



OFCOM CONSULTATION: AWARD OF THE 600 MHZ SPECTRUM BAND

SKY'S RESPONSE

1. This submission constitutes the response of British Sky Broadcasting plc (Sky) to Ofcom's consultation on the award of the 600 MHz spectrum band dated 6 February 2013 (the "Consultation").
2. Sky has some comments on the specific issue about the role of the UK Joint Planning Project (the "JPP") in relation to interference management and the impact on white-space technology device ("WSD") users.
3. In response to Ofcom's previous consultation relating to the 600 MHz band¹, Sky recognised the strides taken by Ofcom towards creative management of spectrum through TVWS and geo-location database technologies, to manage the use of unused interleaved UHF spectrum dynamically. However, Sky pointed out that the UK was at risk of being left behind as other countries lead the drive to more innovative and efficient uses of UHF spectrum, including by freeing up as much of the sub 1-GHz spectrum as possible for data usage.
4. Sky considers that aspects of the proposals in the Consultation risk being overly protectionist of DTT, and unduly hindering the development of alternate, data-based uses in the 600 MHz band.
5. Ofcom has specific duties to ensure the optimal use of electro-magnetic spectrum including ensuring that a wide range of electronic communications services (including high speed data services) are available throughout the UK, and to have regard to encouraging investment and innovation. Ofcom's failure to be sufficiently progressive in enabling the development of non-DTT services in the valuable 600 MHz band, and establishing a system pre-disposed to protecting the interests of DTT users, would not be consistent with these duties.

¹ See Sky's response to Ofcom's consultation on Securing Long Term Benefits from Scarce Spectrum Resources (dated June 2012).

6. The Consultation indicates that, in relation to the 600 MHz band, the JPP will be responsible for deriving coverage information for the planned networks using the UK planning model. Ofcom will use the information it receives from the JPP in determining how to apportion interleaved spectrum so as to avoid interference with other spectrum users – notably WSD and PMSE - which operate alongside the temporary DTT muxes in the 600 MHz band.
7. The JPP is a spectrum planning group which consists of members from Ofcom, BBC and Arqiva (and which the successful temporary 600 MHz mux operator will be invited to join). The Consultation fails to include any proposal for representation of the interests of non-DTT users of 600 MHz in the JPP's function of calculation of coverage requirements, and the process for putting in place (proportionate) protections against interference, even though Ofcom is encouraging WSD users and has a duty to ensure optimal spectrum usage. This is a significant omission.
8. Sky is concerned that the proposed structure, with the balance of membership of the JPP being in favour of DTT users, and a lack of representation of other users of the 600 MHz band, could result in the coverage requirement information for DTT provided by the JPP being overstated. As a result, protections may be put in place around DTT broadcasts, which are disproportionate and are to the detriment of the interests of other 600 MHz users and the development of innovative new data-based services and therefore, ultimately, of consumers.
9. A reasonable approach to addressing this deficiency in the planning around use of the 600 MHz band is for there to be representation from other users of this band in the JPP working group responsible for 600 MHz. This would ensure that the data to be provided to Ofcom, to inform Ofcom about suitable spectrum apportionment and interference issues, had been reviewed and approved by a wider base of spectrum users and is not unduly predisposed to DTT uses.
10. Alternatively, if there are compelling reasons why such representation on the JPP working group is not practicable, Sky suggests that an independent supervisory board for the JPP, made up of the wider 600 MHz spectrum users, could be appointed. Such a supervisory board should have the powers to challenge the DTT coverage requirement information and any additional protection requirements proposed by the JPP working group.
11. There is a precedent for such a supervisory approach in relation to the 800 MHz spectrum band, where Ofcom decided that it was appropriate to set up an independent supervisory board to supervise the work of at800² (previously known as MITCo) – whose membership was limited to the MNOs who would ultimately be

² <https://at800.tv/find-out-more/about-us/>

users of this spectrum band. The supervisory board is made up of a number of advisors and representatives who together represent the broader interests of different stakeholders, including viewers, broadcasters, licensees, Ofcom and the Department for Culture Media and Sport.

12. Even though the establishment of a supervisory board on the same scale as in relation to the 800 MHz band may not be appropriate in this instance, Sky considers that the same principles could be applied in the case of the 600 MHz band, whereby the new supervisory board could perform a cross-checking/verification role to challenge, where appropriate, the accuracy of the information (relating both to DTT coverage requirements, and proportionality of any necessary protections) being supplied by the JPP for inclusion in the WS Database. Such a process would be vital to maximising the opportunities for the development of alternate, innovative services within the 600 MHz band.
13. In terms of selecting the appropriate representation at either the JPP working group or the supervisory board, Sky suggests that Ofcom engages with the relevant white space implementers, such as the Cambridge TV White Spaces Consortium, to identify suitable potential candidate(s).
14. Sky also considers that it will be important for stakeholders who are not members of the JPP to be able to understand the basis for the recommendations and decisions of the JPP with regards to use of the 600MHz. Such transparency in the JPP's outputs will provide an important check on ensuring that the interests of all users of the 600 MHz band are fairly and reasonably balanced. It may also be appropriate for the JPP working group to consult with relevant stakeholders in advance of reaching its decisions and recommendations (for example, by making draft documents available for comments prior to submission to Ofcom), as a means of ensuring that the JPP working group's outputs are robust and appropriately balanced.
15. Failure by Ofcom to recognise the potential risk of relying on information provided by a group that is not representative of all users of the 600 MHz band (and which is predisposed to undue protection to DTT) could result in a sub-optimal use of this valuable asset, with consequential detriments for consumers. Such an outcome would clearly not be consistent with Ofcom's duties as outlined above.
16. In the Consultation, Ofcom also indicates that it intends to conduct further work on the precise arrangements for the coexistence of PMSE equipment and WSDs in the 600 MHz band. Sky encourages Ofcom to engage as early as possible with the appropriate parties in relation to this further review, including all key stakeholders and groups.