



Review of Business Radio licence fees in Band I

55.750 MHz to 68 MHz

Consultation

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Section 1

Introduction and executive summary

- 1.1 This paper proposes changes to the fees that we charge for Technically Assigned and Area Business Radio licences between 55.750 MHz and 68 MHz (“Band I”)¹. We also set out our thinking on why we believe that we should continue to authorise use of the band by issuing licences on a first come, first served basis.

Use of Band I

- 1.2 Historically, Band I has been little used. The technical characteristics of the band make it difficult to exploit. There are also two international agreements that relate specifically to Band I and limit the flexibility of its use in particular for wider band systems. The two agreements are discussed in Section 3. Annex 6 gives details of the limited current use of the band, mainly local on-site paging with some frequencies being used for PMSE.
- 1.3 We have consulted in the past to gauge levels of interest in Band I and raise awareness of its availability². Responses suggested limited or no interest. Some interest is now being shown, but this interest covers only a portion of the Band.
- 1.4 Band I was included in the review of Business Radio licensing that we undertook last year³. Licences for this band are tradable and, in common with other less popular bands, fees are currently generally charged at one third of the cost of the ‘highly popular’ Business Radio bands.

Fees

- 1.5 The fees for most licensed uses of spectrum are or will soon be based on a market led approach. For auctioned spectrum this fee is, for the initial term of licences, set through the auction. For most other bands the fees are based on Administered Incentive Pricing (AIP) principles, that is, by reference to opportunity cost.
- 1.6 The opportunity cost of any spectrum is the “lost” value to society of any services that cannot access the spectrum because the licensees are holding it instead. For example, if user A holds all the spectrum in a particular sub-band, then the highest value of the services that could otherwise be provided as a result of access to that band (either the same type of service as provided by user A, or different services) is the opportunity cost of that spectrum. If the presence of one or more licensees in a band were to mean that other services cannot access the spectrum they need, then there is a positive opportunity cost, and therefore a basis for setting AIP fees.
- 1.7 The licence fees for all Business Radio licences are set under these general AIP principles – that is, set by reference to the calculated opportunity cost of the

¹ We are not looking at either 60.750 MHz to 62.750 MHz or 67.750 MHz to 67.8375 MHz, which we have proposed through our Digital Dividend Review to award to a band manager with obligations toward programme-making and special events (PMSE). Further information is available at www.ofcom.org.uk/consult/condocs/bandmgr/condoc.pdf. We are not proposing any changes to the way that PMSE use of these frequencies is currently licensed or to the associated fees.

² www.ofcom.org.uk/consult/condocs/rrs_5568 and www.ofcom.org.uk/consult/condocs/pricing06/pricing06.pdf

³ www.ofcom.org.uk/consult/condocs/busrad/busrad.pdf and www.ofcom.org.uk/consult/condocs/busrad/busradio_statement/brstatement.pdf

spectrum, subject to a floor of £75, which ensures that all Business Radio users at least make a contribution to our administrative costs of licensing.

- 1.8 The current fees for Band I reflect our previous estimation of the opportunity cost throughout many bands in which business radio is operated – as above, we applied a downward adjustment for a general category of “less popular” bands to reflect our belief that the opportunity cost of bands in this category was around a third of the opportunity cost in ‘highly popular’ bands in Business Radio use.
- 1.9 Although we will undertake a strategic review of spectrum pricing in the course of the coming year, we are reviewing the specific fees for Band I now, as the opportunity costs for the band may be lower than implied in the general “less popular” category, and specific questions have been asked about the applicable fees for Business Radio licences for this band. Accordingly, we believe that an early review of the opportunity cost of this band may indicate that we should change the basis on which fees are set. If this review demonstrates that we should reduce the licence fee, this would be more likely to secure the optimal use of the band, as we are required to. We are not looking, in this document, at the other “less popular” bands as they are current relatively well used, compared to Band I.
- 1.10 We therefore commissioned Analysys Mason to undertake specific work to review the opportunity cost of Band I. The results of that work can be found on our website⁴. The key finding was that all existing uses - and currently envisaged future uses - for this band could be accommodated in the existing spectrum.
- 1.11 If all users and potential users can be accommodated in the band, then no licensee is excluding other uses – in short, there is no opportunity cost.
- 1.12 In part this is because the technical nature of Band I, allied to the various international agreements that apply to it, reduces its attractiveness to a level that was not accurately reflected in the opportunity cost applied to the ‘Less Popular Bands’ as described in the review of Business Radio.
- 1.13 In summary, we believe that the analysis shows that the opportunity cost of other licensed use of Band I is zero and so the fees charged for access to this spectrum should be reduced to levels enabling a contribution to the administrative costs of licensing, as set out in Table 1 below.

