

Virgin Media response to Ofcom's consultation "Digital dividend: clearing the 800 MHz band"

We refer to the above consultation document, which was published by Ofcom on 2 February 2009.

Virgin Media is one of the UK's leading digital investors with its optical fibre-based network reaching almost 12.5 million homes across the UK. This network is the result of a £13 billion commercial investment, made with the explicit purpose of providing a future-proofed digital platform for successive generations of new retail services including digital TV and the UK's first 50Mb broadband service using DOCSIS 3.0 technology. Today, Virgin Media continues to invest in extending the capabilities of its network infrastructure and in the development of innovative and value-added services for its customers.

As such, Virgin Media is a key player in the UK's digital broadcasting and broadband future and acknowledges that the release of the digital dividend will create huge opportunities for more innovation and competition in the wireless communications sector, including the deployment of new generations of mobile broadband technology, and the expansion of digital terrestrial television and mobile TV.

As Ofcom states in its consultation document, the UK has been a leader within Europe in planning for the release of a digital dividend but is now faced with a very significant decision. The fact that a number of other European countries could release a larger, upper band of spectrum beyond that previously planned for the UK, comprising 72 MHz at 790-862 MHz, means that how the UK proceeds from this point is very important.

We recognize the benefits that will arise for UK citizens and consumers if the UK makes the changes proposed but, as Ofcom's consultation document rightly acknowledges, there will be implications for some stakeholders.

From Virgin Media's perspective, the implications could be significant for its customers, depending upon how spectrum in the above band might be used. Our concern has grown following tests that have been carried out on behalf of cable operators in other European countries which have indicated that certain new services may well interfere with the services currently provided to cable customers, both TV viewers and high speed data users.

Whilst Ofcom has identified the main impact as being a need for some DTT viewers to carry out an extra re-tune of their set-top box (or integrated digital television) to ensure that their electronic programme guide (EPG) continues to operate correctly, we believe that the impact could be much more significant for cable customers in both the UK and other European countries.

Whilst Ofcom's impact assessment has listed specific groups of affected stakeholders, including "the transmission network owner", it appears that

this has focused on the terrestrial broadcast transmission network and not on the cable transmission network. As such, the main focus of attention has been on the mutual interference between terrestrial broadcast and mobile. The potential impact on cable seems to have been overlooked.

Because cable networks operate up to 850MHz, the studies commissioned by operators in Europe have aimed to assess the potential for interference. The initial conclusions from those studies are that major interference will be experienced by viewers at similar ranges to those identified in the Ofcom report "*Impact of interference from ECN terminal stations operating in the band 790 – 862 MHz on digital TV receivers operating below 790 MHz*" produced as an input to CEPT SE42. This states, in Section 1.3, that a separation distance of between 22 and 40 meters radius is required to prevent interference to viewers, although this separation distance does not appear to address the base station transmitters, which will be at higher powers. Unlike the off air receivers, cable operators are not able to filter out the interference as the full band up to 862MHz is in use.

In summary, the studies in Europe have flagged two concerns; one has suggested that 10% of downstream spectrum is at risk and the other that interference could occur within the TV set, the STB (and, possibly, cable modems).

In the light of these initial results, Virgin Media, along with other cable operators in Europe, is commissioning further tests/research to assess whether the above results are valid and this group is also engaging with CEPT. In addition, we believe that the European Commission and other national regulators will need to be appraised of the potential interference problem. Once the results of this further research are available, we would be willing to share them with Ofcom.

Within the consultation document, the key question is No.16, which asks: "*Do you agree with our analysis of the key impacts of our policy options? Are there any other key impacts we should assess?*"

Our response is that Ofcom appears to have overlooked the potential significant adverse impact on Virgin Media's customers and also the implications for Virgin Media as the operator of its cable transmission platform. The number of Virgin Media viewers and broadband customers that could be adversely affected is in excess of 3.5 million.

In addition, we believe that Ofcom should consider the financial implications for Virgin Media in terms of the potential costs of modifying customer premises equipment and other network elements.

It is not our objective to inhibit the exploitation of this opportunity by either the UK or other Member States, since we are fully aware of the policy objectives that the release of the digital dividend supports. However, it is essential that the potential impacts on all stakeholders are considered and that decisions are taken in the light of the wider implications for viewers and Internet users, irrespective of platform.

At this stage, we ask that Ofcom address this issue with some urgency before any final decisions are made which will unreasonably impact such a large percentage of the UK viewing public and, in some cases, may disadvantage their use of the Internet. As mentioned above, we are willing to work closely with Ofcom in the coming weeks and to share the results of initial and further research.

Virgin Media Limited
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