

RNID (The Royal National Institute for Deaf People) response to Ofcom's consultation: "Digital Dividend Review: 550-630MHz and 790-854MHz, Consultation on detailed award design", dated 6 June 2008.

Guido Gybels, RNID Director of New Technologies

Summary Statement

- Ofcom's proposals for spectrum award ignore the needs of vulnerable consumers and will not ensure full inclusion and accessibility. RNID urges Ofcom to address these concerns and to create a greater balance between business need and consumer interest.
- RNID believes that this approach will not ensure that Ofcom fulfils its duties under the Communication Act 2003 and the EU 2002 Framework for Electronic communications with regard to protecting disabled people as consumers.
- A proportion of the freed spectrum must be reserved for increased provision of access services on standard and high definition terrestrial television.
- In setting out its proposals, Ofcom is not taking into account a wealth of evidence on how a purely market-led approach fails vulnerable citizen-consumers.

Introduction

1. RNID welcomes the opportunity to submit comments to Ofcom regarding this further consultation on the Digital Dividend Review. We are the largest charity representing the 9 million deaf and hard of hearing people in the UK. These comments deal only with the specific issues of particular relevance to deaf, hard of hearing, deafblind and speech-impaired people. The phrase "deaf and hard of hearing people" in this response is used to cover all people affected by hearing loss or permanent tinnitus.
2. Our vision is a world where deafness or hearing does not limit or determine opportunity, and where people value their hearing.
3. RNID remains deeply concerned about the overall approach to the Digital Dividend process. There has been a serious lack of in-depth public debate on the matter of spectrum, which is particularly damaging since the outcomes of this exercise will determine the landscape of UHF spectrum for potentially many decades to come. Spectrum is a public and scarce resource, yet the public at large has not been engaged through a high profile and strategic engagement plan that overcomes the technical focus of the proposals.
4. RNID is also worried about the lack of strong consumer focus throughout all aspects of the Digital Dividend Review, which has led to an overall Ofcom strategy that still appears to favour industry interests. This is in contrast to Ofcom's primary duty under the Communications Act 2003, which is to further the interests of citizens and consumers. Ofcom's approach to the Digital Dividend is unlikely to maximise benefit to consumers overall, and will contribute even less to wider UK policy objectives of a more inclusive society from the perspective of disabled people in general and deaf and hard of hearing people in particular.

Q1: This executive summary sets out our proposals for the Digital Dividend Cleared Award. Do you agree with these proposals?

5. No. As we argued in our previous response to the Digital Dividend Review, and in line with what is said by other key stakeholders such as RNIB and consumer organisations, the release of

a significant portion of UHF spectrum is a once in a lifetime opportunity and will potentially have repercussions for decades to come. It is therefore essential to seek lasting benefits for *all* consumers, including disabled people. The Ofcom proposals do not achieve this.

6. RNID does not believe that the proposed model of an exclusive auction offers any prospect of realising some of the intrinsic potential for inclusion that this freed spectrum represents. There is a long-standing need at both UK and European level to increase the amount of access services provision on digital television, in both contexts of standard and high definition. This does not seem to be properly considered by Ofcom's market research and certainly there is no attempt to link these overall policy objectives for more inclusion to the opportunity that the cleared spectrum represents.
7. A wealth of research over the last several years, including research carried out on behalf of the UK government to inform its Digital Strategy, has highlighted both the depth and width of the existing digital divide, the socio-economic need to address it and the economic cost to the UK of said divide. The Digital Dividend Review could have offered a clear possibility to address at least some of the aspects of the digital divide in the field of, for example, television and multimedia. In its proposals, Ofcom has chosen to neglect that opportunity, in direct contradiction of the UK's own national and international policies.
8. RNID does not believe that Ofcom's proposals properly take into account, or protect, the interests of disabled people.

Q4: Do you have any comments on our assessment of the most likely uses of the cleared spectrum and the amount of spectrum, required for these services. Are there any other potential uses that we should consider?

