CABLE&WIRELESS WORLDWIDE RESPONSE TO SECOND CONSULTATION ON ASSESSMENT OF FUTURE MOBILE COMPETITION AND PROPOSALS FOR THE AWARD OF 800 MHZ AND 2.6 GHZ SPECTRUM AND RELATED ISSUES

MARCH 2012

INTRODUCTION

Cable&Wireless Worldwide (CWW) welcomes the opportunity to comment on Ofcom's "Second consultation on assessment of future mobile competition and proposals for the award of 800 MHz and 2.6 GHz spectrum and related issues".

Whilst not a national wholesaler of mobile services ourselves, we are a consumer of such capabilities in order to provide services for our enterprise customers : it is therefore important to us that spectrum is effectively assigned in a pro-competitive manner.

We are broadly supportive of the proposals set out by Ofcom in the consultation, and consider that they should meet the twin goals of assigning the spectrum in an economically efficient manner, and enabling a competitive market for mobile services. However, we would caution that scarce resource such as radio spectrum should not be seen as some form of "cash cow" : ultimately any fees paid by national wholesalers will be borne by UK citizens when consuming the services that depend on the spectrum, hence excessive prices will damage the competitiveness of the UK economy. Further, while we agree that having four credible national wholesalers is a pre-requisite for effective competition, it is by no means a guarantee.

ANSWERS TO OFCOM QUESTIONS

Question 4.1 Do you agree with our assessment of the competition concerns relating to national wholesale competition that could arise if the auction took place with no measures to promote competition? Please state your reasons for your views.

CWW agrees that it is essential that there are four credible national wholesalers, capable of competing across a wide range of services. We agree that spectrum above 2GHz is unlikely to be sufficient to become a credible national wholesaler. We recognise that the debate with respect to the substitutability of spectrum at 800MHz and 1800MHz is more nuanced : as we do not operate on a national basis ourselves, it would be inappropriate for us to comment on Ofcom's conclusions in this area.

CWW considers that the evidence from current services supports a view that the existence of four national wholesalers will probably ensure that competitive markets develop both in the hosting of MVNOs and in the consequent retail market. However while optimistic, we do not believe that this should be taken for granted in the development of 4G services, particularly at the early adoption phase. We note, for example, that roaming agreements are far more easily negotiated in the increasingly commoditised voice market, than for 3G data services where the vertically integrated mobile operators are seeking to grow market share. It is essential that Ofcom monitors the situation to ensure that an oligopoly does not develop, stepping in via the Market Review process as necessary.

Question 4.2 Do you agree that option 4 should be adopted to promote national wholesale competition? Please state the reasons for your views.
Question 4.3 Do you agree that the portfolios in group 2 (medium portfolios) of option 4 are likely to be most appropriate and proportionate implementation of this option?

CWW agrees that Option 4 presents the best compromise of those considered by Ofcom, and within Option 4 Group 2 (medium portfolios) are the most proportionate implementation.

Question 4.4: Do you believe that geographically split licences for a particular block of 2.6 GHz spectrum between standard power use and lower power use is likely to create significant additional benefits for consumers?

(No comment to make)

Question 4.5 Please provide your views including the reasons for them on which options you believe should be taken in relation to promoting low power shared use of 2.6 GHz spectrum.

(No comment to make)

Question 5.1: Do you have any comments on the proposal to include a coverage obligation in at least one of the 800 MHz licences, and the proposed extent of such a coverage obligation?
Question 5.2: Do you have any comments on which of the two approaches proposed for the specification of such an obligation would be preferable: Approach A, which would require the licensee to provide a 4G mobile data service to an area within which at least 98% of the UK population lives; or Approach B, which would require the licensee to provide the specified mobile data service with coverage comparable to the combined mobile voice coverage of today's 2G networks and in addition to provide the same service with coverage comparable to that of the additional mobile voice coverage achieved through the MIP, in those areas where MIP infrastructure is capable of supporting a 4G mobile data service?
Question 5.3: Do you have any comments on our assessment that it is unlikely to be proportionate to impose such a coverage obligation on more than one licensee?
Question 5.4: Do you have any views on the costs and benefits of a wholesale access obligation on the licensee with the coverage obligation in respect to those areas beyond existing 2G mobile voice coverage?

CWW considers it essential that there is some form of coverage obligation associated with the auction process : it is highly unlikely that the market alone will drive coverage beyond main population centres. We consider that the approach of placing coverage obligations against one of the packages of spectrum will achieve this at the lowest impact to the value secured from the auction as a whole. CWW favours Approach B, as it provides a good lateral-thinking approach to ensuring that the evolution of technology does not restrict coverage, by linking 4G with earlier generation rollout.

On the point of wholesale access, CWW cautiously supports Ofcom's conclusions that this should not be mandated : at this stage there is no evidence of market failure which would require this. However we do have some concerns that should other national wholesalers not find the case for extensive rollout compelling, a *defacto* monopoly could arise in the more marginal geographic areas. We urge Ofcom to monitor the situation closely, if necessary imposing a wholesale access obligation via subsequent Market Reviews. It is clear that the spectre of such regulatory intervention could, however, adversely impact the value placed on the "coverage" tranche of spectrum : without wishing to fetter any subsequent regulatory discretion, CWW believes that guidance could be provided that any wholesale access subsequently mandated would be on Fair & Reasonable rather than cost-oriented terms (or, if cost-oriented, would be on a DSAC rather than LRIC basis).

Question 6.1: Do you agree with our revised proposals for the packaging of the 800 MHz band? Please state the reasons for you preference.
Question 6.2: Do you agree with our revised proposals for the packaging of the 2.6 GHz band? Please state the reasons for your views.
(No comment to make)

Question 7.1: Do you agree with our revised proposals for the number of eligibility points that should attach to each lot? Please state the reasons for your views.
Question 7.2: Do you have any comments on the proposed auction rules as explained in section 7, Annex 11 and Annex 12? Please state the reasons for your views.
(No comment to make)

Question 8.1: Do you have any comments on the Additional Spectrum Methodology as one of several sources of information for estimating the full market value of spectrum?
Question 8.2: Do you have any comments on our updated thinking on estimating full market value for the purpose of revising ALF as set out in this section and Annex 13?

CWW believes this to be a pragmatic approach for the specific case of mobile spectrum. However we would stress that this is only the case because of the similar nature of the applications : we would not support a concept of applying ALFs outside the mobile spectrum, for example on spectrum designated for point-point/fixed radio links.

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