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**17 March 2011**

Dear Sirs,

**Consultation Response of Hutchison 3G UK Limited (“Three”) to Ofcom’s Notice of proposed variation of 2100MHz Third Generation Mobile Wireless Telegraphy Act Licences of 2 February 2011 (the “Consultation”)**

Three welcomes the opportunity to comment on Ofcom’s proposed changes to the existing 2100MHz Third Generation Mobile Wireless Telegraphy Act Licences (“**3G Licences**”).

As a 3G mobile network operator (“MNO”) that has made significant investments in 3G mobile technology, Three strongly supports Ofcom’s proposed extension of existing 2100MHz 3G licences. Three would, however, ask Ofcom to consider Three’s observations in this response to the proposed variations before implementing them.

In response to the specific questions asked by Ofcom, Three’s comments are as follows:

- 1. Do you have any comments on the proposed variations which Ofcom intends to make to the 3G licences in order to implement the Direction?***

Three have the following observations on Ofcom’s proposed variations:

- 1. Special Condition 4(b) – Extension of coverage obligation:** Three notes that Ofcom has proposed that Special Condition 4(b) should be amended (in accordance with Ofcom’s letter to Mark Falcon of Three of 2 March 2011) to allow MNOs to meet the new coverage obligation with any of the frequencies held by a licensee and not just the frequencies in the 2100MHz band.

Three does not object to this amendment, which it accepts reflects the Government’s proposals, but does note that it results in the recent 900/1800MHz liberalisation decision affording a further advantage to the other MNOs apart from Three. Only they are currently able to take advantage of the provision to significantly reduce their roll-out costs by using lower frequency transmitters

providing wider cell radii for 3G coverage. Three would expect Ofcom to take account of this advantage in its competition assessment ahead of the 800/2600MHz auction.

The advantage could, of course, be removed by making the amendment contingent on all licensees having access to low frequency spectrum (which would involve not making the amendment at least until after the 800MHz auction).

2. **Fees (paragraph 7):** In line with paragraph 3.4 of the Consultation, Three considers that paragraph 7 should be clarified to indicate that an annual licence fee will only be payable from 31 December 2021.
3. **Remote disablement requirement for indoor repeaters (Schedule 1, paragraph 11(k)):** The first bullet point in the definition of “smart/intelligent low power repeater” requires that “the Licensee has ultimate control of the repeater, i.e. each individual repeater can be disabled remotely by the Licensee”. Three is concerned that this condition will substantially increase the cost of each indoor repeater unit resulting in lower levels of deployment [3<] In our view, this additional cost is unnecessary, given the very low risk of interference from such equipment.

[3<]

4. **Definitions of “interference” and “undue interference”:** Three presumes that the expressions “interference” and “undue interference” shall have the same meanings as under Section 115 of the 2006 Wireless Telegraphy Act.
5. **Registered address update:** When revising Three’s existing 3G licence, Three would be grateful if Ofcom could update Three’s registered address to:

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2. ***Do you consent to your 3G licence being varied as proposed?***

Yes.

However, Three would ask Ofcom to consider the points made in this response before implementing the proposed variations.

3. ***Do you have any comments on the proposed process to monitor and measure compliance with the coverage obligation requirement?***

Three have the following observations on Ofcom’s proposed variations:

1. **Proposed calculation method for measuring a sustained downlink speed of not less than 768kbps:** Three would welcome an opportunity to work with Ofcom on the methodology to be used for calculating compliance with Ofcom’s proposed condition on downlink speed. As a practical matter, it may be preferable to use a methodology based on signal strength and pilot channel Ec/Io measurements rather than SINR, in line with normal commercial tools available in the market place.

2. **References to other frequencies and technologies (i.e., not just 2100MHz 3G) should be added:** Given that MNOs will be able to meet Ofcom's proposed new coverage obligation with any of their spectrum holdings, in Three's view, the measurement methods to be used for assessing compliance with the new coverage obligation should be amended. Appropriate measurement methods for the former 2G frequencies should also be set out. In particular, Three notes that at paragraph 4.9 of Section 4 of the Consultation, Ofcom refers to a proposed calculation method whereby "*the operator supplies data for each 2.1 GHz 3G site in its network.*" In Three's view, this calculation method should be spectrum neutral.

We also note that Ofcom intends to set out in more detail the process to monitor and measure compliance with the obligation in Q2 2011 and we welcome the opportunity to comment on this guidance when published.

We would of course, be very happy to discuss further with Ofcom any aspect of our response, if you feel that that would be of assistance.

Yours sincerely



**Mark Falcon**  
Head of Economic Regulation