



Variation of 900 MHz, 1800 MHz and 2100 MHz mobile licences

A Consultation

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Variation of 900 MHz, 1800 MHz and 2100 MHz mobile licences – a consultation

Everything Everywhere (EE) welcomes this opportunity to respond to Ofcom's consultation on variation of existing 2G and 3G licences ('the consultation').

Summary

EE agrees with Ofcom's proposal to liberalise all mobile licences in the 900 MHz, 1800 MHz and 2100 MHz bands to permit the deployment of 4G services. EE will request or consent to variations to its 2100 MHz licences. EE however does not support the exclusion of the unpaired 2100 MHz spectrum from liberalisation.

EE believes that the proposed increase in the maximum permitted base station transmit power in the 900 MHz licences provides an unfair advantage to Vodafone Limited (Vodafone) and Telefónica UK Limited (Telefónica) compared with EE and Hutchison 3G UK Limited (Three) in meeting the revised 90% 3G coverage obligation. EE and Three have invested heavily in network roll out and deployment of 2100 MHz to meet the obligation. Vodafone and Telefónica already have an advantage in being able to use their 900 MHz spectrum to meet the coverage obligation. Giving them the ability to meet their 90% 3G obligation more easily by turning up the power at 900 MHz seems to again reward those licensees for lack of investment in network rollout. If this change in permitted power is to be granted, it should only come into force after June 2013 when compliance with the 90% coverage obligation has been assessed.

EE also requests that Ofcom amends the maximum allowable EIRP for services in the 1800 MHz band to 65dBm/5MHz for 3G and 4G services to allow similar gains to consumers as those suggested by Vodafone and Telefonica.

Our comments on the format and administrative terms of the licences covered by the consultation are set out below and in the appendix.

Liberalisation of the entire 2100 MHz licences

EE does not support the Ofcom proposal to exclude 2100 MHz unpaired spectrum from the licence variation. This will potentially inhibit innovative use of the spectrum. EE recognizes that there is ongoing work at a European level in relation to the use of this spectrum but does not believe that this justifies retaining more restrictive licence conditions, with respect to technology choice, than the paired 2100 MHz spectrum. EE and other licensees have actively explored themselves the use of this spectrum, for example for broadcasting and so it is not a case of the spectrum being passively retained.

Liberalisation generally

Ofcom's latest Communications Market Report disclosed that 40% of UK adults now own a Smartphone with the same proportion saying their phone was now the most

important device for accessing the internet. Ofcom notes the rapidly increasing use of data. 32.6 million subscribers are accessing the internet on their mobile devices¹ as the trend of increased smart phone data use reflects the growing penetration of smart phones, faster mobile networks, more mobile-internet savvy users and more mobile-friendly websites and web-based resources. In 2011 for the first time the total volume of mobile voice call minutes declined.

The GSMA European Mobile Industry Observatory 2011 predicted that mobile data traffic volumes would grow at over 90% for the next 5 years and that this magnitude of growth was driving investment in new technologies such as LTE and advanced devices such as tablets. Ofcom noted a 67% increase in data traffic volumes for mobile operators between 2009 and 2010 and estimated that data volumes have increased 38 fold since 2007².

In the light of the explosion in the use of mobile data EE agrees with Ofcom that the proposed licence variations to permit 4G use are likely to result in consumer benefits over time.

As to consumer detriment Telefónica and Vodafone have all of the available 900 MHz spectrum in the UK and have also recently secured 800 MHz spectrum at auction. Between them they hold over 80% of sub 1 GHz spectrum. Whilst their substantial holdings of sub1 GHz spectrum give them an undoubted competitive advantage EE does however not consider that the further liberalisation countenanced by the consultation on its own will have any material effect on such competitive advantage.

Other proposed changes to the 900 MHz, 1800 MHz and 2100 MHz licences

1. 80% coverage obligation

EE agrees with Ofcom that there would be no practical consumer benefit in retaining the original 80% coverage obligation in the 2.1 GHz licences. Given that all licensees have exceeded the 80% coverage obligation it would be preferable for it to be removed from the licences now and Ofcom need not wait until after 30 June 2013 when the new 90% coverage obligation comes in to force. The policy reason for permitting mobile operators to meet the obligation using any spectrum makes the 80% coverage obligation redundant. Previously Ofcom has been reluctant to change anything in auctioned licences but given the fact that these licences have already been changed and all licensees have consented to the change the retention of the 80% coverage obligation is redundant.

