

Your response

Introduction

This consultation, if responded to “in the round,” must be considered in the light of the Statement of Strategic Priorities (“SSP”) issued by the Department Digital of Culture Media and Sport (“DCMS”) not long after it was issued. Since Ofcom must have regard to these when setting policy then we might reasonably foresee changes to include spectrum sharing in at least the 3.6-3.8GHz band, and for at least the “final 10%.”

A more detailed rationale is to be found in our response to Ofcom’s Innovation and Award consultations.

Ofcom’s principal duty is to *all* citizens and consumers. We cannot just “cast off” the remaining 5% (or 10% or more?) because it is too difficult when spectrum sharing is available, working in many Nations including USA, simple to implement, and ARPU beneficial to the bidders.

The regulations if adopted as they are more prejudicial to some of the UK’s Nations than others as well as to “deep rural” areas. They also accept the principle of MNO control in deep rural areas as they stand. Neither Ofcom nor the networks “own” the spectrum, it is a resource of our Nations, for the benefit of all our Nations, and all inhabitants of those Nations – whether deep rural or not.

Responses

Question 1: Do you have any comments on our proposals to make Wireless Telegraphy (Licence Award) Regulations 2019, which are set out in draft form in annex 5.

1. The auction regulations need to be changed to reflect comments in the SSP. There is a difference between the 90% number (at S 3.13a), and the statements in the SSP which refers to 95% and which Ofcom “must have regard to” (DCMS SSP document – Executive Summary p8).
2. Additionally, DCMS talk of achieving 95% by 2022. This paper, read in conjunction with the Award paper, makes clear that the 90% will not be achieved until after this date. We are slightly unclear as to what the figures should be.
3. The regulations need to be amended to facilitate a portion of the band set aside for sharing – or an opt out for “deep rural” areas. Both the Future Telecommunications Infrastructure Review (“FTIR”) and the SSP make clear that sharing is a priority. Therefore lot sizes set out at 3.16 need to be slightly reduced

Question 2: Do you have any comments on the implementation of the bid activity constraints in the Primary bid rounds in the draft regulations, in particular relaxed bids, relative bids, and chain bids?

Ofcom needs to recognise that the bidders will need to talk earlier in the process if band fragmentation is to be prevented. How that is done the Mobile Networks are better placed to advise you on.

Question 3: Do you have any comments on the implementation of the supplementary cap (i.e. final price cap), relaxed supplementary bids and relative caps in the supplementary bids round?

Competition for the final 10% does not exist anyway if there is no coverage. In these areas let others use the spectrum indefinitely until the MNO's build there – in which case give them 12 months to vacate. Simple. Also increases Mobile Network Operators ARPU to boot – a “win-win.”

The regulations should be amended to reflect this.

Conclusion

Changes are required to these proposals to reflect shared spectrum objectives, in particular as set out by DCMS in the SSP – which came out after these draft regulations were produced.

END