

**OFCOM'S DIGITAL DIVIDEND REVIEW: Geographic interleaved awards 470-
550 MHz and 630-709 MHz
Consultation on detailed award design
PUBLISHED 12 JUNE 2008**

A SUBMISSION FROM STV

21 AUGUST 2008 (with extension granted to 05 September 2008)



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Extract from PSB Phase One Submission of stv (dated 20 June 2008) outlining its vision for a local news offering as part of a wider set of integrated services including digital city TV

Executive Summary

stv¹ is pleased to have the opportunity to comment on this Consultation relating to interleaved awards, UK-wide.

We have addressed the Questions posed by Ofcom in its Consultation document of 12 June 2008, but in this Submission our views relate principally to use of the spectrum in Scotland.

These are views on spectrum use which we have already been put forward within stv's response to Phase One of Ofcom's PSB Review. Our submission was a public document but, for convenience, we reproduce a key extract at Appendix 1.

We believe events have to a large extent overtaken Ofcom since it issued the Consultation document on 12 June 2008, and indeed spectrum use cannot be extricated from the PSB Review in our view.

It is clear that within Scotland, there are key factors at play – (1) a devolved nation, and a potentially divergent political agenda; (2) recognition that there is a hunger in Scotland for “at risk” PSB – local programming tailored for the Scottish market; and (3) public acknowledgement by Ofcom that the licences of stv – the Scottish Channel 3 licensees will be the first to go into deficit – with the cost of news alone exceeding the benefits of public service broadcaster status by 2010² – indeed by our calculation, by 2009.

Therefore, in our view, there now needs to be active and dynamic consideration of use of spectrum for a Scottish channel. Funding issues would likely rest with legislators – be that at Westminster or Holyrood - but Ofcom's role in bringing the channel to fruition would be to ensure that spectrum was put to optimal use (whether released through the Digital Dividend or otherwise available) for public purposes – as indeed Ofcom itself predicated might be appropriate.³

Consequently, we believe that Ofcom should consult specifically on use of spectrum for a single Channel for Scotland rather than proceed with proposals to auction lots within Scotland, thereby losing this golden opportunity to deliver some value into the licences held by the commercial psb broadcaster for Scotland.; and maintain and strengthen PSB in the nation.

We recognise that Ofcom favours city tv and welcomes its launch but we are firmly of the view that stand-alone city channels will fail if Ofcom maintains its market driven approach to spectrum release in Scotland. Scotland needs special consideration.

The best use of the spectrum is for DTT transmission, but it should be released in Scotland as one lot. Other services will be able to use the cleared spectrum. By its nature the regionalisation of the interleaved spectrum lends itself to Local TV, and that is the best use that can be made of it. However, the economics do not stack up, with the risk that only the larger transmitters will be taken up by high bidders to launch new slots, whereas viewers in other areas will be denied access to equivalent

¹ Stv Central Limited and stv North Limited (together “stv”), the two Channel 3 licensees who broadcast wholly within Scotland, branding as “stv” rather than ITV1 as in England and Wales

² See paragraphs 1.50 and 9.34 of Ofcom Consultation Document published 10 April 2008 on PSB Phase One

³ **Para 7.125** – Digital Dividend Statement on Ofcom's approach to the award of the digital dividend spectrum – <http://www.ofcom.org.uk/consult/condocs/ddr/statement/>

“we have decided not to intervene (to provide an additional DTT multiplex for community/citizen focused content) .. but we believe it is important to consider the issues faced by such services that generate broader social value. We will do so in our second PSB review”

new services, thus widening the digital divide in the more remote areas of Scotland. stv for its part has a vision for a portfolio of services (broadcast and online) to achieve reach and provide enhanced offerings to viewers at both a national and local level – continuing to offer the best of network programming whilst delivering a new dedicated Scottish channel on released spectrum. Integrated online services would underpin broadcast delivery, and the hierarchy of services would embrace technological advances and the benefits of regionality offered through the DTT platform to serve Scottish viewers, and enable greater interactivity with local communities.

stv is uniquely placed to support and, crucially, to cross promote this channel, and would aim to operate it at local level in partnerships with local business and government initiatives and service providers to promote content creation that is relevant to local communities.

