



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

Annexes 1-5

Consultation

Publication date:

22 March 2011

Closing Date for Responses:

31 May 2011

Contents

Annex		Page
1	Responding to this consultation	2
2	Ofcom's consultation principles	4
3	Consultation response cover sheet	5
4	Consultation questions	7
5	Summary of Impact Assessment	10

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 31 May 2011**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/combined-award/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email combined.award@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Ofcom
Mobile & Auctions Team
3rd Floor
Spectrum Policy Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Robert Emson on 020 7783 4375.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in the autumn, as discussed in section 11.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Email: Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here. ☐

Name

Signed (if hard copy)

Annex 4

Consultation questions

- A4.1 We are inviting responses to the following questions set out throughout the sections of this consultations and welcome views from stakeholders on any other aspect of the proposed award which they would like to raise with us.

Mobile spectrum bands

Question 4.1: What use, if any, would you make of the top 2x10 MHz of the 800 MHz band in the second half of 2012 if it were available for use? What would be the benefits for citizen and consumers of such availability?

Question 4.2: If we were to offer shared access low-power licences in some way, do you have any comments on the appropriate technical licence conditions which would apply for the different options?

Competition assessment and future mobile markets

Question 5.1: Do you agree that national wholesalers need a reasonable overall portfolio of spectrum to be credible providers of higher quality data services? In particular, do you agree that national wholesalers need some sub-1 GHz in order credibly to be able to offer higher quality data services? Please state the reasons for your views.

Question 5.2: Do you agree there is a material risk of a significant reduction in the competitive pressures, at least to provide higher quality data services, in retail and wholesale markets without measures in the auction to promote competition? Please state the reasons for your views.

Question 5.3: Do you agree there is a risk of potentially beneficial sub-national RAN uses not developing without measures to promote competition? Please state the reasons for your views.

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

Question 5.5: Do you agree that the specific measures we propose to take to ensure there are at least four holders of such spectrum portfolios are appropriate and proportionate?

Question 5.6: Given the measures we propose to take to ensure four holders of spectrum portfolios sufficient credibly to provide higher speed data services, do you agree that it would not be appropriate or proportionate to introduce a regulated access condition into the mobile spectrum licences to be awarded in the combined award?

Question 5.7: Do you consider that we should take measures to design the auction to assist low-power shared use of 2.6 GHz? If so, what specific measures do you consider we should take?

Mobile coverage and related issues

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 focussed on particular geographical areas, and if such an obligation were to be imposed what might be the appropriate specification of geographic 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?

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

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?

Non-technical licence conditions for 800 MHz and 2.6 GHz

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?

Question 7.2: Do you have any comments on the proposal to amend the spectrum Trading Regulations to apply to the auctioned licences in the 800 MHz and 2.6 GHz bands, to include a competition check before we consent to a spectrum trade of mobile spectrum and not to allow transfers that would increase the number of 2.6 GHz low-power licensees?

Question 7.3: We welcome views on the merits of the proposed approach to information provision; in particular concerning the type of information that may be helpful and any impacts that publication of information might have both on licence holders and the wider spectrum market.

Spectrum packaging proposals for the 800 MHz and 2.6 GHz award

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?

Question 8.3: Do you agree with our packaging proposals for the 800 MHz band? Please give reasons for your answer.

Question 8.4: Do you agree with our proposal not to allow relinquishment of 900 MHz spectrum and why? Do you have any other comments regarding our packaging proposals for the 900 MHz band?

Question 8.5: Do you agree with our proposal not to allow relinquishment of 1800 MHz spectrum and why? Do you have any other comments regarding our packaging proposals for the 1800 MHz band?

Question 8.6: Do you agree with our proposal not to make provisions to include 2.1 GHz spectrum in this auction and why?

Question 8.7: Which aspects of our packaging proposals for the 2.6 GHz band do you agree with and why?

Question 8.8: Do you agree with our proposed approach for eligibility points and why?

Question 8.9: Which approach to reserve prices do you think would be most appropriate to secure optimal spectrum use in the interests of citizens and consumers, and why?

