Response by the Ofcom Advisory Committee for Scotland (ACS) to the Consultation on assessment of future mobile competition and proposals for the award of 800 MHz and 2.6 GHz spectrum

ACS welcomes the opportunity to respond to the Consultation on assessment of future mobile competition and proposals for the award of 800 MHz and 2.6 GHz spectrum. We have focused on issues that we consider to be particularly relevant or specific to Scotland, primarily concerning Section 6 of the document. We raised some of these points during the briefing by Graham Louth at the ACS meeting held on 22 March 2011, and will use this opportunity to expand on these areas, as well as to cover some new issues.

Question 5.4: Do you agree with the analysis that at least four competitors are necessary to promote competition?

In the context of Scotland, only those who live and travel solely within the Central Belt see any real benefits from competition. For the many Scots who either live, work or frequently travel outside this area, the decision as to which network to go with is based primarily on coverage in their own areas. While we accept that it is important to promote competition, and that across the UK four competitors seems a reasonable way to do this, the very different environment in much of Scotland has important implications when we consider the questions covering Section 6 of the consultation document.

In order to promote competition in all areas of the UK, additionalmeasures other than having four operators with sufficient spectrumportfolios will be required - for example, mandating roamingwould have a significant impact in rural areas. We are aware that Ofcom has recentlystudied national roaming and would be interested in understanding whatthe barriers are to its implementation, both nationally and in a more localised context as discussed under Q6.1 and Q6.2.

Question 6.1: Do you have any comments on the proposal to include in one of the 800 MHz licences an obligation to serve by the end of 2017 an area in which 95% of the UK population lives, while providing a sustained downlink speed of 2Mbps with a 90% probability of indoor reception? Do you think there is another way of specifying a coverage obligation that would be preferable?

Question 6.2: We would welcome views and evidence on the costs and benefits of imposing an additional coverage obligation focused on particular geographical areas, and if such an obligation were to be imposed what might be the appropriate specification of geographic areas?

1) We have real concerns about the two questions above, and how such a coverage obligation might be implemented in practice by a licensee. We strongly urge that the criterion

applied be based on population density, ideally per hectare, or similarly small area. This would give far more useful coverage in Scotland. As the *Digital Britain* working group have stated:

'Scotland has many small communities, often packed more densely than their counterparts in England', however, 'many of Scotland's communities are widely separated.'

'At a local level, 90% of the population of Scotland lives at population densities at least as high as those in England!'[1]

Only by using something like population density can even reasonable coverage be guaranteed in Scotland to distant but relatively large settlements such as Ullapool, (a town in the NW of Scotland with its own secondary school, supermarket etc, but which is 60 miles from the nearest larger settlement). An alternative might be to ask for 95% population coverage in each postcode area, as discussed in point 4 below.

2) There is an additional question of whether such an obligation might lead to the situation in Scotland where there is effectively a monopoly, i.e., one provider who offers far wider coverage than any other, and who indeed possibly pays less for their licence in order to have this privilege.

This could bring its own distortions to the marketplace. Thus, while it may seem unlikely that mobile phone vendors could tailor their offerings depending on the postcode of the purchaser, it is possible to visualise a situation where shops in, for example, the city of Inverness, might offer contracts for the 'monopoly' network at a higher price. The more savvy shopper would then simply go online or travel a hundred miles or so to the nearest alternative shop in Aberdeen or Perth to get a cheaper contract from the same provider, but the more vulnerable consumer might not realise they had that option.

3) A further issue is that in many rural areas in Scotland which will probably only have coverage from this one provider, the tourist industry is very important. For many short term UK visitors to rural Scotland, the inability to use their phone is an issue. In addition, we already know of some rural areas where local people have resorted to buying a foreign mobile phone which allows roaming so they can have mobile phone access across their working area, because currently two different networks each uniquely cover neighbouring areas.

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[1] http://digital-scotland.blogspot.com/2010/08/dispersion-of-scotlands-population.html

One solution to this would be to allow roaming in rural areas and we would be interested in Ofcom exploring the implications of this in the wider context, rather than just for 999 calls. We realise that there are important commercial issues, and Ofcom would not necessarily want to remove the market advantage to providers moving into new areas. However, while national roaming will not incentivise operators to deploy their own infrastructure in rural areas, incentivisinginfrastructure deployment is only a means to reach the final objective of providing coverage and choice to rural customers. If this objective can be achieved by national roaming using existing infrastructure, it is hard to see why it should not be implemented.