9. Ofcom should give greater consideration to use of the freed spectrum for the purpose of increasing accessibility of existing and future standard and high definition television services. It seems incomprehensible that with such a large amount of spectrum to be made available, not even a small proportion is set aside and reserved for the purpose of more access services provision.
10. The proposed auction model relies solely on free market mechanisms to deliver benefit to consumers at large. The evidence of many years has shown emphatically that free markets do not deliver value for all consumers, and that disabled people are a particularly disenfranchised group. Furthermore, there is also clear evidence that as the amount of overall regulation is reduced, the need to protect specific groups of vulnerable citizens, including deaf and hard of hearing individuals, becomes even greater. This is why Ofcom should not simply auction off the entire freed up spectrum, but should set aside a reasonable and just proportion of it in order to bring benefits to those groups who would otherwise remain at the wrong side of the digital divide.
11. It is worth noting that at present digital television is not fully accessible. This problem has increased in recent years as broadcasters have diversified programme delivery across new delivery channels that fall outside the current regulatory framework.
12. The confusion around access services on high definition television and the net reduction in geographic cover for terrestrial television after switchover further reinforce the above observations.
13. RNID believes that high definition television will become a prime service in the years to come. The level of access service provision on HDTV is already low and without additional spectrum, there is little prospect of improving that situation. Again, it would make sense for Ofcom to ensure a reasonable amount of access services provision on future HD channels by reserving a proportion of the freed up spectrum for that exclusive purpose.
14. RNID is also concerned about using the cleared UHF spectrum for completely different types of applications, such as mobile broadband for example. This spectrum has traditionally been used for broadcasting purposes precisely because its properties in terms of propagation etc make it

inherently very suitable for that type of linear delivery to a wide audience. In addition, receiver devices, aerials and other television equipment have been designed to work with this spectrum. As such, its prime use should be for such types of application.

15. With regard to mobile television services, it would be duplication and a considerable waste of a precious resource to set aside UHF spectrum for such a parallel application. Mobile television can easily be realised by incorporating existing digital terrestrial television receiver technology into mobile handsets. This could be done for both Freeview channels as well as encrypted channels.
16. In our response to the previous Digital Dividend Review consultation, RNID pointed out that after switchover the three commercial digital terrestrial multiplexes will still only cover about 90% of the population in the UK, in contrast to current analogue broadcasting where these channels cover 98.5%. RNID therefore continues to strongly advocate using at least part of the freed up spectrum to boost coverage so that all content on the digital terrestrial multiplexes will be available to at least the current proportion of 98.5% of the population.

Q5: Do you agree that we should proceed with our current timetable, with a view to holding the cleared award in summer 2009?

17. RNID is concerned about the lack of coordination between Ofcom's spectrum award timetable and the wider policy framework both in the UK and Europe.
18. In particular, at an EU level there are a variety of initiatives ongoing that have a direct relevance to the use of freed up spectrum. The European Commission's Communication "Reaping the full benefits of the digital dividend in Europe: A common approach to the use of the spectrum released by the digital switchover" indicates the need for a coordinated European strategy in this arena. As the EU decision-making process is ongoing, Ofcom's timetable might very well be incompatible with European developments.
19. RNID urges Ofcom not to proceed with any auction or final decision-making process until there is proper clarity on what the common EU position will be and to ensure that the UK and EU processes are completely aligned in terms of both objectives and timetables.

Q37: 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.

20. As we have argued elsewhere in this response, RNID is seriously concerned about Ofcom's one-sided concern for the impact of award outcomes in terms of competition while seemingly ignoring the strong need for the protection of vulnerable consumers, of which disabled people are a particularly affected group.
21. Ofcom offers no evidence to demonstrate how its proposed auction model will lead to more inclusive, better, more accessible, more user-friendly products and services or will contribute to the UK's overall policy objectives of increased inclusion. Indeed, it could be argued that in ignoring this wider policy framework as set out by Parliament and the UK government, Ofcom is not fulfilling its remit.
22. The 3G experience, the findings of the EU wide study "Measuring eAccessibility in Europe" and other data demonstrates that the proposed model will fail to bring about increased accessibility of existing services or products, or the creation of added-value services for disabled people in general and deaf and hard of hearing people in particular.
23. In proposing its auction model, Ofcom is in effect actively ruling out usage of the freed spectrum to pursue specific objectives around inclusion of vulnerable people or disabled citizens.

24. RNID also continues to believe that in not considering the wider strategic policy objectives around inclusion, Ofcom might put the UK at risk of being in breach of its obligations under the 2002 European framework for electronic communications, which explicitly require the regulator to ensure that spectrum allocation is objective and non-discriminatory.

*RNID - The Royal National Institute for Deaf People
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RNID is the largest charity working to change the world for the UK's 9 million deaf and hard of hearing people.

Our vision is a world where deafness or hearing does not limit or determine opportunity, and where people value their hearing.

We aim to achieve this vision by:

- being a powerful force for change in government and public and private sector organisations.
- changing radically the attitudes and behaviour of individuals towards deaf and hard of hearing people.
- providing services and support directly to deaf and hard of hearing people and their families to improve their everyday lives.
- being a catalyst for social, medical and technical research to improve the lives of people with a hearing loss and those with tinnitus.

We seek to work in partnership with those who share our vision and mission.