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Innovation Licence consultation response

Prepared by HUBER +SUHNER (UK) Ltd

In response to the consultation document :-

"Innovative uses of spectrum" dated - 9th Oct 2008

Introduction

HUBER + SUHNER, an international manufacturer of telecommunication connectivity devices operates across multinational boundaries, and as such, the company is well aware of the difficulties that can occur when a new product or service is to be introduced to the market place.
In recent years this issue has been clearly identified as a severe limiter of the ability to address the wishes of clients to purchase products.

Having developed and deployed an innovative point to point radio link operating in the 60GHz spectrum and despite this product holding European CE type approval and compliance with USA FCC rules we are unable to offer the product within the UK market place.

This spectrum has been released by regulators in USA, Canada, Australia, Switzerland, Germany and China however in the second largest market place so far identified (the UK) its deployment is currently prohibited as the spectrum falls outside currently defined spectrum release and licensing.

As part of the market development and deployment process and in order to explore technical issues around such deployment, use has been made of the "Non Commercial deployment test and development" licensing process. The next logical step in commercial exploitation, is offering product on commercial terms to end users in order to asses the acceptability of the product and to ensure subsequent modification or adaptation of the unit are undertaken to enable full commercial exploitation and compliance with regulatory limitations.

Currently this activity is prohibited and in consequence any proposal that enables a "commercial" trial to be undertaken should be welcomed.

It is notable that the Irish regulator ComReg already has in place a comparable mechanism for this stage of product introduction by conferring a "commercial deployment test and development" status on a product or service.

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HUBER + SUHNER, a view

The company heartily supports the proposed new licence procedure currently under consultation, particularly as it appears under utilised spectrum is to be considered. However there are a number of issues that are felt to require further consideration, these are explored in the formal response section of this document.

Of primary concern to a manufacturer is ensuring that the proposed licensing arrangement should include equipment for deployment by others. In consequence the license should offer generic control rather than a link by link, national, regional or service type management regime.

For the proposed licence process to be of value it needs to encourage "innovation" rather than impose limitations. The requirement to comply with "non interference" of other licensed operators should be the main control mechanism rather than geographical limitations.

Addressing our prime area of interest in the 60GHz spectrum, given that this sector of the spectrum falls under joint administration with the MoD we are aware there may be areas of the UK where exclusion zones may be seen as desirable. Compliance with this requirement could well require serious consideration by Ofcom as to the establishment of a user register in order to ensure all parties are able to comply. It may well be that this could be best achieved by requiring users of spectrum to establish a self co-ordinating process, overseen by Ofcom, possibly on the 70/80GHz licence model, where all users have visibility of deployed spectrum by user and geographical location.

We see this as a mechanism to avoid co-ordination and encourage co-operation.

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Consultation questions

Proposed approach

Question 1.
Do you agree with our proposal to create a new innovation licence class?

Yes

Question 2.
Do you agree with our proposal to grant innovation licences on a first-come-first-served basis?

Yes.

However, how will Ofcom deal with multiple applicants to use the same frequency or band across UK (or in the same region)
It is our assumption that there will be multiple users of the same spectrum rather than a single licence holder.
If this were not the case it would bring into question the whole definition of "innovation" As a consequence we would object strongly were there to be a single licence issued for any spectrum with the exclusion of all others from using the spectrum or part there of.

Licence conditions

Question 3.
Do you agree with our proposal that innovation licences be service and technology neutral?

Yes.

Without this flexibility there is little point in categorising the licence as "innovation."

Question 4.
Do you agree with our proposal that innovation licences should include a "non-interference-non protected" licence condition?

Yes.

It is understood that the proposed process may incorporate a "non protected, non interference" obligation on licence holders. Will, by definition, the possibility of interference be a matter for the applicants to resolve?

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If so then a self co-ordinating register could go some way to resolving issues particularly in the case of fixed link deployment. Such an approach is used in 70/80 GHz link deployment licensing process and appears to work well.

This would in turn resolve the issue in Q2 above of multiple users of the same spectrum. However there could still be conditions where mutual resolution was not achieved between users of the spectrum. How would Ofcom resolve such disputes? In the event of two or more users of the spectrum being in dispute over mutual interference, then a user register could permit a time stamp and pre notification of potential issues to subsequent users of spectrum that is already in use.

Question 5.

Do you agree with our proposal that, in general, innovation licences have an indefinite duration?

Yes.

However if the award of a licence to operate equipment in a band or supply a service using a specific band excludes additional applicants from using the band, then we would strongly object to an indefinite licence period. In practice, with a single exclusive licence holder, even a "use it or lose it" condition would not enable the practical use of an "innovation" licence.

Question 6.
Do you agree with our proposal that innovation licences have no initial period?

Yes

Question 7.
Do you agree with our proposal that innovation licences have a minimum notice period for variation or revocation on spectrum-management grounds of one year?

Yes

Question 8.
Do you agree with our proposals for varying or revoking innovation licences during the minimum notice period?

Yes

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Question 9.
Do you agree with our proposal to allow only outright total transfers of innovation licences?

Qualified Yes

With however, some concerns regarding how an "innovation licence" to use specific equipment would in practise work from a manufacturers' viewpoint.
In practical terms if a licence is issued to a manufacturer to enable deployment of equipment across multiple sites, it is likely that the end user of the equipment would not be the manufacturer; rather it would be a commercial trials operator.
In order to ensure compliance with the licence it would be necessary for the licence holder (the manufacturer) to monitor deployment on a site by site basis. In this case it is difficult to see how such a single licence could be traded, as by implication deployment by others could be outside of the control of the licence holder.
A possible resolution to this issue, specifically for point to point links, could be the establishment of a deployment register, by the licence holder and /or his customers as part of his licence obligations.

Question 10. *Do you agree with our proposal to charge a fixed fee of £2,000 per innovation licence per year?*

Yes.

It is essential however that the fee relates to the generic use of spectrum or supply of service and not to a specific link or service area or service type.