We strongly believe this is the ideal juncture for Ofcom to re-assess its approach to spectrum allocation in Scotland, and we favour intervention to release it for the public purposes we have outlined here (and more fully in our PSB Submission) rather than the pursuit of a market-driven approach which we believe is not economically justified.

end

OFCOM QUESTIONS/ANSWERS

Question 1

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

In our view the interleaved spectrum should be reserved for Local TV as the other services discussed (Mobile Broadband, Mobile TV, Cognitive Devices) can all take advantage of the cleared spectrum.

The interleaved spectrum in Scotland should be reserved and aggregated into one Lot for the purposes of a single DTT television channel for Scotland, with Local TV micro-region options.

The spectrum has the potential to be so configured for Scotland, and that is the approach which we support.

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?

The best use of the spectrum is for DTT transmission. Other services will be able to use the cleared spectrum. By its nature the fact that this interleaved spectrum can be regionalised, means it lends itself to Local TV use. However, the economics for that do not stack up if the spectrum is auctioned piecemeal by lots. Furthermore, there is a clear risk that the spectrum associated with the larger transmitters will be taken up to launch new slots, whilst viewers in other remoter areas served by the smaller transmitters will be denied access to new services, thus widening the digital divide in the more remote areas of Scotland.

It therefore should be allocated to DTT use but in a way to render its use cost effective and sustainable. Stv has a sustainable vision for a digital channel for Scotland with local opt outs, particularly around local news services, but otherwise operating as a pan Scotland channel. stv is uniquely placed to support and crucially to cross promote this channel, and would aim to operate it at local level in partnerships with local initiatives and service providers to promote content creation.

We understand that more spectrum may become available on completion of DSO which could deliver universality across a second multiplex, but that will be too late for the innovative and sustainable use required now in present day Scotland.

Ofcom has already acknowledged that the stv Channel 3 licences in Scotland go into deficit earlier than in rest of the UK. As early as 2009, plurality of PSB in Scotland is at risk and the potential for new and improved services will be lost if Ofcom does not seize the opportunity to intervene in the allocation of this spectrum in Scotland in place of the proposed route of auctioning lots to the highest bidder.

In our view, the best use of the interleaved spectrum is for DTT transmission. Other services will be able to use the cleared spectrum. By its nature - admittedly on a purely technical level, the regionalisation of this spectrum lends well itself to multiple Lots for Local TV, but that is not the most efficient use of the spectrum.

In our view it is unlikely that a variety of Local TV channels across Scotland under multiple ownership will be economical. The only profitable Local TV channels are likely to be those in Glasgow and Edinburgh. We expect that Local TV channels in any other areas would be unlikely to survive on their own.

Additionally, there is the risk that the larger DTT transmitters will be taken up to launch new slots and this will deny viewers in other areas access to new services, widening the digital divide in the more remote areas of Scotland.

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?

We have no submissions to make in response to Question 3.

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?

It is unclear what the terms of reference to the proposed PMSE Band Manager will be. In our view the proposals offer too much scope for bypassing the existing Band Manager system.

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?

We have no submissions to make in response to Question 5.

Question 6

What levels of coverage and aggregation are of interest to you?

We are interested in covering all of Scotland by aggregating the channels together to provide a pan Scotland network service with Local TV micro-region opt outs.

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?

This is less of an issue for stv - we have very little interaction between ourselves and other regions. If a viewer loses a signal due to interference they will be able to re-

align their ariel to another stv service. It is less likely we will lose them to another itv region. As we understand it, the rationale for using the median is to increase the amount of spare white space available to award, potentially increasing the amount of lots that can be auctioned and the coverage.

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?

Our view on the relationship between lots is determined by our primary view that there should be aggregation of lots for a single Scottish Channel.

In our view the Scottish licences should be aggregated into a single All Scotland Lot, because this is the only economically efficient method of using the interleaved spectrum for television in Scotland.

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?

This may simply result in a bidder not securing Cleared spectrum and transferring his attention to the interleaved spectrum for uses which would be better served by the Cleared spectrum.

Timing is not the issue, and we would urge Ofcom to fully consider the policy options first in light of the real potential in Scotland for efficient and sustainable use of the spectrum for Local TV in combination with a pan Scotland channel.

