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NON-CONFIDENTIAL

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Dear Mrinal

Consultation on the inclusion of the 1452-1492MHz, 2350-2390 MHz and 3410-3600 MHz Bands in the Mobile Trading Regulations

This letter is in response to Ofcom's consultation on the inclusion of the 1452-1492MHz ("1.4GHz"), 2350-2390 MHz ("2.3GHz") and 3410-3600 MHz ("3.4GHz") spectrum bands ("the spectrum bands") in the Wireless Telegraphy (Mobile Trading) Regulations ("Mobile Trading Regulations"). Three welcomes the opportunity to comment on Ofcom's consultation.

Ofcom has published a sequence of consultations over the last nine months in relation to these spectrum bands:

- proposing the variation of the Spectrum Access Licence for 1452-1492 MHz and changes for fixed link use in the bands 1350-1375 MHz paired with 1492-1517 MHz ("Licence Variation") in September 2014;
- a consultation on proposed conditions surrounding the release of spectrum in the 2.3GHz and 3.4GHz bands (Public Sector Spectrum Release, "the PSSR") in November 2014; and
- proposals for inclusion of the 1.4GHz, 2.3GHz and 3.4GHz bands in the Mobile Trading Regulations in April 2015.

Ofcom's Licence Variation consultation proposed a variation of the licence conditions for spectrum in the 1.4GHz band to enable its use for Supplemental Downlink (SDL). The PSSR consultation considered possible formats for award of spectrum in the 2.3 GHz and 3.4GHz spectrum bands; in that consultation Ofcom proposed to include the 1.4GHz spectrum band within the Mobile Trading Regulations, alongside the 2.3GHz and 3.4GHz bands, shortly before the PSSR. Amendments to include all three spectrum bands within the proposed Mobile Trading Regulations would allow Ofcom to conduct the necessary competition assessments of future trades of these spectrum bands.

Ofcom's proposal to include the 1.4GHz band in the Mobile Trading Regulations was conditional on the licence conditions for use of this spectrum being varied to enable use for SDL - if the licence were to be varied, spectrum in the 1.4GHz band would be included in the Mobile Trading Regulations, along with spectrum included in the PSSR, shortly before the PSSR award.

Ofcom's most recent consultation on these bands proposes to include the 1.4GHz band within the Mobile Trading Regulations at the same time the licence for 1.4GHz spectrum is varied to enable SDL. Ofcom are still consulting on the variation of this licence; however, in this most recent consultation Ofcom have indicated that they intend to proceed with this variation.¹

In order to implement this change, under its current proposal, Ofcom intends to make two sets of regulations to implement these changes; the Wireless Telegraphy (Spectrum Trading) (Amendment) Regulations 2015 (the "Proposed Amendment Regulations") and the Wireless Telegraphy (Mobile Trading) (Amendment) Regulations 2015 (the "Proposed Mobile Regulations").

The Proposed Amendment Regulations would change the Wireless Telegraphy (Spectrum Trading) Regulations 2012 by removing the 1.4 GHz band and the 3480-3500 MHz and 3580-3600 MHz frequency ranges from the Schedule to those regulations. Subsequently, the Proposed Mobile Regulations would amend the Mobile Trading Regulations to include the 1.4 GHz, 2.3 GHz and 3.4 GHz spectrum bands within the Schedule to those regulations.

Three believes it is correct for Ofcom to amend the Mobile Trading Regulations to include these three specific spectrum bands in the Mobile Trading Regulations at the same time, and as soon as the decision to vary the 1.4 GHz licence has formally been taken.

Ofcom is correct in its assessment that bringing forward the dates that these bands are included in the Mobile Trading Regulations will not have any significant impact on stakeholders. The inclusion of the 1.4GHz band in the Mobile Trading Regulations is particularly necessary given the technical capabilities of spectrum in this band. Further, a timely change to the regulations should allow Ofcom to complete any ex ante competition assessment in advance of the completion of any trades of this spectrum.

Yours sincerely



Leanne Bruce
Regulatory Analyst

¹ Inclusion of the 1452-1492 MHz, 2350-2390 MHz and 3410-3600 MHz bands in the Mobile Trading Regulations Paragraph 2.16.