



Vodafone Response to Ofcom Consultation: Public Sector Spectrum Release - Award of the 2.3 and 3.4 GHz spectrum bands



Response

Vodafone welcomes the opportunity to provide further input to Ofcom's planning for auction of 2.3GHz and 3.4GHz spectrum.

Vodafone agrees that Ofcom should be concerned about the effect of proposed Merger & Acquisition (M&A) activity on spectrum holdings, and therefore that caution should be exercised with respect to the further release of spectrum:

1. It is possible that if the auction precedes the outcome of competition reviews associated with the M&A, that stakeholders could secure spectrum which individually meets Ofcom's cap, but when subsequently combined grossly breaches it. This may or may not be sufficiently addressed by the competition authorities as their remit is matters having an impact on competitive markets in the short to medium term. Clearly, spectrum such as 2.3/3.4GHz, which has relevance a number of years hence, is a longer term issue. Ofcom could then find itself having to take action based upon its stand alone spectrum management powers.
2. It is possible that M&A activity could change the structure of the market, leading to questions of whether Ofcom's current competition analysis and hence spectrum caps are correct.

However, Vodafone considers that the suggested solution of holding a portion of the spectrum back until after the competition reviews have concluded is fundamentally flawed:

- For 2.3GHz, only 40MHz of spectrum is available. It has been suggested in previous consultations that a possible requirement of bidders is that they secure 20MHz of spectrum. This would imply that only a single successful bidder could be possible in the initial auction, which would have the effect of driving the price artificially high. Conversely, potential bidders could hold back from purchasing, in the knowledge that spectrum would subsequently be released, hoping that it would be available to fewer stakeholders. Further, as Ofcom has now mandated full synchronization on the 2.3GHz band, the successful bidder in the initial auction would be held back from any meaningful deployment by a requirement to synchronise with an as yet unknown successful bidder from the secondary auction.
- For 3.4GHz, the prospect of a twin auction almost certainly guarantees that the spectrum will be fragmented, something that Ofcom has been seeking to avoid (unless the winners of the primary auction were compelled to defer deployment until after the secondary in order that holdings be re-



arranged to be contiguous). Further, unless Ofcom were to e.g. auction the spectrum below the UK Broadband holding in the primary auction and above it in the secondary, the winning bidders in the primary auction would not know if those with adjacent holdings intended to operate them in synchronised or non-synchronised mode because the adjacent licensee might not be known until after the secondary auction.

Vodafone considers that the idea of holding back a portion of the spectrum would lead to a highly inefficient auction outcome, and hence would be contrary to Ofcom's duties in securing optimum use of spectrum. We therefore cannot support this approach.

Vodafone notes that in para 3.7 of the consultation, Ofcom raises the prospect of delaying the whole auction until after the conclusion of the M&A activity. This is, in fact, the correct question which Ofcom should be addressing. We are concerned that an option which is so fundamental is raised, but dismissed without formally consulting stakeholders. Therefore, we would suggest that Ofcom should hold a consultation to determine whether there is overall stakeholder consensus on this question. In the event that the outcome of the consultation was to carry on with the planned timescale, we do not envisage that asking the question need cause any delay to preparations, as Ofcom can continue its planned work in parallel with this further consultation.

Vodafone UK
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