

Mobile & Auctions Team
Ofcom
Riverside House
2A Southwark Bridge Road
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SE1 9HA

27 May 2011

Dear Sirs,

Assessment of future mobile competition and proposals for the award of 800 MHz and 2.6 GHz spectrum and related issues

Consumer Focus Scotland welcomes the opportunity to respond to Ofcom's consultation on the award of 800MHz and 2.6GHz spectrum. We are not responding in detail to the questions set out in the consultation document. Instead, we would like to take this opportunity to put forward some particular points in relation to the issues raised in the consultation, and highlight the key issues of importance to consumers in Scotland.

Ofcom is proposing that a key focus of the award of the 800MHz and 2.6GHz spectrum should be to increase the availability of mobile broadband services across the UK. Given the wide range of purposes that mobile broadband can be used for, and the lack of mobile broadband coverage in much of rural and remote Scotland at present, we are supportive of this proposal.

The consultation document states that the award of the 800MHz and 2.6GHz spectrum "*is vital to the UK's economic and social growth*"; that it will "*shape the future competitiveness of the mobile sector for at least the next decade*"; and that part of this spectrum will "*be key to the economic delivery of next generation mobile broadband services in less densely populated areas*". The spectrum award is therefore clearly of great significance to consumers in Scotland.

Ofcom has indicated that the consultation is about how it "*should award this new spectrum in a way that secures the best use of it for the benefit of citizens and consumers*". There are clearly different ways in which this objective might be interpreted, and Ofcom is proposing to use an auction process to make the 800 MHz and 2.6 GHz spectrum available. We have no objection to this approach – however, we believe it is essential that any spectrum auction is designed so that this spectrum is used for the benefit of consumers in general, and for those who currently have relatively limited access to a range of different digital technologies in particular.

There is a wealth of evidence which shows that consumers in rural and remote Scotland are more likely than consumers in other parts of the UK to miss out on the benefits of a wide range of digital technologies and developments:

- 87% of households in Scotland have 2G mobile coverage from one or more operators, compared to 97% of households across the UK as a whole. This disparity is primarily

due to the fact that large swathes of the Highlands and Islands have no 2G mobile coverage.

- 66% of households in Scotland have 3G mobile coverage from one or more operators, compared to 87% of districts across the UK as a whole. However, 3G services in Scotland are largely concentrated around the central belt and are more or less non-existent in rural areas.
- 37% of all Scottish households, and only 14% of rural households in Scotland, have access to cable broadband, compared to 49% of all households across the UK as a whole.
- 28% of telephone lines in the Highlands and Islands are not capable of carrying broadband at a speed of 2Mb/ps, compared to only 11% of all telephone lines across the UK as a whole.
- 71% of all Scottish households, and only 36% in rural areas, are connected to an unbundled local exchange, compared to 85% of all households across the UK as a whole.
- Consumers in remote rural areas are more likely to rely on relay transmitters to receive digital terrestrial television – and are therefore more likely to receive 3DTT and the reduced number of channels that this offers.
- A range of different initiatives are being considered and discussed in relation to the roll out of next generation and superfast broadband across the UK over the next decade. At present, very few of these proposals suggest that 100% coverage will be achieved, and again it is consumers in the most remote rural areas who are most likely to miss out.

Given these figures, we believe it is imperative that the 800MHz and 2.6GHz spectrum is used to help bridge the digital divide that currently exists in the UK – and the needs and preferences of consumers in rural and remote Scotland should be one of the top priorities for Ofcom in designing and managing the release and auction of this spectrum.

Within its current proposals for the award of 800MHz and 2.6GHz spectrum Ofcom is proposing to build in an obligation which requires one provider to deliver “*a mobile broadband service covering 95% of the UK population*”. This is a positive development – but, from a Scottish perspective, this is not sufficient in isolation. This target could in theory be achieved without a service being made available to **any** household in Aberdeen, Aberdeenshire, Moray, Highland, Angus, Dundee, Perth and Kinross, Fife, Falkirk, Stirling, Clackmannanshire, the Scottish Borders, Dumfries and Galloway, North Ayrshire, South Ayrshire, East Ayrshire Argyll and Bute, the Western Isles, Orkney or Shetland¹.

