

Annex 4

Consultation questions

Question 1. The executive summary sets out our proposals for the digital dividend geographic interleaved award. Do you agree with these proposals?

Dumfries and Galloway Council appreciates that Ofcom has been able to identify spectrum that is suitable for local television. However, the changes to spectrum allocation over the next few years may fix the broadcasting landscape for many years to come, so it is disappointing that the element of chance of an auction should be allowed to enter in as far as embryonic local TV is concerned.

Timing – for Dumfries and Galloway there is a very short timescale between publication of Ofcom's proposals and the first auction. This is because Digital Television switchover in the Border TV region begins in Scottish Borders in November 2008 and will be closely followed by Dumfries and Galloway in 2009. In order for local ambitions for local TV to flourish, time is needed to put into place the framework and funding for an auction bid for spectrum from organisations in this area. Furthermore, the plans being drafted are for a single station serving two channels. There is a need to know that spectrum is available from both transmitters. Business plans require a level of certainty about the investment required and the benefits to be gained, but the coverage and cost of geographic interleaved spectrum remains uncertain.

In addition to constraints placed upon the interleaved mux spectrum we have been advised that the position on the mast at Caldbeck offered by the owner would not provide a signal far into D&G and would not reach the relays. AS a public authority it is vital that we provide services, or support services, that are available to all – though some may choose not to receive them the signal needs to be accessible.

The timing of the auction, with respect to the Caldbeck transmitter particularly, does not allow Scottish Government the opportunity to take in the results of the Scottish Broadcasting Commission study prior to the end of the consultation and even prior to the planned auction itself.

There are proposals in the technical annex to the consultation 'Spectrum Efficiency in Scotland: Study Proposal' which the Council believes offer a better option for local TV (and indeed Scottish TV) than the geographic interleaved spectrum. This option requires prompt action from Ofcom to ensure that the engineering work for Scotland is configured to allow this most efficient use of the airwaves. See below.

Question 2. Do you have any comments on our assessment of the most likely uses of the geographic interleaved lots? Are there any potential uses which should be considered that we have not mentioned?

All the current possible uses do appear to have been considered. However, the arguments being made by community media groups to treat local TV as having public purposes and great social value do not appear to have been given sufficient weight.

Despite considering the uses for spectrum, Ofcom has not picked up all the possibilities of how the spectrum itself could be best divided up in Scotland. As mentioned above, the technical study has shown that a new group of channels could be made available in Scotland as long as the engineering work is agreed in very short order. Small changes in the overall configuration for Scotland could allow a new group of channels (a seventh multiplex) to broadcast to a much larger percentage of the nation than permitted by geographic interleaved spectrum and without the dangers of interfering with present digital channels. There are overwhelming public service reasons to see that the needs of the Gaelic Media Service are met along with the possibility of a new Scottish channel, whilst still leaving room for a federation of local channels

Question 3. Are there any other types of DTT transmission that should be protected from potential cognitive devices or other factors that we should take into account?

Question 4. Are there any potential future PMSE applications, other than currently available wireless microphones, in-ear monitors and talkback systems, that you consider should be protected from potential cognitive devices?

Ofcom itself has suggested that if geographic spectrum is not sold at auction it might be given to the band manager. Although the Council does not consider this spectrum ideal for local TV for public service purposes, nonetheless this use should be considered and protected from interference by cognitive devices. Is there proven need for in-band spectrum to be used by the Band Manager for PMSE – could this not be reserved for a community scale of local TV?

Question 5. Is there sufficient evidence to require protection for other services such as mobile television, bearing in mind the potentially negative implications of such protection for deployment of cognitive devices?

See above Q4

Question 6. What levels of coverage and aggregation are of interest to you?

The South of Scotland local TV working group (to which Dumfries and Galloway Council sends representatives) has been exploring the feasibility of setting up an

organisation that can broadcast to both the Dumfries and Galloway and Scottish Borders, sharing some content and resources to improve the viability. These discussions are fairly well advanced and depend initially on support coming from both councils. This Council would like Ofcom to accept that local authorities may have to provide seedcorn funds to community media organisations who wish to become broadcasters, particularly in rural areas where commercial interests are fewer and less likely to be interested. Without that initial funding, the possibility of applying for grants is seriously reduced given that many grant providers will only 'match-fund'.