Question 10

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

Principally, our view is that the best procedure will flow out of the correct policy decisions. At the very least, Ofcom has to re-consider specific procedure in light of the new policy dimensions in Scotland – 1) a Scottish channel which lends itself neither to going on the cleared spectrum; nor lends itself to use specifically for Local TV.

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?

Each of the different auction methods have different implications, and there is no certainty around the outcome. In our view the only certainty would be lost

opportunity. We believe that by auctioning individual lots, howsoever it is done, Ofcom would be consigning Local TV to the dustbin since:-

- 1) economics of single city TV are too challenging;
- 2) it is inevitable that other uses will prevail in an auction process; and
- 3) an auction process would result in fragmentation of the spectrum and the opportunity in the nation of Scotland for sustainable PSB use of valued spectrum (to incorporate Local TV into a pan Scottish offering) would be gone.

Ofcom should park all the issues around an auction process until policy is decided on. In fact, prior to any final decisions on the auction process, Ofcom should reserve its position until final recommendations are issued on PSB Review for the Nations. This is too valuable an opportunity to lose – to use spectrum for PSB in the nations. If Ofcom believes in PSB use, then that has to be an All Scotland Lot, and at no price should it be fragmented.

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?

This all goes back to setting the policy before trying to fix the procedures.

Question 13

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

We would prefer the Scottish licences to be aggregated into a single All Scotland Lot.

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?

The policy should be settled first.

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?

In our view, the interleaved spectrum in Scotland should be reserved and aggregated into one Lot for the purposes of a single DTT television channel for Scotland, with Local TV micro-region options. In our view if the interleaved spectrum is carved into multiple Lots, and these are not aggregated into a single DTT television channel for Scotland, with Local TV micro-region options, then the results will be chaotic.

It will be crucial for sustainability that all the Local TV stations in Scotland be “joined up” in some way, and we believe we are uniquely placed to do that in Scotland owing to our experience as the Channel 3 licensee in Scotland, our ability to cross promote and our vision for operating PSB within our role as the commercial PSB broadcaster for Scotland.

If the interleaved spectrum in Scotland is carved up into many Lots and these come under multiple ownership, then a fragmented Local TV service will develop and only the Local TV channels in Glasgow and Edinburgh are likely to be profitable without the support of a Scottish network channel.

It will become another example of the digital divide.

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?

We have no comments given our clearly stated view that policy should be settled first.

Question 17

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

We have no issues with the technical licence conditions.

Question 18

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

No issues / not applicable as we have very little co-ordination between countries to take into account.

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?**

Yes stv agrees that the same restrictions on ownership should be placed on parties (a) to (d), but not on parties (e) and (f).

We believe that the BBC should not bid in any auction but anticipate in any event it would not obtain Trust approval to do so, nor should it, as the public value could not be realised where there are other parties in the market.

Question 20

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

Yes. We believe that any future multiplex operator must have the ability to join the existing DTT system, although it should not be required to do so.

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.

We have no submissions to make in response to Question 21.

Question 22

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

stv is in favour of competition and efficiency, but there must be regard to for the public interest.

We believe that there is a distinction between Ofcom maximising competition during the auction process and maximising efficiency in respect of the Scottish interleaved spectrum. If Ofcom seeks to maximise competition by auctioning off multiple Lots in Scotland, then this will be at the expense of technical and economic efficiency. Although auctioning multiple Lots in Scotland may, in theory, increase competition for those Lots in the narrow context of the auction process, in practice it will lead to a fragmented Local TV service and only the Local TV channels in Glasgow and Edinburgh are likely to be profitable without the support of a Scottish network channel. This is why we suggest a single All Scotland Lot is likely to be the most technically and economically efficient way to award the interleaved spectrum in Scotland, and this will benefit competition in the wider context.

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.

We do not think the market will deliver the public policy, and we favour regulatory intervention to allocate the spectrum for public purpose uses.

Regulation is there to ensure positive outcomes, where the markets would not deliver. The markets in this case will not deliver Local TV in any sustainable form.

Question 24

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

We approve of these proposals.

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?

We agree.

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?

