

Consultation response form

Please complete this form in full and return via email to mobilecoverageconsultation2018@ofcom.org.uk or by post to:

Jack Hindley
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Your response

Question 1: Do you agree with our proposal to impose two geographic coverage obligations and a premises obligation in the 700MHz award?

Question 2: Do you agree with our proposed target for geographic coverage?

Question 3: Do you agree with our proposed target for in premises coverage?

Confidential? – N

The effort that Ofcom has gone to (as demonstrated in this consultation) in trying to devise coverage targets that overlay with presumed commercial strategies of the existing network providers is a cause for significant concern.

The proposed geographic coverage targets of 92% to be completed by May 2023 do not equate with Government ambition as set out in the 5G digital strategy document published in December 2017 which states that “the Government is also focussing on the following policy areas to support the development of 5G”, including, “developing a future-focused spectrum policy to help ensure that spectrum is allocated in a way that supports the Government’s mobile ambitions”. In addition, the same policy document states quite clearly that: “The Government’s ambition is to extend mobile coverage to 95% geographic coverage of the UK by 2022.”

The CLA believes that Ofcom has not made a convincing argument for why a simpler universal obligation cannot be implemented. Consumer interests are best served if all operators selling mobile services to UK based consumers are under an obligation to deliver coverage to 95% of the geographic UK. This is the position that is in line with the ambition set out by the Government in the 5G strategy.

The consultation cites concerns about willingness to bid on part of operators. It is important for Ofcom to be clearer about what its own, or Government’s, expectations are for the likely revenue to be raised from the auction. Consumers, rural businesses and communities are absolutely clear that ensuring money is invested into roll out of infrastructure is more important than revenue to the Exchequer. The revenue from the most recent spectrum auction was £1.4Bn. Ofcom estimates that the total investment required to put in place the 600-700 new base stations required is £300m. We urge Ofcom to explore carefully how the balance can be struck between outlay from the industry on acquiring spectrum rights and investing in infrastructure.

Question 4: Do you agree with our proposed approach to targets for the Nations?

Confidential? – N

The CLA represents only members in England and Wales, nonetheless some of our comments will relate to the UK as a whole.

The targets proposed for Wales and Scotland at 83% and 76% are insufficient and would reinforce an entrenched economic divide between the Nations

There appears to be no understanding of the needs of rural businesses in Wales or Scotland. Whilst we understand the economic rationale adopted, this is in stark contrast with the Government's own mantra of supporting the public interest. Indeed, this is embedded in law through the Electronic Communications Code which makes clear that the public interest in delivering telecommunications networks overrides the economic interests of landowners.

We urge Ofcom to consult closely with the Welsh Government. The CLA supports their mobile action plan that states: "The Welsh Government recognises the growing importance of mobile technologies and wants to create the right environment to encourage further investment in mobile infrastructure and to promote innovation in mobile technologies." We do not believe that the targets proposed by Ofcom meets these ambitions. Rather, they simply reinforce the message that rural communities and the businesses they promote are of secondary importance when it comes to delivering modern day telecommunications.

Question 5: Do you agree with our proposal that these obligations be met within 3 years of the 700MHz award?

Confidential? – N

Rural communities are suffering now. The rural economy is underperforming because of lack of investment. We support the government ambition to deliver coverage to 95% of the geographic UK by the end of 2022, because it is realistic, but it should be sooner. The digital divide is embedded and unless there are robust and urgent targets the industry will continue to obfuscate and delay.

Ofcom has given itself a significant period of time in which to conduct the spectrum auction. From the time of this consultation and the point at which operators will be required to meet their spectrum obligations will be two years. We cannot understand why it would need to take Ofcom this long in order to run the auction and put in place the obligations given that it has past experience of such operations, particularly as the 700MHz spectrum itself should be clear by the summer. The consultation itself makes no reference to this apparent time delay.

Question 6: Do you agree that sharing information on the location of new sites in rural areas in advance of submitting a planning notice would be appropriate?

Confidential? – N

The proposal does not go far enough. Given the persistent failure of mobile operators to deliver coverage. It should be a legal requirement on all operators to publish details of existing network, and future deployment plans. The industry is able to hide behind claims of commercial confidentiality and as such is not subject to the consumer or regulatory scrutiny sufficient to change existing practice.

The operators have argued themselves that the areas that there is not a commercial case for investing outside of the existing footprint. Therefore, the argument that there are consumer benefits of commercial confidentiality of information in these areas (in particular) is extremely weak.

As the regulatory environment changes to provide mobile operators with sweeping new legal rights and powers they should be exposed to regulatory obligations of closer equivalence to that facing providers of 'utility services' like BT Openreach.

Complete transparency would also allow consumers and regulators to hold operators to account where they are not taking opportunities for sharing of existing masts and base stations.

Question 7: Do you have any other comments?

Confidential? – N

The CLA represents over 30,000 members in England and Wales engaging in agriculture and other rural economic activities that help sustain the rural economy. Digital connectivity, whether it be fixed line or mobile, is vital to their respective businesses as they seek to remain both viable and able to exploit new opportunities.

The Ofcom consultation on proposals for coverage obligations regarding the award of the 700MHz spectrum band is therefore both timely and welcome. This submission responds to each of the questions raised and provides the detail of the CLA's policy with regard to mobile connectivity as it affects rural businesses and rural communities.

The lack of mobile connectivity in rural areas

Mobile connectivity in rural areas has been lacking when compared to urban areas. Indeed, it is the epitome of the rural – urban digital divide.

The reluctance of the mobile network operators to deploy networks in rural areas is obvious with an entrenched pattern of under investment in rural areas. The mobile network operators are often pretty blatant in expressing their view that serving the needs of rural areas is uneconomic. The consultation reflects this in paragraph 2.16 which states: "They (the mobile operators) have indicated to us that future rollout (of mobile connectivity) is unlikely to extend the coverage footprint by a significant amount. Operators will only tend to expand coverage where the expected commercial benefits exceed the cost of expansion." It is vitally important that Ofcom challenges and ultimately rejects this statement of intent on the part of the mobile operators.

Given that the lack of willingness on the part of the mobile operators to deliver coverage in rural areas on their own initiative, the regulator has a crucial role in forcing operators to take action to invest in extending the reach of their networks. The operators are keen to stress the commercial and market factors that they argue preclude them from investing in extending geographic reach, but these are the same companies that argue that they are a utility provider in order to secure wide ranging powers and preferential treatment usually reserved for such providers.

Mobile operators are granted a licence to operate by the government. Through securing that licence they get significant commercial advantage. This consultation relates to an auction that is a competition for access to the market and as such it must set out clearly the expectations to deliver a universal service (or as near as can be reasonably reached). Where it acknowledges the limitations of commercial viability, it should do only after the toughest of scrutiny and proper consideration of the other ways that could be employed to increase the affordability and viability of delivering necessary infrastructure in more remote areas. The Government has taken extensive steps to change the law to the mobile operators' advantage, especially in areas of access to land as codified in the Electronic Communications Code.

Overall this consultation does not provide the necessary reassurance that Ofcom is willing to take a robust negotiating position with the industry.

Please complete this form in full and return via email to mobilecoverageconsultation2018@ofcom.org.uk or by post to:

Jack Hindley
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA