

Musicians' Union

60-62 Clapham Rd, London SW9 0JJ

Tel 020 7840 5507 Fax 020 7840 5505

Email: isabelle.gutierrez@musiciansunion.org.uk



Musicians' Union's response to the Ofcom consultation 'Digital dividend: clearing the 800 MHz band'

1. The MU represents over 30,000 musicians working in all genres of music. As well as negotiating on behalf of our members with the major employers in the industry we also offer services tailored for the self-employed by providing assistance for full-time and part-time professional musicians of all ages. We are responding to this consultation in order to protect the interests of our members.
2. The proposal to clear channel 69 of PMSE has led to a severe decline, and in some cases near-halt, in sales of channel 69 equipment; those businesses that depend on these sales are consequently under threat. This is because under current proposals, anyone who buys channel 69 equipment subsequent to the publication of the 800 MHz consultation document will not be entitled to financial assistance. Therefore, those who would otherwise buy new equipment are reluctant to invest. In addition, suppliers of channel 69 equipment cannot offer alternative equipment until replacement spectrum is both confirmed and made available on a UK-wide basis.
3. Users who need to buy new channel 69 equipment (i.e. that can be used and licensed UK-wide) have no other option but to invest in equipment that is not future-proofed. Again, this is because (a) viable alternative spectrum, and hence equipment, are not available and (b) the date of publication of the 800 MHz consultation is the proposed cut-off point for entitlement to financial assistance.
4. In order to address these problems, Ofcom should accept that, in the absence of confirmation and availability of replacement frequencies and equipment, users who need new equipment have no option but to invest in equipment that operates in currently-available frequencies. We would also ask that Ofcom strongly encourages the Government to make provisions for those that have purchased and will need to purchase equipment before replacement options are confirmed and available.
5. We would also ask that it be confirmed, as soon as possible, that Channel 38 will be awarded to PMSE/band manager and that every effort is made to ensure that channel 38 is as widely available as possible for PMSE use, as soon as possible. This will involve significant engagement with incumbent radioastronomy users of channel 38.

6. As the replacement for channel 69 must at least replicate its current benefits to PMSE, we agree with Ofcom that none of the following would be acceptable: a) Interleaved spectrum (not UK-wide and no additional bandwidth), b) Channel 70 (more isolated than channel 69 and no additional bandwidth), c) FDD duplex split (no certainty that it will either exist or be useable for PMSE), d) 1785-1805 MHz (isolation, lack of equipment availability, not UK-wide), e) 870-876 MHz and 915-921 MHz (isolation, interference issues and high opportunity cost).
7. If the migration of PMSE from channel 69 and the provision of replacement spectrum is considered in isolation from the wider impact of the digital dividend on PMSE spectrum access, then it would be reasonable to conclude that channel 38 is an adequate replacement. It will be available on a UK-wide basis by 2012, has a low opportunity-cost (and hence licence fee attached to it) and lies in closer proximity to post-DSO (digital switchover) interleaved spectrum than channel 69 will.
8. However, the spectrum provided to PMSE/band manager must take into account the wider impact of the digital dividend on PMSE spectrum access. As BEIRG has demonstrated in its responses to the cleared and geographic consultations, Ofcom's currently available white space maps show that there will be insufficient spectrum available in order to operate necessary quantities of PMSE equipment for large-scale musical productions to be staged at certain prime venues across the UK, including at theatres in Edinburgh, Bradford, Southend, Woking, Swansea, Nottingham, Stoke, Guildford and Tunbridge Wells. In addition, and as our models derived from Ofcom's data show, equipment costs for touring theatre will increase by a minimum of 100% post-DSO due to the increased fragmentation of available spectrum.
9. Whilst Ofcom have agreed to update the white space maps, they will not be available for some time due to the clearance of channels 61-69. Until definitive white space maps are publicly available, it is impossible to determine whether the PMSE spectrum allocation is demonstrably interference-free and sufficient in terms of quality, bandwidth and continuity to meet the PMSE sector's needs without imposing undue financial costs. Ofcom must accept that they must retain the ability to address any shortfalls in PMSE spectrum should they arise. In order to do so (and hence avoid the risk that the PMSE allocation will not be sufficient), Ofcom must do one of the following:
 - a) Award two additional cleared channels to the band manager in addition to channel 38. In this regard, BEIRG submitted a document to Ofcom in December 2008 which stated 'We believe that channel 38 along with cleared channels 39 and 40 would offer the best replacement for channel 69. Alternatively, if channels 61 and 62 are cleared of DTT and DTT broadcasting has to spill over into channels 39 and 40, then channel 38 and the cleared channel 37, along with the

interleaved spectrum in channels 39 and 40, would offer the best replacement for channel 69.' Ofcom should explore this option as a method of prioritising PMSE, rather than PMSE being a consequence of other developments.

b) If the 600 MHz auctions are to take place before definitive white space maps are available, it would be a good idea to hold back the two additional cleared channels from sale until it is known for certain which interleaved frequencies will be available for PMSE. The channels could be awarded to the band manager if the interleaved allocation is insufficient, or auctioned if not. This option would both mitigate the risk to PMSE and ensure efficient spectrum allocation.

c) Not release the lower cleared channels (i.e. do not hold the 600 MHz auctions) until definitive white space maps have been published and the PMSE sector has had sufficient time to ascertain the implications. Further to this, Ofcom will be able to address any shortfalls in spectrum availability or continuity by awarding additional spectrum to the band manager.

10. We welcome Ofcom's commitment to ensure that 'existing authorised and planned authorised users of channels 61, 62 and 69 do not bear extra costs that must reasonably be incurred to clear the spectrum'. In line with this, finance must be available when the costs to the PMSE sector arise in order to facilitate an orderly and efficient migration. The best solution would be an early Government commitment to set aside funds and ensure that an effective distribution mechanism is established.