Alternatively, if this is too great a barrier, would it be feasible to put in place rules whereby localised roaming is not only permitted, but even encouraged as a way of meeting the 95% commitment in more rural areas. These could be defined as areas which only have 1 or 2 providers of 2G coverage. Clearly, there are potential issues related to implementation and charging for localised roaming, but we would certainly like to see research into identifying precisely what these issues are, and whether such an approach might be feasible. It is unlikely the market is ever going to provide access by more than one provider in many areas of Scotland, even with mast sharing. As ubiquitous mobile phone communication becomes an increasingly widespread and settled expectation, the implications of encouraging 4 competitors operating in the market in rural areas need to be considered and managed.

4) We consider that the obligation to achieve a sustained downlink speedof 2 Mbit/s by 2017 and to cover 95% of the population is not a sufficiently ambitious data rate target. By 2017, we expect mobileoperators to be widely deploying LTE technology, and depending on theconfiguration of LTE networks, it is expected that the average data rateexperienced by users in an LTE network might be between 5 and 15 Mbit/s.2 Mbit/s is a speed more associated with current generation mobiletechnology, i.e. HSPA and HSPA+. This suggests the coverage obligationcould be set at a higher speed, e.g. 5 Mbit/s. For example, in Germanyand Sweden where the 800 MHz auction has already taken place, theobligation on coverage is much higher than 95%, as it is defined by postcode to cover even the most rural areas.

Question 6.3: Do you have any comments or evidence on whether an additional obligation should be imposed to require coverage on specific roads?

We consider there should at least be an obligation to provide coverage on all A roads. In many parts of Scotland these are key strategic routes between widely scattered communities.

Question 6.4: Do you have any comments on our proposal not to use the combined award to address existing not-spots?

We do not think there is a need to do this for mobile phones beyond the provision already made. As indicated above, the issue in Scotland is to ensure areas with a certain population density and/ or with major roads passing through them, have adequate access.

We wish to draw attention to the need for spectrum to be available through the award to deal with broadband and particularly NGA broadband not-spots, by using 'fixed' wireless broadband. This is a likely solution for NGA in sparsely populated rural areas where 'Fibre to the Home' is not a viable option, and where the 'Cabinet' is too far from homes for copper to carry high speed broadband. Essentially, fibre would be laid to one or more wireless nodes, which would then supply broadband wirelessly to a group of fairly widely scattered homes in the area. This is discussed further under questions 6.5 and 7.1 below.

Question 6.5: Do you have any comments on our proposal not to impose 'use it or sell it' obligations but to consider including an additional power to revoke during the initial term of the licences?
Question 7.1: Do you have any comments on the proposals relating to the duration of the initial licence period, our rights to revoke the licence during this period, the charging of licence fees after the end of the initial period and our additional revocation powers following the initial period?

As discussed above under Q6.4, it is important in Scotland to ensure that licences can be revoked in localised areas for fixed wireless broadband. We would like to see an indication that Ofcom has thought about how the licences would be revoked over these small geographical areas, particularly during the initial term of the licence. This needs to be able to be done quickly and simply in isolated rural areas where NGA access is particularly important.

Question 8.1: Do you agree with the way in which we are taking account of the main factors relevant to spectrum packaging and why?
Question 8.2: Are there other factors that we should consider to develop our approach to packaging? If so which ones and why?

See comments under Questions 6.4, 6.5 and 7.1

Summary

As might be expected, our main concerns arise from the existence of large rural areas in Scotland which means that competition from 4 providers is irrelevant for much of the country. In particular, we have tried to suggest ways in which Ofcom might reduce the disadvantages experienced by more remote areas, without impacting on the undoubted benefits to the UK as a whole of encouraging competition. These include:

1. Putting safeguards in place to ensure that the licence-holder with the 95% coverage obligation cannot exploit the monopoly position they will undoubtedly have in rural Scotland.
2. Exploring options for allowing and encouraging roaming in more remote areas to meet the 95% coverage obligation.
3. Facilitating small scale fixed wireless broadband in remote areas

Ofcom Advisory Committee for Scotland, 6 May 2011