



Mr J Sonke
Ofcom
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

30 August 2007

Dear Mr Sonke,

Response to Consultation regarding UK Broadband Application for Licence Variation

Further to your recent conversation with James Alexander, set out below is Sky's response to this consultation.

Sky is a user of spectrum assigned for PMSE use and is therefore one of the users who may be affected by the proposed variation to UK Broadband's licence (as acknowledged by Ofcom in its consultation document at paragraph 5.13).

In its consultation document, Ofcom states that it does not consider that the variations proposed would create extra blocking effects for users in adjacent spectrum (i.e. PMSE users), as:

- (a) there are a variety of factors that may contribute to the incidents of blocking; and
- (b) those factors are outside the scope of current licence conditions and are "largely unpredictable".

Accordingly, Ofcom concludes that the changes "*would not reduce the estimated spectrum quality of other authorised spectrum users*".

Ofcom's approach is unsatisfactory as it simply attributes the risk of blocking to factors outside of its control. This approach creates a level of uncertainty that is unacceptable to PMSE users, whose authorised use of adjacent spectrum should not be put at risk.

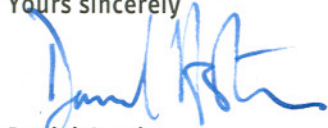
Sky is concerned that the proposed increase in power levels (which is a factor within the scope of the current licence conditions, and therefore a factor over which Ofcom has control), coupled with the other changes proposed (in particular, the switch from fixed locations to mobile/portable equipment), may reduce the spectrum quality of PMSE use. Due to the nature of the changes, any attempt to estimate their impact on other users of adjacent spectrum is likely to be inadequate and cannot provide a sound basis for a definitive assessment.

In order to provide the certainty necessary for PMSE users (which by the nature of such use, may not be restricted to a particular location), Ofcom should adopt a cautious approach in relation to the proposed changes, and either:

- (a) approve the changes subject to an appropriate mechanism to return to the existing licence conditions should there be any reduction in spectrum quality for other authorised spectrum users; or
- (b) approve the changes subject to an undertaking by UK Broadband to underwrite the costs of any necessary equipment changes for (current and future) PMSE users; or
- (c) reject the application and conduct further testing and an additional impact assessment in relation to PMSE use to ensure greater certainty for users of such spectrum.

Should you wish to discuss Sky's comments further please do not hesitate to contact me or my colleague James Alexander.

Yours sincerely



Daniel Austin
Legal and Regulatory Advisor