The population of the South of Scotland covers a wide geographical area from Stranraer in the west to Eyemouth in the east. We are advised that local broadcasting will not have a favourable position on the transmitter mast and the need to avoid interference with current national digital channels could limit the coverage. At most we would expect 50% of the population nearest to Dumfries and the Caldbeck transmitter to be covered and fewer still if the transmission of the signal were to be from a low position on the mast. A South of Scotland TV organisation supported by the two Councils would wish to broadcast to as large a percentage of the population as possible and this Council supports that aim. Universal reach is an essential feature of any service that has public purposes. The suggestion above (a seventh Scottish Mux) would cover the majority of the population – for the South of Scotland that would be approximately 250,000.

A local TV service with universal reach could be expected to cover the following:

- Public information, including public health features, emergency services features and emergency messages
- Local festivals and events (eg Wickerman Festival, Tour of Britain cycle race, Gaelforce Festival, Spring Fling)
- Local music/bands
- Local arts features (eg National Gallery's Face of Scotland exhibition)
- Local sports (eg Melrose Rugby Sevens)
- Local current affairs, amongst other things
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The South of Scotland group is planning for a local station to start up in a modest way as a music video channel, gradually increasing the local content. There would be a single administrative unit broadcasting from two transmitters, allowing Dumfries and Galloway and Scottish Borders to develop their own distinctive local programming. South of Scotland TV could also be a training unit, working in partnership with local colleges and universities. Trainees would do media studies as day release and learn practical film-making and broadcasting skills on the job.

This model does more than simply broadcast programmes of local interest:

- It supports local education
- It will attract students to the expanding Crichton University/College campus;

- Increases employment and regeneration, providing a film-making skills base in the South of Scotland
- It acts as a local voice and offers a means of communicating with and consulting with the whole of the local population.

Question 7. Do you agree that the median option offers an acceptable balance between protecting reception of DTT services and maximising new DTT services using geographic interleaved lots?

No Median is not appropriate in areas with only one realistic source of national TV signal.

Question 8. Do you agree with the proposal for a series of awards of spectrum lots - an award of lots for Caldbeck, Winter Hill and Wenvoe in late 2008 or early 2009, a single award in 2009 of large lots and awards of lots for other locations linked to DSO?

The technical advice we have received suggests that the interleaved mux spectrum from Caldbeck might better serve Carlisle (without relays) than Dumfries and Galloway where relays are necessary. The mast owners have offered a location on Caldbeck that is too low to reach relays or outlying population. The South of Scotland Alliance (combining the two councils and Scottish Enterprise) has taken the view that the only option short of carriage on a PSB mux is the spectrum offered at Sandale and Selkirk that forms the local element of the seventh mux proposed by ngwireless and referenced in an ANNEX to Ofcom's consultation.

Question 9. Do you agree with the proposal to hold the combined award for large lots of geographic interleaved spectrum shortly after the cleared award in 2009? What should the time interval be?

The Councils' combined proposal requires spectrum for Selkirk to be available at the same time as for Sandale/Caldbeck.

Question 10. Do you agree with our approach to expressions of interest in order to finalise the spectrum lots appropriate to allocate by auction?

Business plans are dependent upon coverage and cannot be fully developed without a clear idea what coverage can be expected. Transmission costs are also an important requirement for business plans, but prove difficult to establish until spectrum and carriage estimates is determined.

Question 11. Do you agree that we should run single unit ascending bid auctions for the award of each of the spectrum lots for Caldbeck, Winter Hill and Wenvoe?

No – we do not believe auctions are in the local public interest or in the interest of a network of local TV channels

Question 12. Do you have comments on whether the initial auctions of spectrum lots for Caldbeck, Winter Hill and Wenvoe should be run in sequence or in parallel?

See 11 above.

Question 13. If the initial auctions are run in sequence do you have a preference for the order in which they run?

See 11 above.

Question 14. Do you consider that a combinatorial clock auction would be more suitable than a simultaneous multiple round auction for the combined award of large lots suitable for aggregation?

See 11 above.

Question 15. Do you agree with the proposal that the phased award of medium/small spectrum lots at locations linked to the DSO timetable should be by single unit ascending bid auctions? If not, which would be your preferred auction format and timing?

See 11 above.

Question 16. Do you agree with the proposals for the main rules that we are minded to adopt for each of the three single unit ascending bid auctions?

