

## 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 of Culture Media and Sport 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 consultation.

## Responses

Question 1: (Section 4) Do you agree with our proposals on the coverage obligations as set out in this section? Please give reasons supported by evidence for your views.

Only up to a point.

It is good to see specific numbers of masts discussed, but even after all this has been done, without Dynamic Spectrum Access (DSA) available for those outside the 90% target for “good quality mobile coverage,” spectrum is being wasted. We urge an auction design that permits DSA in these areas – and has the simultaneous effect of increasing Mobile Network Operators’ ARPUs too. Road and rail coverage require coverage ubiquity. The proposed minor change in approach achieves this goal faster.

As regards comments made concerning the adequacy of a 2Mbps connection, when Ofcom’s own data shows that an average person uses considerably more and exploding data rates year-on-year (at least doubling) then the logic Ofcom uses to justify the adequacy of a 2Mbps connection may be suspect.

We were also surprised to see no discussion of the Market Expansion model discussed in the Telecommunications Infrastructure Review (“FTIR”), though unsurprised that the SSP was not mentioned, since it came out after this consultation commenced. Neither was this matter addressed in the Innovation consultation. However, we note the Ofcom must have regard to the SSP and would expect to see a change to Ofcom policy to accommodate sharing as well as the terms on which that sharing will occur in the 3.6-3.8GHz band – at the very least for the “final 10%.” Ofcom itself claims that social exclusion is to be avoided and that efficient use of spectrum is essential – make it so for those who need your protection most.

The Scottish Government in particular is acknowledged as having expressed some concerns with Ofcom’s current plans.

Question 2: (Section 5) Do you agree that we have identified the correct competition concerns?

Not as regards the “final 10%,” where you must act prior to any auction commencing to embed the necessary change in the auction terms and conditions themselves. Otherwise yes.

Question 3: (Section 5) Do you agree with our assessment of these competition concerns, and our proposed measure for addressing them? Please give reasons supported by evidence for your views.

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.”

Question 4: (Section 6) Do you agree with our proposal to proceed with a conventional assignment stage?

We think that the de-fragmentation required will be more complex to achieve than expected. We point to Kip Meek's experiences in this domain... Getting agreement is no simple matter. MNO's should be given more opportunity to work out how this complex task will be delivered – as was done in Ireland. We agree also that spectrum is needed in wide contiguous blocks. However, this does not mean that sharing cannot happen – especially for the “final 10%.”

We cannot and should not just ignore these people who have a much of a right to decent connectivity as any other citizen or consumer. If they all moved, congestion would worsen, pollution levels would worsen, we would have rural wastelands, and more pressure on public services to boot. Does Ofcom want to be culpable to any degree for this?

Question 5: (Section 7) Do you agree with our proposal to use a CCA design for this award?

Not as it stands, no.

We note the proposal in the Government's Future Telecommunications Infrastructure Review for some spectrum in the band 3.6-3.8 GHz to be set aside for innovation – and are very surprised that given this - and now the SSP as well - that Ofcom has yet to show how it will accommodate this policy requirement. We believe there is an obligation on Ofcom to do this, but for now are happy to defend Ofcom on the basis that the SSP had not been issued when this consultation commenced. However, now it has, change is required. Ofcom must do far more to facilitate some form of sharing at 3.6-3.8GHz. We have outlined how this could be achieved for the final 10% already, as well as in our Innovation response. Any small local user will need time to recoup their investment costs – in what is already accepted as an unattractive area. Give them the security of tenure so the spectrum can be used more effectively and efficiently rather than simply wasted.

We hope that this gives Ofcom scope to find a solution to the needs of innovative companies and/or local authorities contributing to rolling out 5G coverage in areas where MNO's have not.

Question 6: (Section 7) Do you have any comments on the proposed detailed rules for our CCA design?

Yes

They must include provision for sharing – at least for the final 10%.

Question 7: (Section 8) Do you agree with our proposed approach to coexistence in the 700 MHz band?

Ofcom refers to the use of an ITU model. From what we have seen Ofcom needs better modelling tools so that it can better perform its statutory duties. See our innovation response for how to involve the UK's excellent Ordnance Survey in this vital work.

Question 8: (Section 8) Do you have any comments on the proposed licence obligation and guidance note (annex 19)?

Yes.

Amend to facilitate sharing – at the very least for the “final 10%”.

Question 9: (Section 9) Do you agree with our proposed approach to managing interim protections for registered 3.6-3.8 GHz band users?

We believe Ofcom needs more sophisticated modelling tools – which would also help to maximise the efficient use of spectrum in line with its Statutory duties.

Question 10: (Section 9) Do you agree with our 3.6-3.8 GHz in-band restriction zone proposals?

No comments

Question 11: (Section 9) Do you agree with our view that we do not need to include any specific conditions in 3.6-3.8 GHz licences to mitigate the risk of adjacent band interference?

No comments

Question 12: (Section 10) Do you agree with the non-technical conditions that we propose to include in the licences to be issued after the award of the 700 MHz and 3.6-3.8 GHz bands?

Address sharing – as proposed above

Question 13: (Section 11) Do you agree with the technical licence conditions we propose?

No, but only because you exclude sharing. We believe you will have to address this oversight now anyway for the reasons given above

## **Conclusion**

Minor changes are required to the proposed auction to permit sharing, especially for the “final 10%,” or Ofcom risks being in breach of its statutory duties, which are to “all.” That is a risk to ignoring the sharing issue, which we hope Ofcom would use its best endeavours to avoid, especially in light of both the FTIR and the SSP.

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