



DIGITAL DIVIDEND REVIEW:
BAND MANAGER AWARD
OFCOM CONSULTATION ON DETAILED
AWARD DESIGN
BECTU RESPONSE
16th October 2008

1. The Broadcasting, Entertainment, Cinematograph, and Theatre Union (BECTU) represents over 26,000 members working in the entertainment and media sector. These include several thousand workers involved directly with wireless devices, including radio microphones and other wireless equipment in the live entertainment, film, and TV industries, and radio-operated TV cameras in newsgathering, sports, arena performances, and other major national events.
2. Many other members of BECTU work at various points in the signal chain which provides the Digital Terrestrial TV (DTT) service across the UK, and are involved in coding, multiplexing, and transmission.
3. Our members involved in these activities, in many varied ways, make a significant contribution to the cultural and entertainment experiences of UK society at large, depending in many situations on access to spectrum for wireless devices to perform their jobs.
4. Since the Digital Dividend Review began, we have consistently argued that the Programme Making and Special Events (PMSE) sector should, due to its various unique characteristics, not be exposed to the full rigour of market-based spectrum trading in order to retain access to the channels it requires.
5. We therefore welcome Ofcom's decision to make Channel 69, and the interleave channels remaining after Digital Switchover (DSO) in UHF Bands IV and V, available to PMSE users without competition, albeit on a non-exclusive basis.
5. However, on behalf of hundreds of sound operators working across the industry, we must note that since the DDR consultations began, a serious threat has emerged to the continued availability of Channel 69 for wireless devices due to debate at a European level about spectrum allocation to the telecoms sector.
6. BECTU's comments on the Band Manager consultation proposals are predicated by an expectation that Channel 69 will remain available to the PMSE sector, and in particular to lone sound operators, many of them freelancers. These practitioners have, on average, invested several thousand pounds - usually a significant proportion of any given

year's income - in equipment which would be rendered obsolete overnight if Channel 69 were withdrawn from the package of frequencies open for use by licenced PMSE users.

7. Unlike large broadcasting and newsgathering organisations, which might reasonably be expected to absorb the capital cost of replacement equipment on other frequencies, the freelance community of sound operators which predominantly serves the feature film, commercials, and film-for-TV production sectors, would struggle to find finance for new kit if Channel 69 were no longer available.
8. The lifecycle of radio microphone sets among this group extends to ten years or more, and any plan to close Channel 69 to PMSE users should be based on an adequate notice period of five to ten years, together with a financial compensation package which would enable owner/operators to invest in new equipment on other frequencies well before their current inventory has been written down.
9. Among many of our members, and across the industry at large, the potential loss of Channel 69 is regarded as nothing less than a catastrophe, with significant and negative economic effects on sections of the creative industries that depend on using the channel.
10. Notwithstanding this concern, and assuming that Channel 69 remains available, we welcome the proposal in this consultative paper to award the management licence for this channel, the interleave channels, and other PMSE bands elsewhere in the spectrum, to a single Band Manager, with an obligation to serve the needs of the sector.
11. This outcome, in our view, provides a sound basis for effective management of the PMSE sector's needs, avoids the potential confusion of users having to deal with an array of different agencies supervising various bands, and offers the prospect of an organised, and well-managed, migration of PMSE users to other parts of the spectrum should that prove to be a long-term result of the Review process.
12. BECTU has some remaining concerns about the practical operation of the Band Manager model, foremost of which is the future cost of access to existing and new frequencies to users under the current Ofcom proposal.
13. There is also a general feeling among our members who use wireless devices for PMSE applications that their access to spectrum is being gradually squeezed - a strong point for those involved in radio mic activities, and also for those engaged in wireless camera work. There is a concern that the Ofcom proposal, although welcome in itself, could open the door to further loss of spectrum.
14. As noted above, there is already a threat to Channel 69, and the PMSE community would welcome a reassurance about the long-term

availability of dedicated spectrum for its purposes, rather than a regime in which any frequencies granted by Ofcom after DDR can be taken away at comparatively short notice. If an eventual migration away from Band IV and V is envisaged, there needs to be coordinated leadership from Ofcom, and/or the Band Manager, to offer certainty to companies which need encouragement to engage in research and development work, and users who will have to invest in their new products.

