



**SCOTTISH BORDERS COUNCIL
RESPONSE TO OFCOM consultation on
'Digital Dividend Review: geographic
interleaved awards 470 - 550 MHz and 630
– 790 MHz'**

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?

Scottish Borders Council welcomes the opportunity to present its case for local television. We are aware that this auction of the geographic interleaved spectrum is a generational opportunity and are disappointed that the spectrum has been put to auction with the risk that local interest and need may not be capable of being fully met in the competitive process.

We are particularly concerned about the short interval between publication of Ofcom's proposals and the first auction. We require an adequate period of time to establish the framework of a local TV initiative and to put in place the funds to service that framework. We require some certainty about the investment need and both the short turnaround time and lack of certainty and baseline information about the coverage and cost of the spectrum risks compromising our business planning.

At a national level, we are aware that the Ofcom consultation timing and the deadline for auction does not afford Scottish Government the opportunity to respond to the results of the Scottish Broadcasting Commission study. For all these reasons we suggest a short delay in the auction process to allow this to happen.

There are proposals in the technical annex to the consultation 'Spectrum Efficiency in Scotland: Study Proposal' which we, with Dumfries and Galloway, believe may offer a better outcome for local TV (and indeed Scottish TV) than the geographic interleaved spectrum. These proposals require prompt consideration and action from Ofcom to ensure that the engineering work for Scotland is configured optimally. 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?

We believe that Ofcom has considered the range of current possible uses of geographic interleaved spectrum. However, the public purposes and social value of local TV, we believe, has been understated.

Despite considering the range of ways in which the spectrum could be deployed, Ofcom has not fully examined how the spectrum itself could best be divided up in Scotland. The technical study has demonstrated that by carrying out, now, some remedial engineering work a new group of channels could be made available in Scotland. 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 is an undeniable case to ensure 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?

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?

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

Scottish Borders Council is an active partner in a new South of Scotland local TV working group. This group has been investigating the feasibility of establishing a new local TV production company for the region. Operating from a base in the South of Scotland, the new company would broadcast to Dumfries and Galloway and Scottish Borders with shared content and some items differentiated to meet the particular needs and interests of each region.

Work is being undertaken on a business, operational and programming model for this new company and in framing the financial demand and likely level of public subsidy required to deliver the social, cultural and economic impacts of community-based local TV. This work is at a definitive stage and both Councils are proceeding to assess the required level of capital and revenue investment in a new production and broadcast company and the business case for that investment.

We believe that an alliance of public sector agencies, such as our South of Scotland local TV working group, working towards the creation of a standalone community/commercial enterprise is the best approach for maximising the benefits of local spectrum in a rural area such as the South of Scotland. We are not persuaded that there is a purely commercial solution, because we are unconvinced that there is the threshold of interest in our region or that there is a sustainable business model that can deliver the important range of social, cultural and economic gains offered by local TV. This Council would like Ofcom to accept that in the South of Scotland local authorities may have to provide active support to a local TV enterprise.

We remain unclear about the coverage achieved by geographic interleaved spectrum. The population of the South of Scotland covers a wide geographical area, with dispersed rural populations – from Stranraer in the west to Eyemouth in the east. The information provided suggests that the premium placed on the need to avoid interference with current national digital channels could limit the range of broadcast. At most we would expect 50% of the population to be covered and fewer if the transmission of the signal were from a low position on the mast. We are therefore concerned that we might not have the critical threshold of audience to make the creation of a local channel viable. Universal reach is an essential feature of any service that has public purposes. The suggestion above would cover the majority of the population – for the South of Scotland that would be approximately 250,000.

We have undertaken some preliminary work on modelling the content of a local TV service. We have been particularly concerned to ensure that the service would promote active citizenship and be a democratic voice for the South of Scotland.

As we move towards delineating a business and operational model for local TV, we would subscribe to these broad aims. Local TV should:

- promote and deliver community and democratic engagement across the South of Scotland - opening lines of dialogue and communication with service providers and decision-makers.
- reflect the culture of the South of Scotland back upon itself and represent a distinctive local voice for Dumfries and Galloway and Scottish Borders
- be an information conduit for citizens and local communities
- provide emergency information
- seamlessly integrate with other new and emerging media, particularly broadband
- enhance the media skillsbank in the South of Scotland, creating training opportunities, especially for young people, in filmmaking and broadcasting
- contribute to economic regeneration in the South of Scotland, supporting employment and raising skill levels

We expect that the programming would grow to include:

- public news and information broadcasts - public health features, emergency services features and emergency messages

- news magazines – produced by young people and community film-makers
- interactive engagement on local issues
- issues-based film-making – young people and local communities documenting their lives and raising a voice in decision-making
- locally produced music videos, animation, film shorts produced by community-based film-making groups

We anticipate these outcomes from an investment in local TV:

- the creation of a sustainable new community/commercial enterprise
- increasing participation in local democracy
- new opportunities for graduated media skills training, partnering with local education providers
- increasing participation in community events and local festivals
- increase in film making businesses in the region – retained, start-ups and relocations to the area
- improved promotion of the area

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?

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 planned auctions for Caldbeck and Selkirk are not matched to the DSO timetable: Caldbeck is proposed for an early auction, yet Selkirk is the first to switch, but is listed in a later auction. Nor are the auctions designed to support a South of Scotland local TV initiative. Accordingly, we suggest that an auction, if it must proceed, should take into account how spectrum could be packaged to allow integrated action across Scottish Borders and Dumfries and Galloway and a single local TV enterprise driving out benefits from economies of scale.

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 Council would hope that spectrum for Selkirk would be available at the same time as Caldbeck as part of the phased award rather than the combined award.

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

Ofcom has not provided complete technical information and transmission costs. We are therefore hindered in our business planning especially where our business case must be made, in the first instance, on coverage achieved.

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?

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?

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

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?

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?

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?

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

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 Ofcom's assertion that the Communications Act [2003] rules apply to licensees. This will have implications for the planning of South of Scotland local TV in which Scottish Borders Council is an active partner. We recognise that an organisation expected to bid for geographic spectrum should be at arm's length from public bodies. Nonetheless public sector assistance may well be necessary to establish a sustainable local TV enterprise and we believe that local authorities should still be able to contribute support to a new community/commercial enterprise that will deliver local TV. The Council would not seek, in return for its investment, to have undue influence on a local TV station which would be expected to maintain independent editorial control.

We believe there is a risk that the auction that is framed with its outcome determined purely on a commercial 'highest bidder' basis, will not realise the real social, cultural and economic gains from local TV. If the principle that local TV has public service purposes can be accepted, we would expect that spectrum could be found to accommodate a local TV service around Scotland. The seventh multiplex appears to offer the best solution, whilst allowing room for the Gaelic media service and a new Scottish channel.

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

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.

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

Competition and efficiency is given primacy in Ofcom's auction plan, but this may sideline public service broadcasting, particularly local TV. There remains a risk that small packets of spectrum will be scooped up by large operators, operating on a speculative basis, with little or no intention of using it. There is an opportunity to promote, with this auction, all three levels of broadcasting – local, regional and national – but that chance could so easily be missed with the current arrangements.

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.

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

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?

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?

The response to 22 partly answers this.

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.