2. Direction from the Secretary of State

EE has no objection to this new ground of revocation but does object to the proposed wording in the marked up licence. It would suggest instead that the phrase 'if it appears to Ofcom to be necessary or expedient' be replaced by 'if Ofcom is required'. Obviously Ofcom should not be revoking licences unless the direction makes this clear.

¹ Figure 5.40 Communications Market Report July 2012

² page 23 of the European Mobile Industry Observatory 2011.

3. Fee payment date

Ofcom is about to publish a proposal for revised annual licence fees for 900 and 1800 MHz licences later this year. EE would like to see all 900 and 1800 MHz licensees start paying the revised fee amounts on the same date. We would encourage Ofcom to take this opportunity to consider whether that would require an alignment of the 'Fee payment date' across all 900 and 1800 MHz licences or whether this can be implemented on the basis of different Fee payment dates.

4. Clarification of geographic coverage

We note that wording to include the UK's territorial sea is included. EE has no objection to this. However this now begs the question of the Channel Tunnel and it might be useful to explicitly clarify that it is not excluded, particularly as licensing of the Channel Tunnel has now started.

Questions

Question 1: do you agree with the proposal to vary Vodafone's 900 MHz, 1800 MHz and 2100 MHz licences and H3G's 2100 MHz licence so as to permit those frequencies to be used to deploy 4G technologies?

Yes, subject to the comments above relating to unpaired 2100 MHz spectrum.

Question 2: do you agree with the proposal to vary Telefónica's 900 MHz, 1800 MHz and 2100 MHz licences and EE's 2100 MHz licence so as to permit those frequencies to be used to deploy 4G technologies where we receive formal requests to do so?

Yes, subject to the same caveat as question 1.

Question 3: do you agree with the proposal to vary the 900 MHz licences to increase the maximum power limit for UMTS by 3dB from 62 dBm e.i.r.p. per carrier to 65 dBm e.i.r.p. per carrier?

Yes subject to the change not becoming effective prior to assessment of the 3G licence coverage obligation being met by June 2013.

Question 4: do you agree with the changes proposed in section 5?

This is dealt with above and in the annex

Annex

Proposed drafting changes to the licences

The comments above in relation to the Government Direction, fee payment date and the territorial extent of the licences are repeated here. Additional comments are as follows:

1. Annex 4 paragraph 13 in the third last line it should be 'the United Kingdom's Territorial Sea'.
2. In paragraph 14, (a) no longer appears to be necessary given the changes made to paragraph 1 of the licence, or at least the language could be simplified.
3. In paragraph 3 of schedule 1 the purpose of the brackets is unclear.
4. In paragraph 4 of schedule 1 we do not agree that the national grid reference be to 1 metres resolution. EE is unable to provide this information today. We can only provide accuracy in all cases to around <50m accuracy. To provide 1m accuracy would require site visits with a satellite navigation apparatus to about 28,000 sites and would be expensive and take some time. It would only be done together with a roll out of new spectrum and the timing on this rollout is unclear. Also on some sites the existing antennas are 10s of metres apart and so it is difficult to know where to measure the location of the site. Such a change is disproportionate and it is unclear why it is being sought other than for the sake of harmonisation. We do understand that Ofcom believed we were able to provide this amount of accuracy because of previous 3G coverage returns, but in the case of such returns the location information has been estimated. Estimation is obviously not appropriate to a licence obligation.
5. In paragraph 8 of schedule 1 describing the Radio Frequency Carrier Spacing, the wording does not reflect the liberalised 1800 MHz licence issued to EE. In our licence, there are a set of requirements for GSM, UMTS and LTE channels only to go up to the edge of the licensee's allocated frequencies and in addition to that (in the absence of operator prior agreement) a requirement to further protect GSM and GSM-R so that the licensee effectively has to be 200 kHz away from the edge if the licensee holding the adjacent frequencies has deployed GSM. This second requirement seems to be missing from the draft licence presented in Annex 4. We would suggest that a fourth bullet point needs to be added to paragraph 8 as follows:

"the channel edge of any of their LTE channels is 200 kHz or more inside any edge of their permitted frequency bands where a neighbouring licensee has deployed a GSM carrier or carriers (including GSM-R) in the immediately adjacent spectrum".