It is premature to contemplate intervention in the process until the policy and the outcomes of policy are fully settled.

end

Appendix 1

Extract from PSB Submission of stv outlining its vision for a local news offering as part of a wider set of integrated services including digital city tv submitted to Ofcom 20 June 2008.

SCOTLAND – THE VIEWER’S FUTURE AND STV’S ROLE IN IT

We believe in the following description of the future – a totality of vision.

- A continuation of stv – national commercial PSB broadcaster for Scotland (with an integrated TV and online offering) and a network producer of content with a reputation and ability to be at the hub of emerging creative industries. News and current affairs programming would be underpinned through access to guaranteed funding as a counterpoint to the BBC in Scotland. Our news offering has reach; relevance and ratings. We provide plurality competing with the BBC (and currently outstripping them in terms of audience, a demographic which is markedly different, and a granularity and split location delivery which is valued by viewers). But to continue we need guaranteed news funding, and the BBC needs to be held in check online.
- Stimulation of Scotland as a creative hub through access to contestable pots of funding for production which shows on the network, but has an element ring-fenced for Scotland.
- A new digital Scottish channel showcasing the best of Scotland from a combination of sources. Our core Channel “stv” houses the network schedule. A second digital daughter channel is the place to innovate; to experiment. To show that rich archive (both BBC and stv) everyone feels needs seen, and to commission new material from the Scottish creative base. With core channel investment guaranteed around news and current affairs, we could re-purpose this material for the digital channel, and we could offer enhanced local news services for these markets on broadband⁴. We would use our existing infrastructure to host the channel using our four Scottish locations. There would, of course, be spend on capital upgrade for the production and transmission of the new local services. It would also require some additional staffing to guarantee the volume of output required, but economies of scale could deliver tangible benefits in the viewer experience of re-purposed, ultra local news. Costs per minute reduce as news output increases. Building on the success of the micro regional news output that we’ve established, it points the way ahead for news provision in Scotland. Local news services based around a network of local TV services, operating as part of a pan Scotland channel outside news slots. stv is uniquely placed to support and crucially to cross promote this channel. It cannot be stand alone. The digital channel would be able to take those editorial risks – innovation; comedy; local talent. There would be a symbiotic relationship with the core mother channel, and hence sustainability.
- Furthermore, there would be an ultra local approach out of peak – Local Television which, from a programming and editorial basis is exciting. As soon

⁴ **Note Update:** and the re-purposing would be for the purpose of City TV delivery

as you go very local, within that local area there will be a lot of content that actually is being produced by bodies and organisations – up to now without a voice. We envisage partnerships at local level and community links to promote talent and deliver new outlets.

- We foresee a one-off opportunity to combine online technological advances and spectrum access in support of local services, and thereby improve the viewer's experience. This would provide Scotland with a 21st century offering; capitalising on new technology in order to build and better serve our communities; and it could be provided within the current regulatory and legislative structure.
- The broadcast DTT universal platform remains an important platform to reach out to viewers (offering universal coverage at 98.5%) whilst promoting the online environment as an interactive enhanced service which can provide further granularity and localised cover.
- Scotland has a unique creative ecology – an interwoven creative industry around film, broadcasting, the visual arts and new media with cross sector initiatives to promote skills that can serve it, and nurture talent that can develop it. Funding sources have to be identified to secure PSC for the future, and PSC of the future has to evolve and be delivered multi-platform, and recognise that UK is a multi-layered society. Scotland could benefit from a second channel with localness, experimentation, re-purposed news as its key components. Although SMG proposes that it is a matter for Scottish Government funding, Ofcom could formulate effective ways to access spectrum. We will be considering closely Ofcom's recently launched Consultation under the latest phase of the Digital Dividend Review⁵ but highlight that in our view it is important that the PSB Review process ensures that regulatory initiatives are linked to achieve the most effective outcome for Scotland.
- Above all stv is committed to strengthening the delivery of PSB to our audiences and can see the ways to embrace new technology to enable us to better serve our local disparate communities. See **Figure 1**.

⁵ <http://www.ofcom.org.uk/consult/condocs/ddrinterleaved/> (Consultation) Closing 21 August 2008

Fig 1 SMG'S MODEL

Into the future a family of content delivered to our local Scottish audience with stv channel at the core

