

In our response to Ofcom’s first Consultation, we explained that ALFs based on opportunity cost should only apply to spectrum expected to be in excess demand in future, if cost-based ALFs were applied. We disagreed with Ofcom’s provisional conclusion that the spectrum in question would be in excess demand if cost-based ALFs were applied, and therefore argued that any ALFs introduced must be cost-based.

Part of Ofcom’s rationale (as to why the block-assigned spectrum would be in excess demand even with cost-based ALFs) was that holders of block-assigned spectrum (10GHz, 28GHz and 32GHz) hold a substantial number of links in the Ofcom-assigned bands (13GHz, 15GHz, 23GHz, 26GHz and 38GHz). In response, we argued that across the Ofcom-assigned bands, the number of links had nearly halved in six years, with even larger declines in the 26GHz and 38GHz bands, and that this trend may continue.

Since Ofcom’s first Consultation, it has corrected the data for May 2022 and provided more recent data for November 2022. Below we show that the total number of links has fallen by a further 300 in only six months, which we believe further undermines Ofcom’s provisional conclusion that the block-assigned spectrum would be in excess demand in future, if cost-based ALFs were applied. We note in particular that the number of 26GHz and 38GHz links (potentially the closest substitutes to 28GHz spectrum) has fallen by a further 11% and 7%, respectively – with a total reduction of 60% and 74% since 2016, respectively.

Consistent with our first Consultation response, we believe that any ALFs introduced should be cost-based. If after imposing cost-based ALFs, Ofcom had compelling evidence of current or expected future excess demand in the block-assigned bands, Ofcom could then issue a new Consultation proposing ALFs based on market value (opportunity cost).