We therefore welcome Ofcom’s suggestion in the consultation document that it may be possible to support this UK-wide coverage obligation “*with a requirement to cover a certain proportion of the population in particular areas – for example in certain rural areas*”. We believe that such a requirement is critical if consumers in Scotland, particularly in rural areas, are not to miss out. There is a precedent of similar coverage requirements being imposed in other markets. For example, the geographic spread of post office branches across the UK is determined by both UK-wide and regional ‘access criteria’. These access criteria were established at the same time as the post office closure programme in 2007, to ensure that

¹ Based on a UK population of 26 million households, and on the number of households in each Scottish local authority area in 2008 as published by the General Register Office for Scotland.

despite the reduction in the overall size of the post office network, it would continue to give good access to post offices to consumers across the UK, including those in rural areas. There are five UK-wide criteria for post office access, and there is also an additional local criteria which requires a minimum level of access to post offices to be provided within each postcode district².

We believe that a similar 'local' criteria should be established to help manage the release of the 800MHz and 2.6GHz spectrum in a fair and equitable way. Different options should be explored as to how this local criteria might be configured for the auction of spectrum. For example, the criteria could specify that a licensee must deliver a mobile broadband service to a certain percentage of the population in each UK nation; in each local authority area; in each postcode area or district; or in each population centre of a certain size³.

Clearly, the way in which the criteria is designed will have an impact upon the amount of money that providers are willing to pay for the particular spectrum licence which comes with this criteria attached. It can be assumed that the more 'local' the areas specified in the criteria – and the higher the proportion of consumers within each of these areas who must be provided with a mobile broadband service – the less providers will be willing to pay for this licence. However, we strongly believe that the main objective of the 800MHz and 2.6GHz spectrum auction should not be about maximising the price which is obtained for this vital resource. The primary focus must be on bridging the digital divide, and ensuring that rural and remote consumers in Scotland and other parts of the UK – who have been the last to receive digital services in the past – do not miss out once again. We urge Ofcom to work with the UK Government to ensure that this fundamental principle is clearly established.

Furthermore, given that under Ofcom's proposals only one provider is to be obliged to deliver a mobile broadband service to 95% of the UK population and to "*a certain proportion of the population in particular areas*", we believe it is vital that this provider is required to give other suppliers access to their infrastructure, to allow consumers across Scotland to benefit from choice and competition in the 4G mobile broadband market. Again this may impact upon the price that providers are willing to pay for this particular spectrum licence – but as highlighted above we believe the main objective of the 800MHz and 2.6GHz spectrum auction must be to help bridge the digital divide that currently exists in the UK rather than to maximise the level of funds that can be raised.

We anticipate that there will be interest from both private and public sector organisations in acquiring 800MHz and 2.6GHz spectrum. These organisations will clearly have their own views about what they might wish to use the spectrum for; what demand or need there is likely to be from consumers for different types of services that they might offer via this spectrum; and what price they would be willing to pay for the freed up spectrum in order to provide services that meet this demand/need.

However we believe that it would also be extremely useful for Ofcom to have a good sense of how consumers would like to see the spectrum used, as this may help the regulator to decide what arrangements it should put in place for making the spectrum available to

² There are five national criteria for post offices: (1) 99% of the UK population will be within three miles of their nearest post office outlet; (2) 90% of the population to be within one mile of their nearest post office outlet; 90% of the total population in deprived urban areas across the UK will be within one mile of their nearest post office outlet; (4) 95% of the total urban population across the UK to be within one mile of their nearest post office outlet; (5) 95% of the total rural population across the UK to be within three miles of their nearest post office outlet. In addition, there is a local or regional criteria which specifies that 95% of the population of every postcode district must be within six miles of their nearest post office outlet.

³ For example, the Royal Society of Edinburgh's *Digital Scotland* report recommended that every community of 2,000 people should be reached by a digital hub.

potential users. There is clearly a great impetus for providers, or potential providers, to develop an understanding of the level of customer demand that exists for the particular services that they might offer. It may be difficult for the regulator to carry out a similar level of market research in this regard – but Ofcom has undertaken work of this nature before. For example in 2007 Ofcom undertook qualitative and quantitative work to gather consumers' views on services that might be delivered via the digital dividend. However, given the significant technological developments that have taken place in the past four years, this work now arguably needs to be refreshed. We believe that up to date consumer research on the issue would therefore be beneficial in helping to inform Ofcom's decision-making process.

I hope that the points made in this submission are helpful. If you wish to discuss any aspect of this submission further then please do not hesitate to contact me, on sarah.oneill@consumerfocus.org.uk or 0141 226 5261.

Yours sincerely,

A handwritten signature in dark ink, reading "Sarah O'Neill". The signature is written in a cursive, flowing style.

Sarah O'Neill
Head of Policy
Solicitor