Minister for Energy, Connectivity and the Islands
Paul Wheelhouse MSP

Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0300 244 4000
E: scottish.ministers@gov.scot

700 MHz and 3.6-3.8 GHz Award
Spectrum Group
Ofcom
Riverside House
2A Southwark Bridge Road
LONDON
SE1 9HA

By e-Mail: radiospectrum.award@ofcom.org.uk

12 March 2019

Dear Sir / Madam,

I am writing to you to enclose a joint response from the Scottish Government and Scottish Futures Trust to Ofcom's consultation: Award of the 700 MHz and 3.6-3.8 GHz spectrum bands.

Our full response, at ANNEX A, is reflective of the key role we believe these spectrum bands have to play in improving mobile coverage in Scotland both now and in the future.

We are committed to working with Ofcom, the UK Government, industry and other partners in achieving this vision and reducing the digital divide.

For Ofcom's part, we believe that this spectrum auction represents one of the most valuable regulatory levers at its disposal at the present time, and we urge Ofcom to act now to drive an ambitious geographic coverage level for Scotland, and one which is equitable across the UK. We are disappointed that this is not currently reflected in Ofcom's proposals.

Should you require further information, we would be keen to have further dialogue with Ofcom to discuss any aspect of our response or spectrum issues more generally and, if that that would prove helpful, I invite you to contact [✂ - redacted for publication] in the Scottish Government's Digital Directorate [✂] and [✂] at the Scottish Futures Trust [✂] in the first instance.

Kind regards

Paul Wheelhouse

Award of the 700 MHz and 3.6-3.8 GHz spectrum bands consultation: Scottish Government and Scottish Futures Trust response

Introduction

1. This is a joint response by the Scottish Government and Scottish Futures Trust who working in partnership to develop and implement policy geared towards realising SG's digital connectivity vision as set out in our 2017 Digital Strategy: *Realising Scotland's Full Potential in a Digital World – A Digital Strategy for Scotland*[1]. Our work includes the development of a forward-looking 5G strategy for Scotland, as set out in the Scottish Government's 2018/19 Programme for Government.[2]

2. Part of our work assesses the policy, legislative and regulatory levers that can stimulate efficient and effective private and public sector investment: ultimately our aim is that the optimum conditions are in place to make Scotland the most attractive part of the UK in which to invest in telecoms.

3. We believe that government policy, regulation and industry all have a role to play in delivering improved mobile connectivity – this is a fundamental tenet of our Mobile Action Plan[3], published in 2016 and again reflected in the launch of the Scottish 4G Infill programme[4] in 2017. Without support from the public sector and appropriate use of regulatory levers, quite simply, it is likely that many parts of Scotland will remain as notspots.

4. Given the significance of the 700 MHz and 3.6-3.8 GHz spectrum on MNOs' future ability to deliver 4G and 5G services, we believe that in this auction, Ofcom has a prime opportunity to set stringent licence conditions which have the potential to have a transformational impact on future mobile coverage in the UK.

5. We responded to Ofcom's consultation on 700 MHz spectrum in 2018 and have taken this opportunity to reiterate a number of points previously made.

Question 1: Do you agree with our proposals on the coverage obligations as set out in this section? Please give evidence supported by reasons for your views.

6. The Scottish Government's response to the 2018 consultation was clear that we didn't believe that Ofcom's proposals were sufficiently ambitious: both for Scotland, and for the UK as a whole. We are therefore extremely disappointed that the original proposed geographic coverage obligation of 76% Scotland has been reduced to 74%, and that the proposed level of 92% for the UK has been reduced to 90%.

7. The Scottish Government accepts that Ofcom's proposals would see Scotland achieving the biggest level of coverage uplift in terms of percentage point increase, but ultimately, there will be inequitable levels of coverage throughout the UK. With Scotland set to lag

[1] http://www.gov.scot/Publications/2017/03/7843
[2] https://www.gov.scot/programme-for-government/
[3] https://beta.gov.scot/publications/mobile-action-plan/
[4] https://beta.gov.scot/news/improving-mobile-coverage/

behind Wales, Northern Ireland, England and the overall UK level, this position is simply an unacceptable outcome to the Scottish Government. Notwithstanding our view that 90% is unambitious, we are firmly of the view that the national target of 90% must apply in Scotland too.

8. Moreover, we note that although Annex 12 sets out Ofcom's rationale for the reduction of the national level from 92% to 90%, it contains no rationale for the reduction of the Scottish level from 76% to 74% for the Scottish level. We would welcome Ofcom setting out its rationale on why it believes this is an acceptable outcome for Scotland.

9. We welcome that Ofcom's proposals include a requirement for coverage uplift by at least 140,000 additional premises and at least 500 additional mast sites by each of the holders of the two geographic coverage obligations.

10. However given the infrastructure sharing agreements within the industry at present, there is a significant risk that the coverage arising from these spectrum lots could ultimately be heavily duplicated between the two bidders who acquire these licences. This could therefore substantially negate the full extent of the potential benefits which could be gained by the existence two geographic coverage obligations.

11. We believe that there exists an opportunity for Ofcom to ensure that the full potential coverage uplift gains that could be made are made. We ask that Ofcom considers how it could design the auction to ensure that different regions of the country would be covered (or minimise cross over) by the obligations. This, for example could include mandating certain levels of premises uplift and new masts in Scotland and other UK regions.