Table 1 – Proposed annual fees per 2 x 12½ kHz (or 1 x 25 kHz) channel

Licence	Current fee £pa ⁵	Proposed fee £pa
Technically assigned	75	75
Area-defined (UK)	3,300	600
Area-defined (England)	2,758	150
Area-defined (Wales)	163	150
Area-defined (Scotland)	285	150
Area-defined (Northern Ireland)	93	150
Area-defined GB (England, Wales and Scotland)	3,206	450
Area-defined per Trading Unit in population category A	395	150
Area-defined per Trading Unit in population category B (subject to an absolute minimum annual fee of £75pa)	50	50

⁴ See www.ofcom.org.uk/consult/condocs/bandi/report.pdf

⁵ See www.ofcom.org.uk/licensing/applications08/changes/Fees/nonexcelguide.pdf

Licence	Current fee £pa ⁵	Proposed fee £pa
Area-defined per Trading Unit in population category C (subject to an absolute minimum annual fee of £75pa)	5	5

Section 2

Our statutory duties

- 2.1 We make decisions within a framework defined in European Union (EU) and UK law. This sets out our overarching general duties that apply across all our functions, below which sit a number of specific duties.
- 2.2 This section provides a brief overview of our duties and powers as they relate to licensing use of spectrum. It does not provide a comprehensive statement of all the legislative provisions relevant to our functions or to the grant of licences.

Our duties under the Communications Act

- 2.3 Section 3 of the Communications Act 2003⁶ sets out our general duties and provides that our principal duties are:
- to further the interests of citizens in relation to communications matters; and
 - to further the interests of consumers in relevant markets, where appropriate by promoting competition.
- 2.4 In performing these duties, we are required to secure among other things the optimal use for wireless telegraphy of the electromagnetic spectrum and the availability throughout the UK of a wide range of electronic communications services and to have regard to the different needs and interests of everyone who may wish to use the spectrum for wireless telegraphy.
- 2.5 Section 3(3) of the Communications Act provides that, in performing our principal duties, we must in all cases have regard to the principles of transparency, accountability, proportionality and consistency as well as ensure that our actions are targeted only at cases in which action is needed.
- 2.6 Section 3(4) of the Communications Act requires us in performing our principal duties to have regard to a number of factors as appropriate, including the desirability of promoting competition, encouraging investment and innovation in relevant markets and encouraging the availability and use of high-speed data-transfer services throughout the UK.
- 2.7 Where there is a conflict between our duties, priority must be given to the European Community requirements set out in section 4.

European Community requirements

- 2.8 Section 4 of the Communications Act implements article 8 (policy objectives and regulatory principles) of the Framework Directive⁷ This sets out the objectives that national regulatory authorities must take all reasonable steps to achieve. These include promoting competition in the provision of electronic communications networks

⁶ www.opsi.gov.uk/acts/acts2003/pdf/ukpga_20030021_en.pdf

⁷ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:108:0033:0050:EN:PDF>

and services by, among other things, encouraging efficient investment in infrastructure and promoting innovation, and encouraging efficient use of radio frequencies; and contributing to the development of the internal market by, among other things, removing obstacles to the provision of electronic communications networks and services at a European level, encouraging the interoperability of pan-European services and ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services.

- 2.9 Article 8 also requires EU Member States to ensure that, in carrying out their regulatory tasks, national regulatory authorities take the utmost account of the desirability of making regulations technologically neutral.

