

Simplifying Spectrum Trading

British Entertainment Industry Radio Group (BEIRG)

Regulatory reform of the spectrum trading process and introduction of spectrum leasing

Consultation Response

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Response

BEIRG understands that the band manager with obligations to PMSE will operate on a different statutory basis to JFMG under existing contracting-out functions. BEIRG also understands that any manager of PMSE spectrum would have to process and award a high volume of low value licenses of relatively short duration. Clearly, the higher the administration burden of issuing such licences, the higher the costs will be for all involved.

If current arrangements for licensing spectrum for PMSE use were retained, then each and every allocation, for however short a period, would have to go through Ofcom in addition to the band manager. This, as the consultation indicates, would involve some sort of temporary transfer of the spectrum licence from the band manager to the licensee, with a return transfer after the end-user's licence had expired. This process would place considerable burden on Ofcom, on PMSE users and on the band manager. Perhaps more importantly, there is little flexibility for early return of licence, transfer between PMSE users or transfer to the band manager.

This is clearly why Ofcom is making the proposals outlined in the consultation document on simplifying spectrum trading. If introduced, transfer without licence issue (TWLI) would allow the band manager to transfer spectrum usage rights to PMSE end-users (through a contract) without the need to transfer the licence itself. This would leave the band manager more scope to provide licences to PMSE users in a more flexible way and one which better suits their needs. Also, the removal of the requirement for a separate 'return of licence' transaction by replacing it with an automatic expiration will reduce administrative burden.

Whilst BEIRG understands the potential benefits of reducing the administrative burden in awarding low-value/high-volume PMSE licences, the group would like to make it absolutely clear that it does not (and indeed would not) agree with any proposal that would dilute the band manager's obligations to PMSE, as the principal the sector it will serve.

To elaborate on this point, BEIRG understands from the document itself and further clarification from Ofcom officials that the SST proposals if implemented would not alter the band manager's obligation to secure Ofcom's consent, subsequent to formal consultation with the PMSE sector, before licensing its spectrum for anything but PMSE use. Provided this remains the case, BEIRG has no objection to the proposals (and indeed sees the benefits in terms of flexibility for end-users and reduced licence fees) except for the more general concern about the seeming reduction in regulation of spectrum use. It is worth reiterating here what BEIRG said in response to the 2nd band manager consultation, specifically that *'(w)hilst Ofcom would make the decision as to whether the band manager can allow non-PMSE use of the spectrum, any such application must also be subject to scrutiny and comment by the PMSE sector, particularly the end-users it may affect. Ofcom should have regard to the PMSE sector's views before making any final decisions because it is they who will be in the best position to judge whether any alternative use will disrupt their operations'*¹.

In general, BEIRG considers that less regulation leads to less security for vulnerable sectors with relatively shallow pockets such as PMSE. However, in this specific case, we understand that the proposals are being made with the efficient and effective functioning of the PMSE sector in mind and we welcome them, again on the proviso that they do not weaken or dilute any of the band manager's obligations to PMSE.

¹ <http://www.ofcom.org.uk/consult/condocs/bandmanager09/responses/BEIRG.pdf> (7)(b)