12. Taking this further, we note from Annex 11 that Ofcom has indicated that it expects the additional coverage as a result of the proposed obligations to be primarily in Scotland and Northern Ireland. This, of course, is welcomed. However the outcomes would be more effective if MNOs were required to declare in advance – or at least at pre-defined "check" points – where their rollout, both to meet these requirements and their overall rollout, will be. We ask that Ofcom considers how this could be achieved. Access to this data is vital for any public authority who is considering intervening to address notspots but who is unsighted on MNOs' forward-looking plans. This is a difficulty which the Scottish Government has encountered in developing and expanding the intervention area for the Scottish 4G Infill programme. At the very least, we ask that Ofcom proactively works with the Scottish Government and MNOs to collect and share forward-looking deployment data for this purpose.

13. We do not believe that the target data speed of 2 Mbps is sufficiently aspirational. At the very least, we urge Ocfcom to commit to adopting a more dynamic approach and revisit the speed level regularly to ensure that as technology evolves, the level can be reset at as appropriate.

14. We acknowledge that Ofcom is clear that raising money for the Treasury is not a consideration in this spectrum auction. We note Ofcom proposes that in parallel with the spectrum lots, Ofcom will "reverse" auction two coverage lots, which for whoever wins them, will act as a discount mechanism envisaged to be in the region of £300-400 million, against their bid for their spectrum lot. We are concerned that this approach still carries a risk that one or both of the coverage lots – and therefore the coverage obligations – will go unsold. We understand that the associated auction reserve prices have been set to

mitigate against this risk but would still urge that Ofcom considers how further risk mitigation could be taken, as a scenario where there are unallocated coverage obligations is clearly an undesirable outcome for both Scotland and the UK.

15. We accept the general rationale as set out in the consultation document that coverage levels have to be set at a level proportionate to what it would cost a MNO to meet that obligation. We therefore wish to reiterate the point we have previously made that given Ofcom is not driven by raising Treasury revenue, that it should take this concept to the extreme. We ask Ofcom to consider allocating the 700 MHz spectrum based not on who bids the most, but who proposes the most attractive infrastructure investment plan and foregoing income – potentially all income – the so-called "beauty contest" method. This has the potential to take coverage to well beyond the coverage obligations as currently proposed.

16. This is on the basis that every pound a MNO spends on acquiring spectrum is a pound less for it to spend on network investment/expansion. We ask Ofcom to undertake analysis as to what level of coverage could be achieved across Scotland and the UK if spectrum was valued on such a radical basis. We appreciate that such analysis and associated valuation is difficult – reflective of the fact that each MNO's network currently has a different level of penetration and thus each MNO would be at a different starting point. However we believe that such analysis must be taken in order that the true potential coverage impact of the 700 MHz spectrum can be fully evaluated, if an alternative approach of valuing spectrum is used.

Question 12: Do you agree with the non-technical license conditions that we propose to include in the licenses to be issued after the waward of the 700 MHz and 3.6-3.8 GHz bands?

17. We note that Ofcom does not plan to pursue a "use-it-or-lose it" requirement as part of the license conditions on this spectrum. The Scottish Government has previously received representation from an alternative provider who had sought access to MNOs' unused spectrum in certain geographic areas to deliver mobile services and therefore coverage uplift. We are keen that where such proposals are feasible, that all relevant parties work together to deliver a mutually acceptable outcome. We ask that Ofcom considers how it could require MNOs to work with alternative providers to facilitate the delivery of solutions in areas where the MNOs have no planned use of their spectrum. This applies to both the spectrum that is the subject of this auction and MNOs' spectrum holdings more generally.

18. We also note with interest that Ofcom has not ruled out the possibility of implementing roaming conditions on the 700 MHz licenses in the future. We are aware that national roaming has previously been considered and we would support this debate being re-visited due to the potential impact on partial notspots. We understand that the Belgian regulator is currently proposing to allow a new entrant to gain roaming rights on existing MNOs. We are keen to understand what work Ofcom is doing to explore how a roaming requirement could be implemented effectively in the UK.

Additional Comments

19. The Scottish 4G Infill Programme is deploying future proofed-fibre to mast infrastructure that will be designed for multiple operator use in remote rural areas. Our main objective

is to facilitate the extension of good quality 4G coverage in commercially unnatractive areas by capitally funding the mast infrastructure after securing an anchor mobile operator. The process will allow us to:

- understand how the mobile operators plan, assess, choose and deploy 4G coverage in remote rural areas;
- demonstrate whether the current levers available to the public sector can stimulate the extension of good quality 4G coverage; and,
- gather supporting information to support the development of future mobile intervention initiatives.

20. A further objective is to utilise the infrastructure to work with the mobile operators, wider industry and Ofcom to:
    - develop a sustainable neutral host model that can be tested in partnership with industry;
    - influence how the mobile operators view the proposed locations in terms of future proofing their infrastructure via the introduction of fibre enabled mast hub sites that could support their emerging 5G rural coverage strategy; and
    - demonstrate how the introduction of Ofcom's policy in relation to future spectrum use will form part of the UK's rural 5G coverage solution.

21. We welcome the recent engagement between Ofcom, the Scottish Government and the Scottish Futures Trust in exploring how variety of alternative approaches beyond what is proposed in the consultation document which have the potential to allow the most remote of communities and geographies to be effectively targeted. We seek a commitment from Ofcom for the outputs of this work to be implemented early in Scotland, e.g. through technology trials, with a particular focus on how our Scottish 4G Infill programme could provide opportunities for early deployment.

Scottish Government
Scottish Futures Trust
March 2019