Pricing

15. All evidence from recent years suggests that the cost-recovery model operated by JFMG has worked well, and has eminently served the needs of the PMSE sector. We are opposed to market-led spectrum pricing for the PMSE sector.
16. BECTU cannot support Ofcom's proposal to price the Band Manager's licence at a level determined, in part, by reference to charges in the Private Mobile Radio (PMR) sector, accompanied by an assumption that PMSE users will easily adjust within three years to a dramatically increased charging structure.
17. PMSE applications, with limited exceptions like radio talkback, are predominantly low-power short-distance users of the spectrum available to them, with outputs measured in milliwatts. PMR users on the other hand normally expect to radiate in Watts, or tens of Watts, a function of their completely different wireless requirement.
18. It could be argued that, comparing the two sectors' use of spectrum, the PMSE low-power user gains far less utility from any licence they may purchase, than the high-power, long-range, PMR user. This suggests that a straight like-for-like comparison of spectrum prices, based on opportunity cost, between the two is inappropriate, and the financial research commissioned last year by Ofcom should therefore not influence the price of the Band Manager's licence.
19. Irrespective of price, the three-year period allowed for the full introduction of Administered Incentive Pricing (AIP), is too short. If Ofcom's desire for more efficient use of spectrum is expected to lead to users making price-influenced decisions about which frequencies to select, due regard must be given to the long lifecycle of capital equipment in the sector.
20. Most equipment operated by PMSE users would have been only partially written-down by the end of a three-year transition. Such a short period will inhibit their ability to choose new frequencies within the gamut of PMSE bands available due to the prohibitive capital costs involved. The outcome may well be that users are forced to stick with existing patterns of spectrum usage, but have to pay significantly more for the privilege than at present.
21. There is the associated danger that the Band Manager, despite having

an obligation to the PMSE sector, may be driven to develop extensive non-PMSE use of the frequencies in scope in order to recover its investment, with a deleterious effect on the quality and price of spectrum available to PMSE users themselves.

22. Given the installed base of PMSE wireless devices, and their long replacement cycle, the Band Manager should be treated as a monopoly provider of frequencies in scope of DDR, since users will have little medium-term ability to migrate elsewhere in the spectrum, even if they choose to do so. This implies that there should be much firmer limits on the Manager's right to operate variable pricing to ration demand, avoiding, for example, costly economic competition between contending users at large events.

Band Manager Scope

23. BECTU strongly welcomes the inclusion in the Band Manager's remit of the 49 PMSE bands outside the DDR, including key, low-demand, and no-demand, spectrum as the best form of management from the PMSE sector's perspective. The arrangement will enable coherent management of future changes in usage patterns, and the introduction of new technologies to the sector.
24. We endorse the inclusion of Channel 38, subject to its continued use for radio astronomy, and welcome the availability of Channels 61 and 62 up to the point of DSO. However, we have previously pointed out that the eventual loss of the latter two channels will represent a further erosion of the overall spectrum available to the PMSE sector.
25. On behalf of wireless camera operators, we support the inclusion of 2.29-2.3GHz, but regret the exclusion of spectrum from 2.5-2.69GHz, currently in PMSE use, particularly for newsgathering and sports TV coverage, but likely to be re-allocated on a technology and service-neutral basis following earlier consultations.
26. The proposal to extend to one year the notice required for PMSE users to vacate Channels 63-68 and 31-40 is welcome, as is Ofcom's intention to issue notice only if post-DSO operators make a formal request for clearance.

