

Response to Ofcom Consultation: Providing spectrum information Implementing the Environmental Information Regulations, 2004

1. Background

JFMG Ltd is the dedicated band manager for programme making, entertainment, special events and related activities. It is a privately owned company created specifically to ensure continued and equitable spectrum access to all areas of the programme-making industry.

JFMG successfully coordinates the use of spectrum, issues licences and collects licence fees on behalf of Ofcom, and have done so since 1997. The spectrum we manage ranges from 47MHz to 48GHz and requires expert knowledge of the bands, their uses and restrictions. JFMG own bespoke tools that uniquely enable us to coordinate interleaved spectrum, ensuring both protection for broadcasting and effective access for programme makers.

In the UK, the professional use of radio for programme making and entertainment purposes is referred to as Programme Making and Special Events (PMSE). PMSE applications include:-

- ☐ Television production
- ☐ Broadcast television and radio coverage of news, sport or other public events including state occasions
- ☐ Theatre and touring shows
- ☐ Music and other entertainment productions
- ☐ Conferences, and corporate presentations and events
- ☐ Movie film productions

Band manager with PMSE obligations

In December 2007 Ofcom announced their intention to award the frequencies currently managed by JFMG to a commercial band manager. The band manager will pay Ofcom for a licence for the spectrum and will then charge PMSE users for access. These fees will be retained by the band manager in contrast to the current model where all fees are passed to Ofcom.

The licence is due to be awarded during 2010 and will need to be tradable to allow the band manager to provide access to the PMSE industry. Ofcom's proposals within this consultation relate directly to tradable licences and so it is within this context that we are responding. We wish to clarify how this could affect the information provision requirements of the band manager and whether any of these requirements could be extended to enable the band manager to facilitate greater planning and co-ordination in the PMSE area.

2. Specific Points

Whilst we provide no specific answers to the consultation questions within this response we believe that the subject of information provision will be an important one for the band manager with PMSE obligations in the future.

Our response therefore highlights some thoughts and queries that the reading of the consultation has raised in relation to the band manager and does not attempt to comment on the impact proposals will have on other licence classes.

Requirements to provide environmental information

We note Ofcom believes information relating to all tradable licences should be published under the Environmental Information Regulations 2004. Whilst it is not currently the case the spectrum licence purchased by the band manager with PMSE obligations will be tradable once awarded during 2010. We are therefore interested to learn whether it is Ofcom's intention to include PMSE licence use in this information requirement come licence issue.

If Ofcom intends to publish PMSE licence information under the EIR then some clarification of what level of data will be required is needed. The spectrum will be owned by the band manager with PMSE obligations but its use will be by PMSE users who secure access to it via the band manager. Therefore publishing information of the band manager's licence would not provide any details of how that spectrum was being used. Alternatively, if PMSE use was included in this information requirement Ofcom could instead instruct the band manager to provide details of all trades/leases completed instead. This would then provide more qualitative data.

If this were the case we do not believe the provision of this information on a monthly basis would be prohibitive to the band manager as it could become a requirement under Ofcom's latest 'Simplifying Trading' proposals anyway. However, it is most unlikely that the band manager would be able to provide all of the information listed within 'Figure 3.1 Information intended to be released under EIR' in the document. This is because PMSE use is different in nature to the other uses listed which are primarily focussed on fixed infrastructure. An alternative list of requirements would therefore need to be agreed.

We would suggest that the following fields could be included in the information to be released under EIR for PMSE purposes: Licence class; Licence number; Licensee name; Licensee contact details; Trade/lease start date; Trade/lease expiry date; Frequency; Licence equipment; NGR Tx; Bandwidth; and Power.

Exemptions from disclosure (p17)

In Section 4 of the consultation document Ofcom list exceptions that are allowed under EIR if certain criteria are met. This would remove the requirement to make this information public. Whilst we believe that the majority of PMSE use would not fit this criterion there may be some instances where it does. It may therefore need to be omitted if the EIR requirement applied to PMSE licences after the band manager award. Such instances would be where PMSE use supports policing and security applications that may be subject to public safety and security considerations about disclosure. It is clear that Ofcom believes the circumstances where exemption might apply are very limited but it might be sensible if the band manager excluded these uses from disclosure.

Facilitating spectrum planning and co-ordination (p24)

Ofcom state that they believe the publication of more information on spectrum use could facilitate better spectrum planning and coordination in the future. Permitting applicants to view what has already been licensed would reduce the likelihood of duplicate applications and reduce the amount of renegotiation between Ofcom and the applicant to find a satisfactory alternative. In addition the provision of this information would also facilitate greater self co-ordination, allowing users to work together to resolve interference issues without immediate recourse to Ofcom.

Whilst we appreciate that some users may feel uncomfortable about the publication of information on their frequency use we believe that allowing the band manager with PMSE obligations to publish this information in real-time may provide the same potential benefits.

Self co-ordination is potentially of benefit in PMSE which includes some licence products with similarities to Ofcom's light licensing schemes. Publication of this information via a website could enable the band manager to develop a wider range of products that could be attractive to PMSE users.



Publishing details of licensed use could also be beneficial in encouraging the wider take-up of licensing in some aspects of PMSE where unlicensed use is claimed by the industry to be widespread.

We would therefore ask Ofcom to consider allowing the band manager with PMSE obligations the right to publish live frequency information, without the users' prior consent, if it is not already required by the implementation of Ofcom's proposed spectrum information policy.

We therefore look forward to hearing Ofcom's views on whether the PMSE licence will become subject to EIR 2004 when it becomes tradable during 2010.