Our duties when carrying out our spectrum functions

- 2.10 In carrying out our spectrum functions, we have a duty under section 3 of the Wireless Telegraphy Act 2006⁸ to have regard in particular to:
- the extent to which the spectrum is available for use or further use for wireless telegraphy;
 - the demand for use of that spectrum for wireless telegraphy; and
 - the demand that is likely to arise in future for the use of that spectrum for wireless telegraphy.
- 2.11 We also have a duty to have regard, in particular, to the desirability of promoting:
- the efficient management and use of the spectrum for wireless telegraphy;
 - the economic and other benefits that may arise from the use of wireless telegraphy;
 - the development of innovative services; and
 - competition in the provision of electronic communications services.
- 2.12 Where it appears to us that any of our duties under section 3 of the Wireless Telegraphy Act conflicts with one or more of our general duties under sections 3 to 6 of the Communications Act, we must give priority to our duties under the latter. Section 5 of the Communications Act concerns our obligation to carry out our functions in accordance with any directions made by the Secretary of State. Section 6 concerns duties to review regulatory burdens.

Granting wireless telegraphy licences

- 2.13 The Wireless Telegraphy Act sets out our legal power to grant wireless telegraphy licences. Section 8(1) makes it an offence for any person to establish or use any station for wireless telegraphy or to install or use any apparatus for wireless telegraphy except under and in accordance with a licence granted by us under that section (a wireless telegraphy licence).

⁸ www.opsi.gov.uk/acts/acts2006/pdf/ukpga_20060036_en.pdf

- 2.14 Section 9(1) of the Wireless Telegraphy Act gives us the power to grant wireless telegraphy licences subject to such terms as we think fit.
- 2.15 However, our broad discretion in relation to the terms that can be imposed in a wireless telegraphy licence is subject to the rule that we must impose only those terms that we are satisfied are objectively justifiable in relation to the networks and services to which they relate, not unduly discriminatory and proportionate and transparent as to what they are intended to achieve (see section 9(7)).
- 2.16 Under section 8(4) of the Wireless Telegraphy Act, we have the duty to exempt from licensing any use of wireless telegraphy apparatus that we consider is not likely to cause harmful interference. Licence exemptions are granted by us by way of regulations made under section 8(3).

Charging fees for wireless telegraphy licences

- 2.17 Under Article 13 of the Authorisation Directive, any fees imposed for rights of use of radio frequencies shall reflect the need to ensure the optimal use of the resources. Such fees must be objectively justifiable, transparent, non-discriminatory and proportionate in relation to their intended purpose and take into account the objectives set out in article 8 of the Framework Directive.
- 2.18 Section 12 of the Wireless Telegraphy Act permits charging for wireless telegraphy licences by enabling us to prescribe in regulations the sums payable for these licences. This power enables us to recover the cost of administering and managing wireless telegraphy licences. Section 13 of the Wireless Telegraphy Act permits us to recover sums greater than these if we think fit in the light (in particular) of the matters to which we must have regard under section 3, including promoting the efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy.
- 2.19 The fees for most wireless telegraphy licences, whether set to recover costs or to provide an incentive, are set out in specific regulations. The current regulations are the Wireless Telegraphy (Licence Charges) Regulations 2005 (SI 2005/1378) (as amended)⁹

⁹ www.opsi.gov.uk/si/si2005/uksi_20051378_en.pdf

Section 3

Demand for, and pricing of, Band I

Review of opportunity cost

- 3.1 Band I is a comparatively small part of the overall spectrum available for business radio and, historically, has been less popular than other bands. Our assessment of Band I as part of the overall review of Business Radio in 2007 was part of a wider look at access to spectrum. Given the known low popularity of Band I and the small proportion of business radio spectrum that it represents, that earlier assessment did not go into detail for Band I separately.
- 3.2 Analysys Mason have now reviewed the opportunity cost of Band I, examining current and potential future uses, including known interest. Their report is available on our website. Analysys Mason confirmed that all existing uses and currently envisaged future uses for this band could be accommodated in the existing spectrum. Their view was that, given the consequent lack of congestion in the band, the opportunity cost of Band I was zero and our approach to setting licence fees should reflect this.
- 3.3 They considered the technical characteristics of the band and its inherent susceptibility to long-range interference due to sporadic E propagation. They have also considered that the successful exploitation of Band I is severely restricted by international agreements which the UK must respect. The first is a memorandum of understanding with France¹⁰ agreed in 2004, which covers assignments in this band. The second is the Stockholm Agreement of 1961 relating to broadcasting. Any use of Band I that the UK may wish to authorise must fit with these two agreements.
- 3.4 So, the work undertaken by Analysys Mason confirms that there are strong grounds for revising the Business Radio licence fees for Band I. We accept these findings and are thus proposing to reduce the fees charged for access to this spectrum to levels enabling a contribution to the administrative costs of licensing, as shown in Table 2 below. The proposed structure is intentionally seeking to retain the existing Business Radio licensing structure in order to minimise administration costs.

