

Ofcom Advisory Committee for Scotland

Response to Geographic Interleaved Awards Consultation

1. Introduction

We welcome the opportunity to respond to the Consultation on the Geographic Interleaved Awards resulting from the Digital Dividend. We have been involved in discussions on all aspects of the Digital Dividend awards, and welcome this continuing dialogue. In this response we concentrate on aspects of the geographic interleaved awards which are specific to Scotland.

2. Response to Questions

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

We read with interest the NGW study on optimisation of interleaved spectrum in Scotland. (Annex 5, and technical report on Spectrum Efficiency in Scotland). We would like to see further work on both of the suggested additional layers, which would meet a perceived demand in Scotland. We accept that it is not possible to state whether that demand is real, but this may become clearer on publication of the Scottish Broadcasting Commission final report in September. We note that in some cases it is claimed that coverage would be improved by the reorganisation, and feel this needs to be quantified so that the benefit of the reorganisation on those grounds can be weighed against the potential disruption of the reorganisation.

In addition, there is a proposal in Appendix 1 of NGW's study for further work assessing the possibility of a 7th multiplex in Scotland by more efficiently grouping existing channels. It is claimed that 'Though there is potential disruption to the DSO plan the benefits derived from the more efficient allocation of spectrum are believed to be of significant value to Ofcom'. We would urge Ofcom to look at the possible benefits of such a reorganisation. If such a study is to be commissioned, it needs to be done quickly, in order that a decision can be made in 2009, before DSO occurs in the rest of Scotland. Now is the obvious time to carry out a reorganisation, when physical work on transmitters is being done as part of DSO. If we do not make use of this opportunity, it will presumably not even be an option until 2026, when the licences granted in these awards come up for renewal.

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?

We agree that this seems to offer the best compromise. Concerns have been expressed in the Borders (switchover scheduled for November 2008) that the auction of small and medium sized lots in that area could be seen as a chance for the bigger players to 'test the waters', and that local players might lose out. To help avoid this, the phased awards for areas which have already completed switchover by the end of 2008 should take place separately from, and after, the single award in 2009. This is implicit in your arguments in eg section 6.47 of the main report, but we want to be sure that this is the intention.

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

We agree with this approach, but there are concerns that those who have already indicated an interest in a small or medium sized lot might not realise that they need to do more in order to ensure there is an auction of that spectrum lot.

There is a need to ensure that those who have expressed interest informally in particular spectrum lots being considered for the phased awards are explicitly invited by Ofcom to make more detailed submissions, and that it is made clear that this is necessary in order to ensure that there will be an auction for that lot.

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?

With regard to the idea of a 'use it or lose it' clause, you state that 'We do not propose to introduce this remedy in the geographic interleaved awards. The key reason for this is because this remedy tends only to be effective where spectrum is demonstrably idle for inefficient reasons. Where these conditions are not met, this remedy risks forcing use of spectrum where it is not yet efficient to do so.'

We do not agree that this is a valid reason for not having such a clause, it is simply an argument for phrasing such a clause better. Given the long length

of the licences being granted, it would seem reasonable to ask licensees to at least justify the non use of spectrum after a period of say 5 years. There could then be an option to 'take it away' if Ofcom is not happy with the justification given.

Ofcom Advisory Committee for Scotland, August 2008