



OFCOM CONSULTATION

Clearing the 800MHz band

Funding for PMSE

BECTU BACKGROUND

1. The Broadcasting, Entertainment, Cinematograph, and Theatre Union represents 26,000 members working in a range of occupations throughout the Media and Entertainment industry. Many thousands of them work with, or alongside, wireless devices in the Programme Making and Special Events sector.
2. BECTU has participated in the Digital Dividend Review consultation process since it started, and, on the subject of wireless devices, has previously argued that if the PMSE community were to be denied access to frequencies currently used by their wireless devices, there should be an orderly migration to new parts of the spectrum, and adequate compensation for the many disparate users whose equipment would be rendered obsolete.
3. Our preferred position would be one of no change, meaning that PMSE users would retain exclusive use of Channel 69, and continue to operate in the interleave space available on Channels 61-68. However, we recognise that international developments are likely to put the UK in a position where it would be legally or commercially untenable to continue with the status quo. It would, though, have been helpful if the longer-term implications of GE06 and WRC-07 had been introduced to the debate over DDR at a much earlier point.
4. The union's blunt analysis of the consultation on Clearing the 800MHz Band is that, between them, Ofcom and HMG are planning to deprive PMSE users of access to spectrum they have occupied for more than 50 years. This move is being made inter alia in order to benefit the Exchequer, yet the PMSE community is likely to receive harshly limited compensation in a narrow range of circumstances.

INITIAL RESPONSE

5. Throughout the DDR consultation we have, albeit reluctantly, accepted the reality of changes to spectrum allocation, and have welcomed Ofcom's willingness to listen to the concerns of PMSE users.
6. At this point however, we fell compelled to disagree profoundly with Ofcom's approach to migrating wireless users out of current frequency assignments. In our view, nothing short of like-for-like replacement of all existing equipment is morally or economically acceptable. The proposed partial compensation programme will leave vast areas of the user

community in a position where they will not be able to fund replacement wireless devices, leaving parts of the industry in peril.

7. Ofcom should continue the constructive path it has been pursuing with relation to PMSE users by treating their economic concerns over migration, with the same attention and consideration that has been accorded to Wireless Network Operators in their various regulatory and interneccine arguments over access to spectrum.
8. It is a simple economic fact that unless like-for-like replacement of wireless devices is offered to the PMSE community, many lone operators and hire houses will cease trading, the offerings of the UK's entertainment and news sectors will change irrevocably for the worse, and a diminished base of wireless devices will make Britain a more expensive, and less attractive, place to make film and TV programmes, or to mount major public entertainment events.
9. We urge Ofcom to recommend that a relatively small proportion of the likely proceeds of any 800MHz auction should be diverted on a one-off basis to fund a like-for-like replacement programme for wireless devices. The funding should be available well before Channels 61-69 become unavailable to the PMSE community, and it should be accepted that, for a period, existing equipment will need to be deployed alongside new devices tuned to Channel 38 and other frequencies in the Band IV/V sub-band.
10. This solution will ensure that the UK's world-class media and entertainment industry is able to accommodate a major change in hardware without disruption. It will also put Ofcom in a position where it can legitimately call for obsolete equipment to be surrendered and de-commissioned, liquidating a vast stock of devices which, in the wrong hands, could pose a major interference risk to future users of Channels 61-69, potentially impairing the value of that spectrum.

KEY ARGUMENTS

Our view is based on the grounds that:

- a) All equipment tuned to C61-69 will become obsolete, and Ofcom's proposal to offer compensation only for C69 devices ignores the reality that interleave space in C61-C68 is treated as spectrum which is de facto reserved for the PMSE sector where available.
- b) Many wireless device owners, particularly self-employed lone operators, do not run complex accounting systems that generate re-capitalisation reserves, and will be unable to supplement the residual value identified by Ofcom in their current complement of equipment to the point where replacements can be bought.
- c) Even where owners, for example hire companies, are using accounting

models which depreciate wireless devices over time, compensation pitched at the residual value level is inadequate since all devices will need to be replaced, whether they were bought this year or 20 years ago. Every single device, unless re-tuneable, will become obsolete, and there will be no re-sale value.

- d) The cut-off date of 30 June 2009 to determine eligibility for compensation is artificial, does not take account of the continuing "business as usual" need to re-equip with devices operating in the currently-available spectrum, and crucially, ignores the fact that Channel 38 is not even open for PMSE use yet.
- e) Exclusion of operators who did not hold valid licences during the 12-month reference period will unfairly deny compensation to potential claimants with legitimate reasons to have been inactive in the view of JFMG.
- f) Hire companies must logically be entitled to compensation since, although they may not routinely hold licences, they are a key part of the PMSE wireless community, and will suffer the same, potentially fatal, financial distress if excluded.

SUMMARY

- BECTU believes that in the interests of users, hire houses, and manufacturers of PMSE wireless devices, Ofcom should commit to a compensation programme which offers fully-funded, new-for-old, like-for-like, replacement of **ALL** obsolete equipment which owners can demonstrate has been used in the last 2-5 years.
- Compensation should be made as broadly as possible, encompassing all devices operating in Channels 61-69, based on ownership, and not on evidence of licence-holding.
- Funding should be made available before Channel 69 closes to PMSE users in order to encourage re-stocking in advance.
- Channel 38 should be made available as soon as possible to the PMSE sector, and there should be a period of dual-operation with Channel 69.