Table 2 – Proposed annual fees per 2 x 12½ kHz (or 1 x 25 kHz) channel

Licence	Current fee £pa	Proposed fee £pa
Technically assigned	75	75
Area-defined (UK)	3,300	600
Area-defined (England)	2,758	150
Area-defined (Wales)	163	150
Area-defined (Scotland)	285	150
Area-defined (Northern Ireland)	93	150
Area-defined GB (England, Wales and Scotland)	3,206	450
Area-defined per Trading Unit in population category A	395	150
Area-defined per Trading Unit in population category B (subject to an absolute minimum annual fee of £75pa)	50	50

¹⁰ Memorandum of Understanding concluded between the administrations of France and the United Kingdom on Coordination in the 47 - 68 MHz Frequency Band

Licence	Current fee £pa	Proposed fee £pa
Area-defined per Trading Unit in population category C (subject to an absolute minimum annual fee of £75pa)	5	5

Question 1 *Do you agree with the licence fee levels that we are proposing?*

- 3.5 We consider that these licence fee levels for Business Radio use of Band I are more consistent with our duties, particularly to secure the optimal use of spectrum.
- 3.6 At the same time, advances in technology and changes in demand may make the band easier and more attractive to use than in the past. If we were to find that the demand for Band I exceeded the spectrum that is available for effective use in the UK, under the two international agreements, then we would need to consider how best to assign it. We would expect to do this by some form of competitive award, either through an auction or through some other process - such as a 'beauty contest' alongside a revision of fee levels to reflect AIP to encourage the efficient use of the spectrum. We shall review that in the light of any subsequent interest that is shown in the band though this is unlikely to be in the next three years and not before the completion of the forthcoming Strategic Pricing review.

Question 2 *Band I is currently little used. Are there any potential uses of Band I that we should consider?*

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 26th March 2009**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://www.ofcom.org.uk/consult/condocs/bandi/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 fraser.murrey@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.
- Fraser Murrey
Spectrum Policy Group
3rd Floor
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3990
- 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 could 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 Fraser Murrey on 020 7981 3692.

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 April 2009.
- 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 Vicki Nash, Director Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email vicki.nash@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 whom 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

☐

Name/contact details/job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

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

Question 1 Do you agree with the licence fee levels that we are proposing?

Question 2 Band I is currently little used. Are there any potential uses of Band I that we should consider?

Annex 5

Impact Assessment

Introduction

- A5.1 The analysis presented in this annex represents an impact assessment, as provided for by section 7 of the Communications Act 2003 (“the 2003 Act”).
- A5.2 You should send any comments on this impact assessment to us by the closing date for this consultation. We shall consider all comments before deciding whether to implement our proposals.
- A5.3 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Act, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in our activities. However, as a matter of policy we are committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines, Better policy-making: Ofcom’s approach to impact assessment, which are on our website:
http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf

The citizen and/or consumer interest

- A5.4 The issues under consideration are whether or not we should review the fees for 55.750 MHz to 68 MHz (“Band I”) and, if we should, whether the proposed reduction in fees is right. Band I is little-used. There is some on-site paging use, mainly for synchronising clocks and some non-operational use. Details are in Annex 6.
- A5.5 We have a statutory duty to secure the optimal use of the radio spectrum. If a part of the spectrum is unused, we need to ensure that this is not inefficient. In the case of Band I, licences are service and technology neutral and can be fully traded so the use and users can change over time. However, the various international agreements that apply to Band I reduce this flexibility.

