

**Additional comments:**

**Question 1: Do you agree that clearing DTT from channels 61 and 62 and PMSE from channel 69 to align the upper band of cleared spectrum in the UK with the emerging digital dividend in other European countries is likely to further the interests of citizens and consumers to the greatest extent?:**

AMPS understands the wider benefits of European Alignment of spectrum and, in principle, agrees. However, this means significant loss of bandwidth available to PMSE and it is regrettable that European Alignment of spectrum for PMSE use is not being considered.

**Question 2: Do you agree that the proposed DTT migration criteria are proportionate and appropriate? If not, please explain why and clearly identify any other criteria you believe should be adopted and why.:**

AMPS have no opinion on this question.

**Question 3: Do you have views on the options identified and our assessment of them? Do you believe there are other, superior options, and, if so, why? Do you agree that the hybrid option is most consistent with the DTT migration criteria?:**

AMPS have no opinion on this question.

**Question 4: Do you have views on the implementation-timing options identified and our assessment of them? Do you agree that DSO-integrated implementation is most consistent with the DTT migration criteria? If not, why not?:**

AMPS have no opinion on this question.

**Question 5: Do you agree that a programme-control and -governance arrangement such as that outlined above is appropriate?:**

AMPS have no opinion on this question.

**Question 6: Do you agree that the four cost categories adequately capture the costs associated with clearing DTT from channels 61 and 62? Are there any costs that do not appear to have been accounted for in any of these categories?:**

AMPS have no opinion on this question.

**Question 7: Do you agree that our cost profile is a reasonable basis for planning the capital expenditure for clearing DTT from channels 61 and 62?:**

AMPS have no opinion on this question.

**Question 8: Do you agree that these are the most appropriate criteria to assess which spectrum is the best alternative to channel 69 for PMSE?:**

AMPS agree that these are the most appropriate criteria.

**Question 9: Do you agree with our technical and coverage analysis of the possible alternatives to channel 69 for PMSE?:**

AMPS agree that the alternatives offered are the most obvious.

**Question 10: Do you agree with our economic assessment of the realistic alternatives to channel 69 for PMSE?:**

AMPS are still concerned at use of the term 'Opportunity costing' for spectrum access as it applies to our industry. It has already been established that the PMSE Industry does not have, and never will have, the financial or organisational resources to compete with the known large rich players. PMSE are the 'poor evicted tenants' of the current spectrum and must be allowed to continue without the threat of being priced out. Ofcom must set aside sufficient spectrum at modest cost to enable the valuable entertainment industry to flourish in the long term.

**Question 11: Do you agree that channel 38 is the best alternative to channel 69 for PMSE?:**

AMPS agree that Channel 38 is the best alternative to Channel 69 PROVIDED that access can be allowed on adjacent Channels in a similar fashion to Channel 69. Currently, Channel 69 users enjoy temporary separately licensed access to interleaved spectrum on Channels 67 and 68, and most equipment is switchable within this range. We are also concerned that no provision is being made for the future expansion of PMSE. With this in mind, we ask that cleared Channel 37 should not be included in the auction and that it be put aside on a nation-wide basis for PMSE purposes, and also to make up for the expected loss of spectrum for PMSE as a whole after the DSO. If no new services are placed in this Channel, then the problem of possible interference from PMSE as discussed in 5.38 is also removed. We do not believe that just interleaved access to Channel 37 would be sufficient, given the geographical restrictions this would entail to avoid new services.

AMPS have offered an alternative plan to aid the proposed transition from Channel 69 to Channel 38 in the short term. This would involve Ofcom allowing temporary PMSE Shared Frequency Block access to adjacent frequencies to Channel 38 until 2012 or 2013. Our research has indicated that new equipment should be relatively easily switched over approximately three TV Channels thus access to Channel 37 or Channel 39 could provide an interim solution. If the commitment was also made to

include Channel 37 for future PMSE use, this would make perfect sense.

Although this Consultation does not include the subject, we are also concerned that proposals to introduce 'cognitive' radio systems into the interleave spectrum will render it useless for low powered PMSE. This will put even more pressure on PMSE in the UK, thus a group of Channels should now be reserved solely for PMSE and protected in the long term from this new and potentially damaging technology. We are aware that Ofcom have stated that this technology will not be introduced if it is proven to interfere with PMSE use, but this may be the point when it is too late to stop it! We should plan ahead to avoid another crisis. Ofcom must make a firm commitment to the PMSE industry to provide us with security of tenure and no further threats to our existence.

**Question 12: Do you agree that we should award channel 38 to the band manager on the same terms as would have applied to channel 69?:**

AMPS agree that Channel 38 should be operated nation-wide in the same fashion as Channel 69, including the Shared Frequency Block licensing. However, it should be noted that it is not a viable option for our Members to consider temporary Fixed Site Licensing for Channel 38, even in the short term, due to the highly flexible nature of Film and TV production.

