a consumer filter.
- In KPI 2 (ii), many base stations will not be capable of transmitting at a power of 64dBm.

- In KPI 4, a platform swap will require a number of steps, and it is unreasonable to expect that these can be completed for 99.9% in eight working days:
 - o Mitco will need to make an appointment with the householder, to assess whether a platform swap is needed and which alternative platforms are suitable.
 - o The householder may need to sign a contract with that platform provider, even though it will not have to pay for the service.
 - o The new platform provider will need to make an appointment to install the reception equipment.
 - o In a small proportion of cases, the new platform provider will need to make a second house visit.

Intellect welcomes the commitment to pro-actively provide filters to households affected ahead of interference but the provisions of KPI 2 (in particular, the ‘10% criterion’) are very unclear. We propose that Ofcom undertakes further analysis on this and reframes the performance measure.

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

Intellect agrees with this statement, but many of the KPIs proposed by Ofcom seem to be more focussed on activities (like delivering information and filters) than on outcomes. If Mitco makes use of different filter types, the KPI should check that it is the correct filter type that is provided. From a consumer perspective, the outcome is negative if the householder is unable to directly install the filter to alleviate the interference.

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

Intellect has no strong views on this.

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

Intellect has no strong views on this.

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

On balance, Intellect believes that a soft limit is appropriate. However, Intellect considers that platform changes should only be used as a technique of last resort, when installation of DTT receiver filtering and any practicable network-based filtering is found to be unsuccessful or infeasible.

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

Intellect notes that mobile operators very much recognise that DTT consumers are often also mobile communications consumers and so will have strong incentives to safeguard their interests on an ongoing basis. However we recognise that network deployment could well continue for a period after the suggested end date of MitCo and Ofcom's proposals provide insufficient clarity and hence comfort that there will be a sufficiently robust solution in place. It is imperative that Ofcom provides DTT households greater long term security over their TV services by placing clear obligations on the 800 MHz licences ahead of the award process.

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

Intellect believes that it should be possible for MitCo to continue in operation beyond the required period, if the licence holders so wish and are willing to fund it fully, and there will be clear advantages if network deployment continues after the suggested end date of MitCo

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