

BT Response to the Ofcom Consultation Document:

Spectrum Framework Review: the Public Sector

1 Introduction

BT continues to support the reforms of UK spectrum management that Ofcom has progressively introduced within the commercial sector. We agree with Ofcom that the introduction of parallel procedures within the public sector, where appropriate, will further enhance the benefits which the introduction of a market approach is expected to bring. We agree that the mechanisms of Spectrum Trading and Liberalisation will have an important role to play in facilitating and providing incentive to achieve the most economically efficient use of the radio spectrum. The definition of property rights are indeed an important precursor to this activity and the definition of usage rights through the mechanism of Recognised Spectrum Access (RSA), which can be converted to licenses, would seem to provide a convenient manner in which to achieve this objective.

BT is therefore generally supportive of Ofcom's aims as set out in the consultation paper and we provide brief answers to the questions that Ofcom has posed.

2 Responses to the Questions posed

Question 1: do you agree with Ofcom's proposed overall approach to improving the management of public sector spectrum holdings and, in particular, with Ofcom's conclusion that it will generally be preferable for public sector bodies to interact directly with the market?

We are broadly in support of Ofcom's proposals. It will however be important to have greater transparency as to how the spectrum concerned is presently used and the fees paid for this use, as well as what spectrum may potentially become available and in what timescales. For example, tradable licenses of users in the commercial sector are published by Ofcom on their web site so that potential purchasers can see what is available and the associated administratively priced license fees are published. Would the Public Sector use of spectrum which was to be the granted trading rights be similarly published? Recognising that some limitations may be necessary to address possible security concerns for some of the more sensitive applications, what methods does Ofcom envisage to achieve an appropriate balance?

Whilst we agree that it might generally be best for the Public Sector to be able to engage directly with the market, it might be appropriate to consider the use of an intermediary (such as Ofcom itself perhaps), as appropriate, to ensure that there is both sufficient transparency (so that potentially interested parties are aware of what is available) yet allow closed negotiations with interested parties, particularly where there may be some sensitivities.

Question 2: what factors do you consider Ofcom should take into account in determining the programme of reform in the framework for managing public sector spectrum holdings?

BT agrees that the factors Ofcom has identified are the most relevant ones.

Question 3: do you consider that the proposals should be phased in?

The programme of reform should be agreed with the parties concerned but it would seem sensible to prioritise the application of the new spectrum management principles on the bands for which Ofcom expects the greatest demand and where the present users feel there may be most potential to facilitate changes.

We would agree that a phasing in of the new arrangements in both time and frequency band is sensible. In our view this is most likely to provide opportunities for early trades and liberalisation that would enable possible new uses of spectrum whilst at the same time allowing experience to be gained with the process in those bands where this possibility has already been identified. Without such phasing, it seems unlikely that any early progress in this matter will be possible at all.

Question 4: do you agree with Ofcom's proposals about the frequency bands that offer the greatest potential benefits from band sharing? Are there other frequency bands where the facility to trade or lease spectrum from public sector bodies would be particularly attractive?

BT has no specific proposals for specific frequency bands.

Question 5: do you agree with Ofcom's proposed approach to awarding public sector licences and RSA?

Historically, the challenge of providing clarity of legal title and recognising conformity of use absent a licence has been seen as a major obstacle to the introduction of market mechanisms into the public sector spectrum. BT understands that Ofcom's proposals are regarded as providing a resolution to this challenge and to this extent seem to provide a reasonable approach. We agree that these proposals represent a way in which spectrum may be more efficiently reallocated going forward but that there is no apparent need to disrupt or alter current allocations in moving to this new position. Ergo the suggestion that current holders of spectrum should be administratively granted RSA rights and that the status quo should be maintained.

Question 6: should public sector spectrum trading be introduced at this stage in the Channel Islands and Isle of Man?

BT has no particular opinion on this matter. However it seems possible that there may be some bands which, perhaps because of current use and spectrum properties, would be more difficult to introduce these proposals unless they were so extended. Furthermore, because of the geographic proximity and other circumstances there may well be positive benefits to such an extension. However, if and to the extent that this would create delay, we do not believe that it is imperative that these proposals are so extended.

Question 7: should there be additional grounds, eg safety-related, for Ofcom to refuse consent to a proposed trade in certain frequency bands or for certain applications?

BT would have expected that safety is always one of the parameters against which Ofcom might expect to judge the appropriate application and allocation of any spectrum. The prevention of unacceptable interference is the main goal of the spectrum manager, what constitutes "unacceptable" must depend on the conditions prevailing in any given context. In general we believe that where issues of safety or security are concerned Ofcom might consider refusing *any trade in any bands* regardless of whether the public sector (as defined) is involved. Perhaps the more important question is which authority determines whether in a specific case those concerns do in fact prevail and whether it is the same

authority in all cases? We do understand the distinction which is being made and that National Security for instance is already a ground for refusal of a trade in the processes which already exist and will be in the public sector also, whereas Safety is not.

Put another way, since the purpose of this further review is to align the public sector more closely with the private, and since if it is successful the boundaries between the two will in future be subject to change, whatever rules regarding safety are deemed to be necessary should presumably apply as and when necessary to all spectrum.

4. Conclusion

BT welcomes Ofcom's consultation on the Spectrum Framework Review for the Public Sector and we are broadly in agreement with Ofcom's proposals. We have identified some detailed implementation issues within our responses to some of the questions that Ofcom has posed and look forward to receiving further clarity on these issues in due course.