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[cc Stephen Lerner]

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Dear Gideon.

Re: Options under consideration for enabling new uses in the 40GHz band

I would first like to thank you for the opportunity to explain our position to Ofcom on 12 October. We discussed our concern that revoking 40GHz licences would not be an appropriate and proportionate solution, as it would undermine confidence in our spectrum rights, impose undue costs on licensees, would cause significant uncertainty and delay rollout over the 5-year notice period.

As you know, our joint venture with EE (MBNL) makes extensive use of 40GHz for fixed links. We also explained our own plans to use the spectrum. One of our key planned uses will be [X]

We also set out the reasons why Ofcom should rely on trading or an incentive auction instead of revocation to repurpose 40GHz:

- **Ofcom's market-based policy:** these market-based solutions are much more consistent with Ofcom's policy than 'command and control' revocation.
- **Incentive auction:** a simple voucher scheme (as recently used by the FCC in its mmWave auction) provides a more proportionate way of achieving Ofcom's objectives while at the same time making 40GHz available earlier (as licensees would relinquish licences voluntarily without the need for 5 years' notice). We believe Ofcom already has legal powers to run an incentive auction for the reasons set out in the legal note we provided.
- **Updating Ofcom's spectrum management tools:** in any event, Ofcom should look to update its toolbox with newer, more advanced market-based tools. Revocation is not best practice. The US FCC and other regulators now use incentive auctions to repurpose spectrum bands. Spectrum is a finite resource and the need to recycle frequencies for new uses and users will only increase with spectrum demands growing across different industry sectors.

For the reasons set out above, we believe that an incentive auction provides a more appropriate and proportionate solution than revocation. Should Ofcom nevertheless believe that it has no legal powers to run such an auction (despite our submissions), we have also considered Option 4 in the Ofcom consultation.

In this option Ofcom would revoke 1,000MHz of our 40GHz holding, allowing Three to retain 1,000MHz of contiguous spectrum for new uses. Ofcom would also allow MBNL to retain its 500MHz allocation. We consider that this could be an appropriate compromise which would at least protect some of our rights and would have some definite advantages over revocation:

- It would not impose undue costs on 40GHz licensees.
- It is consistent with Three having a high value for at least some of its 40GHz – e.g. [X] – and appropriately recognises the consumer benefit of [X].
- It would release an additional 1.25GHz of contiguous 40GHz spectrum to be auctioned with 26GHz for new uses and users.

I would be happy to discuss this with you at the earliest opportunity.

Kind regards

Luis Lopez