Question 17. Do you have any comments on the technical licence conditions we are proposing to include in the licences?

The median restriction is inappropriate in areas served by one transmitter.

Question 18. Do you agree that the licences for the geographic interleaved spectrum should not allow the co-ordination threshold to be exceeded?

No comment

Question 19. Do you agree that where the geographic interleaved spectrum is used for the operation of a DTT multiplex, we should replicate the ownership restrictions from the Broadcasting Act regime relating to (a) local authorities, (b) political bodies, (c) religious bodies and (d) bodies exerting undue influence but not replicate restrictions relating to (e) broadcasting bodies and (f) advertising agencies?

We accept the reasons behind Ofcom's proposal that some of the Broadcasting Act rules will apply to licensees. This will have implications for the planning for South of Scotland TV to which Dumfries and Galloway Council is contributing as part of the South of Scotland Alliance. We agree that an organisation expected to bid for geographic spectrum should be at arm's length from public bodies, nonetheless some public funding may well be necessary to get such a project off the ground. Grants suitable for community media groups usually require match funding, so local councils should still be able to contribute to community media organisations that wish to be broadcasters. That said, the Council would not expect to have undue influence on a local TV station that would be expected to have independent editorial control.

The Council does not believe that the auction system will provide the best social value from spectrum and supports the principle that local TV has public service purposes and that these should be more widely accepted. The local economy will benefit from local production and broadcasting, contributing programmes from here to a network of channels. Nonetheless we have made an assessment of the interleaved spectrum on its technical merits and the offer to locate the local TV service on the mast at 83 metres and have concerns that this offer is not fit for purpose to support a local TV service that can cover the region

We know that the seventh mux spectrum in the Dumfries and Galloway and Scottish Borders is available, is fit for purpose, and we welcome the added confidence this spectrum offers to provide a network approach to accommodate a local TV service around Scotland. The seventh multiplex appears to offer the best solution, whilst allowing room for a new Scottish channel and the Gaelic media service to be included.

Question 20. Do you agree that we should facilitate interoperability between existing DTT multiplex operators and new operators using cleared spectrum?

No comment

Question 21. 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.

In the interests of openness, the Council agrees that the ownership and use of spectrum should be information that is readily available.

Question 22. Do you agree with our approach to assessing whether the awards of geographic interleaved spectrum fully promote competition and efficiency?

There is still the possibility that small packets of spectrum will be scooped up by large operators with little or no intention of using it – that seems of doubtful efficiency and competition. The deepest pocket still wins – in broadcasting this has not traditionally been the British way of doing things because we have a concern for our cultural lives. Competition and efficiency is considered in this auction plan, but leaves public service broadcasting out of the equation – yet local TV is as likely to deliver PSB purposes as national or regional TV.

There is an opportunity to have all three levels of broadcasting – local, regional and national, but that chance could so easily pass us by.

Question 23. Do you have particular concerns about possibilities for award outcomes to fail to fully promote competition in downstream markets or to result in inefficient use of spectrum? If so, please explain what these are and provide supporting evidence.

The failure to have a use it or lose it rule is reliant on the bottom line efficiencies of companies – yet the idea that spectrum will represent an asset that companies will want to use or sell is not proven, and subject to the vagaries of the markets.

The Council is less concerned about competition and more concerned that public service purposes are fully met by spectrum allocation locally and in Scotland.

Question 24. Do you agree with our proposals to include an information provision licence condition to help facilitate efficient secondary trading?

Yes

Question 25. Do you agree with our view that we should not apply any general remedies other than for information provision in the geographic interleaved award?

No – where fit for purpose, interleaved spectrum with detailed assessment of coverage should be reserved for a period for local TV to step forward. If after time this does not happen then it might be offered for other use.

Question 26. Do you agree with our initial assessment that we should not intervene in the geographic interleaved award to remedy any potential impact on competition resulting from the holding of geographic interleaved spectrum by either Sky or NGW/Arqiva?

New entrants should be given priority and a window of opportunity – see 25 Above

It does appear that NGW/Arqiva are in a unique position being the ones with engineering control and yet still being a party who could be interested in bidding

for spectrum. Other platforms are also cited as an alternative. The only other platform for local content is over broadband, but the research done, including that by OFCOM, suggests that TV is still the most popular medium.