Auction design and rules proposals for the combined award

Question 9.1: Do you agree with our proposals for the auction design and why?

Question 9.2: Do you have any comments on the proposed auction rules as explained in section 9, Annex 9 and Annex 10?

Question 9.3: Do you have any comments on how we should approach the payment of deposits and licence fees?

Revising annual licence fees for 900 MHz and 1800 MHz

Question 10.1: Do you have any comments on our proposal to use 800 MHz price information as derived from the auction to estimate the full market value of 900 MHz spectrum?

Question 10.2: Do you have any comments on our proposal to use an average of 800 MHz and 2.6 GHz price information as derived from the auction to estimate the full market value of 1800 MHz spectrum?

Question 10.3: Do you have any comments on the proposed approach to convert lump sum amounts into annual payment?

Annex 5

Summary of Impact Assessment

- A5.1 Ofcom has considered and assessed the likely impact of implementing its proposals throughout this consultation document, and therefore the document as a whole constitutes our impact assessment. This assessment is set out in particular in sections 5, 6, 7, 8, 9 and 10 and annexes 6, 7, 10 and 11.
- A5.2 For ease of reference, we have set out in the table below a summary of the main proposals made in this consultation and details of where the impacts of those proposals are considered.

Consultation Proposals	Impacts discussed in
Promotion of competition	
Ensure at least 4 national wholesale mobile competitors each with a minimum spectrum portfolio after the combined award	Annex 6 sections 5 and 6
Impose constraints on the total amount of sub 1 GHz spectrum that any one licensee can hold after the combined award	Annex 6 section 6
Impose constraints on the total amount of harmonised mobile spectrum that any one licensee can hold after the combined award	Annex 6 section 6
Do not impose a regulatory requirement to provide wholesale access on any licensee holding 800 MHz and or 2.6 GHz	Annex 6 section 7
Allow competition between high and low power bidders for one lot of the 2.6 GHz band	Annex 6 section 8
Consider the possibility of reserving some 2.6 GHz spectrum for shared low power use	Annex 6 section 8
Do not allow licensees for existing mobile spectrum to relinquish spectrum in the combined award	Section 8
Promotion of mobile coverage	
Address existing mobile not spot issues through separate processes and actions from the combined award	Section 6
Impose a coverage obligation on one licence for 800 MHz	Section 6

Consultation Proposals	Impacts discussed in
Address issues of access to spectrum through a broad set of measures rather than use it or sell it type obligations	Section 6
Spectrum packaging	
800 MHz: band plan as specified in the 800 MHz RSC decision and packaged in 2 x 5 MHz lots	Section 8
800 MHz: mix of generic and specific lot categories reflecting the differences in terms of likely technical and non-technical obligations	Section 8
2.6 GHz: band plan consistent with the 2.6 GHz RSC decision and packaged in 2 x 10 MHz lots	Section 8
2.6 GHz: generic lots unless one of the options for promoting low power use is adopted in which case it will be a mix of generic and specific lots	Section 8
Geographical scope of lots to be UK wide	Section 8
Assignments of high power paired lots in 800 MHz and 2.6 GHz band to be contiguous	Section 8
Reserve prices for non-reserved spectrum to broadly reflect the costs incurred in making the spectrum available	Section 8
Reserve prices for reserved spectrum potentially to reflect an estimate of value of the spectrum	Section 8
Auction design and rules	
Use a combinatorial clock auction design for the award with detailed rules to implement our competition proposals	Section 9 and Annex 9
Use a linear reference price methodology as part of the determination of prices winning bidders will pay	Annex 10
Non-technical licence conditions	
Allow the licences for 800 MHz and 2.6 GHz to be tradeable subject to a competition check	Section 7

Consultation Proposals	Impacts discussed in
Make the licence term for the licences for 800 MHz and 2.6 GHz indefinite, with a minimum term commencing shortly after completion of the combined award and lasting for 20 years from 1 January 2013	Section 7
Annual licence fees for 900 MHz and 1800 MHz spectrum	
To set fees at full market value using information derived from the bids and prices paid for 800 MHz and 2.6 GHz spectrum	Section 10