**Question 13: Do you agree with our proposal to maintain PMSE access to channel 36 on 12 months? notice to cease and to the rest of the cleared spectrum (channels 31-35, 37 and 61-69) until DSO is completed in the UK in late 2012?:**

This will be necessary if the PMSE industry is to continue in the short term, thus we agree.

**Question 14: Do you agree with our approach to determining eligibility for, and our assessment of the level of, funding to move PMSE from channel 69?:**

AMPS are of the opinion that this assessment is seriously flawed and requires considerable re-working.

We wish to make the following points:

1. It seems to us that it was illogical to declare a cut-off date for replacement funding eligibility BEFORE any alternative spectrum was made available. In our opinion, the date that full nation-wide access is permitted to the new spectrum on the same basis as Channel 69 is the only logical cut-off date for eligibility for replacement funding.
2. What this February cut-off date has achieved is to create a vacuum in the PMSE equipment replacement and manufacturing process. New and existing users are resisting buying new Channel 69 equipment while there is no prospect of replacement funding to eventually migrate to a new Channel, and with no alternative frequencies available, they cannot proceed. As a result, the whole of the UK PMSE manufacturing

process has been paralysed and severely financially compromised. It should be noted that the UK manufacturers are recognised as world leaders in the Industry and any loss would have serious consequences for the UK as a whole. We suggest as a matter of great urgency that this cut-off date is immediately revised and that purchasers of new Channel 69 equipment since the February date are made eligible for replacement funding once replacement spectrum is available. This would allow our manufacturers to continue to support users up to and after the 2012 switch-over.

3. It must be recognised that the 10 year equipment life as stated in 5.68 and 5.70 is not valid in the context of replacement funding. In our industry, as long as the equipment is maintained and remains legal to use, it has earning potential for the user and owner. In general, 10 year old equipment will generate the same financial return as newer equipment. Most users in our Industry are freelance and make a personal investment in their capital equipment. Therefore, the longer they can maintain the equipment, the better, and they will continue to use it until it becomes unserviceable. By removing Channel 69, these users of older equipment will almost certainly have to re-equip with new equipment at potentially great personal expense. The scheme should take this into account.

4. We are particularly concerned by Clause 5.69 where a suggestion is made about replacement value being based on residual value of the equipment. We suggest that any Channel 69 equipment incapable of being modified is now obsolete and has practically NO residual value as of February this year! We cannot see how such a valuation can be applied and this requires a serious re-think. We also find the statement “This avoids the situation where public money is used to buy new equipment that would have replaced old equipment with little remaining usable life anyway” somewhat contradictory to the declared principles of the replacement funding scheme. If it is accepted that the older equipment continues to provide an income to the user, it is inevitable that public money, derived from the sale of Channel 69 and other PMSE spectrum, must be used to buy new equipment that would replace old because there is no alternative. There will be no used or second-hand equipment available since the manufacturing process for these proposed new frequencies hasn't even started yet. It is important that professional users are not disadvantaged by the removal of the current frequencies and they must be allowed to continue to earn a living, even if this means they receive subsidies to purchase new equipment from the proceeds of the DDR.

5. We would like the qualification for ‘current licence holders’ extended to those who have previously held a licence. Particularly in the winter months, freelancers find themselves without work and waiting for the next contract to appear, traditionally with the increase of production in the Spring. If their licence becomes due during this ‘down time’, most will wait until the next contract is signed before renewing. As we understand it, it has never been a requirement to hold a continuous Shared Frequency licence and that it is only necessary to hold one to operate the equipment, not to own it. To our knowledge, several have been caught out by the declared cut-off date in February and this needs to be redressed.

6. In essence, AMPS would support a clear and uncomplicated replacement funding scheme that would benefit both the users and the manufacturers. Ofcom will have to

take into account further anomalies that might arise and put in place a simple appeals process.

**Question 15: Do you agree that three years is long enough for PMSE to move from channel 69?:**

AMPS agrees that three years should be long enough to move from Channel 69. Obviously, this three year changeover period can only start when replacement spectrum is made available on the same basis as Channel 69. As we understand it, the proposed replacement Channel 38 will currently not be available nation-wide until 2012. If this remains the case, migration and conversions cannot start before that date, thus it will be 2015 before Channel 69 can be released. This will also affect the adjacent Channels access requirements. The only alternative is to clear Channel 38 NOW and start the migration if there is any chance to complete successfully by 2012 or even 2013.

**Question 16: Do you agree that with our analysis of the key impacts of our policy options? Are there any other key impacts we should assess?:**

AMPS agrees with your analysis with the provisos laid out above. It is important for the economic and cultural wellbeing of the UK that PMSE continues to flourish and is allowed to expand, and not restricted by loss of spectrum nor priced out by excessive spectrum pricing which PMSE cannot hope to sustain.