

BASIC DETAILS

Consultation title: Innovation Licensing

To (Ofcom contact): Gordon Drake

Name of respondent: Nigel Wallbridge

Representing (self or organisation/s): Nomad Digital Ltd

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

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Name Nigel Wallbridge, Executive Chairman Signed (if hard copy)

Previous attempts to release spectrum into the market (such as 3.5GHz and 1.5GHz) and make it both realistic and commercially viable for SMEs to win and use spectrum have been unsuccessful. The spectrum has been awarded and largely sterilised.

Plans, currently thwarted, to release the 2.5-2.7 GHz band will not deliver realistic opportunities for regional access, access for non-universal services or bids by SMEs.

The expectation raised by Ofcom in early 2006 was for access to shared spectrum in the Fiscal year 2008-9 delivering a potential route for UK plc to access spectrum for these regional and niche tasks and clearly this has not yet happened. There is a need to fulfil this national interest for innovation and enterprise; this need is only heightened by the current market conditions.

'Innovation Licensing' will allow this new group of potential spectrum users access to this hitherto scarce resource; it will offer new, uncharted opportunities for current spectrum holders. This will process will present some challenges beyond the issues generated by the ten consultation questions. These further questions should be approached in the clear recognition that 'Innovation Licensing' is absolutely critical to meeting the previous intention to broaden access to spectrum, support innovation and the opportunity for new enterprise within the UK.

First, the responses:

Proposed approach

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

Yes. There is need to provide a commercially viable licence beyond the Non-Operational Licence.

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

Yes. The *first-come-first-served* approach reflects the requirement to demonstrate the ability to co-exist with co and adjacent channel users where there is no commercial commitment by Ofcom to deliver that testing.

Licence conditions

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

Yes

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

Yes. This is consistent with the overall aim but clearly where users subsequently negotiate tenure there will need to be a mechanism to provide more certainty of protection.

Question 5. Do you agree with our proposal that, in general, innovation licences have an indefinite duration?

Yes

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

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

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

Next,

The implied questions

As stated earlier, the innovation licence offers opportunity for entrepreneurs and smaller, regional telecom businesses to identify and access affordable spectrum solutions and for Ofcom to encourage this wider use of spectrum and the spectral efficiency achieved by sharing.

These new and potential spectrum users are unlikely to have experience of dealing with the UK spectrum regulatory process. The statement and statutory instrument that follow this consultation should identify and address a number of issues.

There is a level of detail that has to be posted upfront to quantify the cost barriers:

- The licence applicant has to demonstrate non-interfering operation with the incumbent service and neighbouring bands before a licence can be awarded.
- The licence applicant will be required to negotiate a more realistic commercial arrangement in due course

There is the potential for confusion about which spectrum is to be made available by what process in some timescale. Part of this requires signposting and part requires clarity in the same format as the MoD demand study output.

Consequently there is a signposting task that needs to be fulfilled to help applicants navigate the larger process:

- An accessible, 'user friendly' system to provide frequency allocation information rather the current "UK FAT".
- Clear, simple and unambiguous direction for applicants to reach the person who can advise on any particular band

A part of the process belongs to other Government Departments and their agencies and it is incumbent of Ofcom to support their needs whilst delivering this last chance to fulfil the need to support national business innovation without the sterilisation of awarded spectrum.

In summary

There are difficulties beyond the boundary of Ofcom's domain that have to be addressed across government and it is imperative that in doing so the UK doesn't lose the baby with the bath water.

Why? Because: the introduction of the Innovation Licence will provide a route to support innovation and enterprise within the UK and innovation and enterprise are absolutely critical at this point in our economic cycle.

Nigel Wallbridge
Executive Chairman, Nomad Digital
December 2008