Our policy objective

- A5.6 Our policy objective, in line with our statutory duties, is to secure the optimal use of Band I. Mechanisms that help us to ensure that the opportunity cost of the spectrum is reflected in licence fee levels will contribute to achieving this objective. While Band I was included in the review of Business Radio, further, more detailed consideration of current and expected demand for this band has led us to consider whether the current licence fee for this band is appropriate
- A5.7 The demand for this spectrum may change over time. If this were the case, we would decide whether we should assign rights of use competitively (for example by auction or by beauty contest) and/or whether we should revise the fees charged for this spectrum again.
- A5.8 Given our existing understanding of current and expected demand for the spectrum, we have two options

- We could decide to leave the licence fees for Band I as they are, that is, do nothing.
- We could decide to reduce the level of licence fees to reflect our assessment that there is not expected to be excess demand and associated opportunity costs for the spectrum.

Analysis of the different options

Do nothing

A5.9 If we were to do nothing, that is, leave the pricing of Business Radio licences in Band I as it is, any use would, of course, be subject to the current fee levels. An annual UK-wide licence for, say, 1 MHz of this band would cost £132k. Given the restrictions on the scope for exploiting this Band outlined below, this fee level may not secure its optimal use. This needs to be seen in the light of a number of factors that limit the ways that it can be used:

- the Band is divided up into non-contiguous 200 kHz blocks;
- there is limited equipment commercially available for this band;
- two international agreements apply specifically to Band I and any use must fit into the power and other constraints that these impose; and
- this part of the spectrum is inherently susceptible to interference (see §3.3 above).

A5.10 It is for all of these reasons that Band I is already classified as a ‘Less Popular Band’ and priced accordingly.

A5.11 However if, as it appears, this spectrum is not being used efficiently even with these relative low fee levels, and part of the reason for this (i.e. the level of the licence fee) is under our control, not to address this issue would not be consistent with our statutory duties.

A5.12 Table A1 assesses the option of doing nothing.

Table A1. Do nothing

For	Against
Known licensing and fee regime	The band remains only partly used
Licences are available now	Annual licence fees are greatly in excess of opportunity cost
Already subject to previous consultations and decisions	Unclear if past consultations reflected technical innovations and changes in demand in the specific band concerned. This may make use of the band easier and more desirable

Reduce the level of licence fees

A5.13 A review of the opportunity cost has established that this is zero. This, in turn, means that we can reduce the fees to reflect administrative cost recovery, rather than the AIP derived level currently applied. Obviously, this reduces the cost to any licensees of the Band to a level that more faithfully reflects opportunity cost.

- A5.14 We acknowledge that future advances in technology may enable licensees to make better use of this Band. Combining this with the lower fee helps to reduce the likelihood that the band will be used inefficiently. We have set the fees at a level comparable with the lowest fees currently charged for business radio and we acknowledge that we may incur administrative costs as a consequence but we believe that to reduce the licence fee is conducive to the more efficient use of the spectrum and so enables us to meet our statutory duty.
- A5.15 We think that it is unlikely that demand will exceed supply for this band, even with the lower fees proposed. However, if that were to happen, we would have to review the fees again and possibly the spectrum assignment mechanism. That might entail a competitive award, though we would reconsider the options in the light of prevailing circumstances.

Table A2. Reduce the level of licence fees

For	Against
Better reflects opportunity cost	If demand changes there may be a need to change the level of licence fees again or revisit the assignment mechanism
Lowers cost burden on (potential) licensees	Ofcom incurs administrative costs

The preferred option

- A5.16 Our preferred option is to reduce the licence fees for the band, in light of the reappraisal of its opportunity cost.

Annex 6

Use of Band I

Table A3. Band I licences by frequency

Product	Description	Base tx	Mobile tx	Number of licences
401060	Business Radio (On Site Speech and Data Systems)	67.94375	67.94375	26
401060	Business Radio (On Site Speech and Data Systems)	67.95625	67.95625	16
401060	Business Radio (On Site Speech and Data Systems)	67.96875	67.96875	17
401060	Business Radio (On Site Speech and Data Systems)	67.98125	67.98125	18

A6.1 In addition to the services listed above there are a number of non-operational licensees operating in this band on non-interference, non-protected basis.