Band Manager Award

27. A beauty contest is far preferable to an auction, or any other economically-driven disposal of the Band Manager's licence, and BECTU supports the principle. However, we feel that the three principal selection criteria listed by Ofcom place insufficient emphasis on the applicants' understanding of, experience of, and commitment to, the PMSE sector.
28. We believe that possession of a demonstrable commitment to the aims and objects of the PMSE sector, many of which are as much social as

economic, should be the primary criterion in selecting the Band Manager.

29. Applicants' abilities to deliver a service should be next in order of priority, followed lastly, and with lesser weighting, by their plans to deliver spectrum efficiency. There is a potential conflict between aggressive exploitation of the frequencies in scope, and the quality of spectrum available to PMSE users, and we view the needs of the PMSE sector as paramount.

Licence conditions

30. BECTU strongly supports the inclusion in the licence of commitments by the Band Manager to the PMSE sector.
31. The granting of an indefinite licence duration, provided this offers PMSE users long-term security of access, may be prudent. However, Ofcom must retain strong powers to revoke the Band Manager's licence if the needs of the PMSE sector are not being adequately served by the incumbent. It would also be wise for Ofcom to state clearly that licence revocation may eject a given Band Manager, but would not imply any change of use for the frequencies in scope.
32. An initial period of a minimum one year licence for frequencies currently used for PMSE carries the risk that the appointed Band Manager may be tempted to recoup as much investment as possible in the short period for which its monopoly is guaranteed, driving access prices up unnecessarily.
33. Similarly, a one year notice period for revocation on spectrum-management grounds of frequencies currently in PMSE usage is impossibly short. In the event that Ofcom sees fit to withdraw from PMSE users significant amounts of Band IV and V spectrum, the sector will need years, not months, to adjust, and the planned notice period should be increased accordingly.
34. We support the framework of audit and review of the Band Manager's performance, but suggest that it be strengthened by the inclusion of PMSE user feedback in any assessment of operational effectiveness.
35. We would welcome greater clarity on the Band Manager's obligation to deliver spectrum to the PMSE sector on Fair, Reasonable, and Non-Discriminatory terms, and would appreciate more detail on this crucial aspect of Ofcom's proposals for AIP in the second consultation, due in Winter 2008.

Technical considerations

36. BECTU has no strong view on whether the anti-interference regime should be based on Block Edge Masks, or Spectrum User Rights, although the BEM approach is probably more widely understood in the

PMSE sector.

37. However, Ofcom should not lose sight of the need to protect DTT services from co-channel and adjacent-channel interference post-DSO, when a range of new users may begin to appear in the cleared spectrum and remaining interleave space.
38. We remain sceptical about the reliability of cognitive devices in-band, and believe that the technology has not yet reached a point where it could be safely deployed, given the predictable problems of interference to PMSE users, DTT operators, and any future users of the cleared spectrum. BECTU urges Ofcom to adopt extreme caution over the future roll-out of cognitive equipment in any of the bands in scope for the Band Manager award.
39. In determining which technologies will need to be identified by cognitive devices, in addition to analogue wireless devices and DTT DVB-T transmissions, we draw Ofcom's attention to new generations of digital radio mics, new transmission platforms for wireless TV cameras, and DVB-T2.
40. Interoperability between new DTT services and the existing Freeview platform should, in our view, be mandatory, bringing as it does the benefit of ever-wider services to consumers without the need for new receiving equipment.

Ownership

41. On the question of ownership of any new DTT multiplexes which may be operated in-band under the Wireless Telegraphy Act 2006, we support the continued exclusion of local authorities, political bodies, religious bodies, and bodies exerting undue influence, as well as Ofcom's decision to allow existing broadcasters to offer new services.
42. We cannot however see any argument for allowing advertising agencies to establish DTT services, and support a continued exclusion in line with the Broadcasting Act 2003. Agencies are not current producers of content, do not share any of the public service objectives which are either implicitly or explicitly enshrined in the current regime of broadcast regulation, and can be expected only to pursue narrow commercial interests by using any spectrum they procure for promotion of particular products. While Ofcom can see no reason to exclude advertising agencies, we see no reason to include them.

T.L. 15.10.2008