



Issue 1

BT's response to the Ofcom consultation document:

**Variation of 28 GHz Broadband Fixed Wireless Access
Licences**

(Issued by Ofcom on 19 December 2012)

INTRODUCTION

BT is pleased to have the opportunity to comment on these proposals from Ofcom for the 28 GHz Broadband Fixed Wireless Access Licences.

We recognise that Ofcom have outlined two possible ways forward, however we believe that not all of the possible solutions have been considered; we propose that a further option that should be considered, namely that Ofcom should consider taking over the management of the band in a similar manner to the other fixed link bands, which would allow the existing licence holders to continue to use the band, while also enabling other users to do so.

We also believe that, until the Ofcom review of fees for the fixed link bands has been undertaken, and the implications for this band (and other similar bands) has been understood, it is difficult to give a definitive position on Ofcom's proposals due to the inherent linkage between the approach to licensing and the fees structure.

RESPONSES TO THE INDIVIDUAL QUESTIONS IN THE CONSULTATION

Question 1: Do you agree that Ofcom should grant Urban Wimax's and Cable & Wireless's requests to vary their licences as soon as practicable?

BT does not support Ofcom granting the request to vary their licences in order to extend them to continue as at present, as we do not believe that this would encourage efficient use and effective management of the spectrum (as required under Article 8 of the Framework Directive). We see little evidence that these bands are currently being used efficiently, and this appears to be confirmed by the text of this consultation document, even though licences were issued 12 years ago. In the absence of such evidence, we consider that simply extending the licence duration, as proposed by Ofcom, would do little to address this apparent in-efficient use of the band.

This Consultation Document considers two options, namely varying the licences in order to extend their duration, or holding an auction to re-award the spectrum access rights. However we believe that a third option should be considered; we believe that the spectrum should be returned to Ofcom, and Ofcom should issue individual annual licences for these bands, in the same manner as for other fixed link bands. This should allow the existing licence holders to continue to use their existing radio links beyond the expiry date of their current licences, whilst also allowing others to operate radio links in these bands, subject to co-ordination with the existing links. Such an approach

- a) would provide the same security of tenure as for any other fixed link band, enabling the current licence holders to make further investment now in this band, and
- b) would also provide the opportunity (from 2016) for others to use the bands in those areas which are underused at the time, in order to increase the efficient use of spectrum.

We also recognise that Ofcom have announced that they plan to carry out a fees review for the fixed link bands in the coming year. We welcome this review, but we also believe that the proposals in that review will be linked to the proposals in this consultation document, and therefore it is difficult

to provide a definitive position on the future licensing of the 28 GHz band in the absence of Ofcom's proposals for fixed link pricing. In particular, we highlight the issue of how to apply pricing based on an individual link fees basis, to a licence which covers an area. Should the individual link fee be multiplied by the maximum number of links that could potentially be accommodated in the given area, or just multiplied by a nominal number? How should that number be determined? Our proposal for Ofcom to take over the management of the 28 GHz band would allow per link pricing to be introduced on a more transparent and equitable basis.

Question 2: Do you agree with our proposal to align the technical conditions of the licences with those awarded in 2008 in these and adjacent spectrum bands?

If the licences are to be extended through a variation in their licence conditions, which we do NOT support (as elaborated above in our response to Question 1), then we would agree that the technical conditions of the licences should be aligned.

Question 3: Do you agree with Ofcom's proposals to set an AIP fee level in context with the review of fees within bands used for fixed links?

We certainly support the proposal to set an AIP fee which would be context with the other managed fixed link bands.

We would also welcome clarification regarding the future application of AIP in this and other frequency bands. It was our understanding that in many of these bands, the policy was (e.g. from the Information Memorandum for the respective auctions) that "there may be additional licence fees in line with Ofcom's policy on spectrum pricing at the time" (or similar wording), and we have not seen anything subsequently to indicate any further details. However Figure 4 of the Consultation Document appears to indicate that it has been decided that AIP will apply from the dates given. We would welcome clarification on whether this is now Ofcom policy.

Question 4: Do you agree that Ofcom should offer this variation to other BFWA licence holders?

It has always been our position that there should be a "level playing field" and (as far as possible) consistency in the treatment of different licence holders using the frequency bands for the same application / service. Therefore we would agree that, whatever the solution that is finally chosen for the continued licensing of the 28 GHz BFWA band, Ofcom should maintain an equitable approach by applying the same solution to other BFWA licences as they reach their expiry date.