

**From On-Communications Ltd**

**18<sup>th</sup> August 2006**

**Response to Ofcom Consultation on:**

**Award of available spectrum: 10 GHz, 28 GHz, 32 GHz and 40 Ghz**

On-Communications is please to respond to Ofcom's consultation request in respect of the above planned release of spectrum

Overall On-Communications welcomes Ofcom's approach and strongly supports the release of this spectrum in a technology neutral manner. However we have concerns about the auction design and about the release of information concerning MoD use of the 10Ghz band.

**Responses to specific questions:**

Q1: Do stakeholders agree with the proposals for the award of licences in the 10 GHz, 28 GHz and 32 GHz bands in 2007?

A1: We agree with the packaging, type of release and other details but have strong concerns about potential anti-competitive behaviour due to the specific auction rules proposed. We believe that competition law will not adequately address the issue of one buyer obtaining the entire spectrum on offer and hoarding it. This buyer may not have a market-dominant position in any other sense and hence may not be subject to normal competition law.

We observe that as the spectrum lots are broadly interchangeable, there is no reason, other than cornering the market, why any one bidder should need all the lots. (This is in contrast to, for example, the 3.4Ghz auction where there WAS a definite reason to obtain all of the geographic lots so as to aggregate a national licence)

We propose that there should be some restriction on how many lots any one bidder may bid for. Specifically we would like to see the restriction set at no more than 3 of the 12 lots, but with no further restrictions on which lots these might be.

Q2: Do stakeholders agree with the proposal to include in the award of the 32 GHz band that portion of the band that has been open since 2003 for point-to-point applications?

A2: We agree with this proposal

Q3: Do stakeholders agree with the proposals to defer the release of the 40 GHz band and review the position in two years' time?

A3: We agree with this, but point out that current demand for radio connections of all sorts may require this to be accelerated.

Q4: Do stakeholders have any other comments on the contents of this document?

A4: We have some concerns about the release of timely information about the MoD use of the 10Ghz band. We note that there is current use and that potentially MoD may decide to increase it's operations. In order to make an assessment of the value of this spectrum the market will require a clear statement as to future planned use of the band.

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