

## Comments:

**Question 1: Do you agree with our proposals for sufficient evidence that a rental company's operations are based on equipment hire as opposed to equipment use that requires a licence? If not, what would you suggest as alternative evidence?:**

I agree with your proposals on this subject.

**Question 2: Do you agree that users who have held a valid channel 69 licence at any time during the 12 months prior to 2 February 2009 and can justify why it lapsed should be eligible for funding, subject to the other conditions outlined above? If not, what other time period would you propose and why?:**

I, in general, accept that this is a reasonable period for license lapses. When it comes to justification, Ofcom must bear in mind that the unpredictable and intermittent nature of freelance work is not conducive to continuous licensing and should be generous in its interpretation. In addition, there may be other legitimate circumstances where a user has not renewed their license for a prolonged period such as temporary change of career or even illness. Ofcom should look at such cases with the view to qualifying these people for funding.

**Question 3: Do you agree that equipment purchased by eligible PMSE users between 2 February and 30 June 2009 should be eligible for funding, subject to providing evidence of the compelling reasons for making the purchase? Is there other evidence we should consider acceptable?:**

I believe that even this minor extension of the eligibility period is illogical given that, up to this present date, there are no workable alternative frequencies that users can apply. Only Channel 69 currently fulfils the requirements of nationwide unrestricted access. We suggest that, until a viable alternative is identified, Ofcom must qualify any user, even new ones, for replacement funding if they are forced to purchase Channel 69 equipment in the interim to ensure employment and service Productions. The Industry cannot be put on 'hold' whilst decisions on any future useable spectrum are reached. Suggestions that such equipment should be rented are also not acceptable. It is the nature of the Industry that Hire Company rental costs are always higher than the budget offered by Productions to the freelancer supplying the equipment under an 'all-in deal' and this does not allow for any adjustment of individual fees, therefore the freelancer will most certainly be out of

pocket.

Further to this, if the demand rises for rental of Channel 69 equipment, this will lead to a shortage, since the Rental companies will be reluctant to make what can only be short term investment in new equipment, compounded by the Ofcom ruling that such equipment would not be eligible for replacement funding.

**Question 4: Do you agree with our proposal that channel 69 equipment purchased after 30 June 2009 should not be eligible for funding? If not, what are the circumstances in which you think such equipment should be eligible?:**

I do not agree with your reasoning. Please refer to our answer to Question 3. There is no evidence yet of a viable alternative to the functionality of Channel 69. Until this is made clear and workable, all professional users must be indemnified if they are forced, for any good reason, to buy further Channel 69 equipment. We believe it would be very easy to provide evidence that such purchases were necessary, given the demands to service Productions and maintain employment. Any restrictions applied will stifle this process and, as stated, Productions and the Industry cannot simply be put on hold. Ofcom should also recognise that their decision to set this cut-off date is severely damaging our manufacturers because users will not order and buy any new equipment on Channel 69 whilst there is no prospect of replacement funding equipment if purchased after this date, and there are still no viable alternative nationwide frequencies. If any manufacturer is forced to cease trading because of this, it will be a tragedy for the UK Industry and Ofcom must bear the responsibility. In 4.9, Ofcom must also expand on their statement that changing the date would increase the risk of fraud. We find this hard to understand from a professional point of view.

**Question 5: Do you agree with our proposal to consider on a case by case basis representations from PMSE users of channels 31-37 and 61-68 who feel there are special circumstances that in their view may entitle them to a different period of notice than others? If not, please state your reasons.:**

I agree in general with analysis of this situation. However, we would like to draw Ofcom's attention to a statement in the recent Government's Digital Britain Review. It states: "The Government is committed to the timely release of 800 spectrum and will work with Ofcom to understand and meet the technical challenges. It has already endorsed Ofcom's proposal

setting out its plans to clear channels 61, 62 and 69. The Government will facilitate this replanning and will meet the costs incurred by broadcasters and PMSE users as a result of these changes."

We interpret this as INCLUDING Channels 61 and 62 in the replacement funding scheme and does not suggest a case by case examination. We also interpret this as meeting ALL the costs incurred as a result of these changes, with no provisos.

**Question 6: Do you agree with our approach to calculating funding based on the residual value of the equipment for the period during which a PMSE user could reasonably have expected to have access to channel 69? If not, can you set out an alternative approach which meets the overall objective of promoting the efficient use of spectrum?:**

Whilst I agree with your reasoning for promoting efficient use of spectrum through grants, we do not agree with your approach to calculating the funding. Your definition of 'end of useful life' is

disputed. Professional equipment, if correctly maintained, can last as long as it is legal to use it.

There is no definite 'sell-by' date and manufacturers will testify that some of their original Channel 69 equipment is still in everyday use. We maintain that any arbitrary life cycle applied by Ofcom is unacceptable.

It must be important that the 800 MHz frequencies are cleared prior to their sale and buying out the

current users is a reasonable way to approach this, as originally suggested by the Mobile Phone

companies who will most likely be the new owners. At some time, Ofcom must tackle the problem

of unlicensed and maybe ignorant users of these frequencies if they continue to try to use them

after 2012, causing interference with new services. Maybe a well publicised financial inducement is

required to remove this equipment from use and direct these users to alternative license-free spectrum, such as Channel 70.

**Question 7: Do you agree with our assessment that PMSE users could reasonably have expected to have access to channel 69 until 2018, but not beyond this date? If not, what time period would you consider reasonable, and why? In this context, please note, the fact that some equipment may be expected to operate beyond 2018 is not, on its own, a sufficient reason to reconsider that date.:**

As far as I am aware, the 2018 date was set for re-examining the progress of the Digital Dividend and was not set as a shut down date for the use of Channel 69, as now claimed. We

do not accept the pre-condition that the fact that some equipment may be expected to operate beyond 2018 is not, on its own, a sufficient reason to reconsider that date?. We are arguing quite simply that if the equipment is serviceable and legal, it is still capable of providing the user with income through rental fees as part of their profession, and these fees are not dependant on the age of the equipment. The removal of the frequencies means loss of income and, potentially, considerable personal expenditure to replace what is still serviceable equipment. And all this comes at a time of severe lending restrictions by financial institutions.

**Question 8: Do you have receipts for your equipment? What else do you consider we should accept as evidence of the date and price of purchase and proof of ownership? :**

I agree that Proof of Ownership is necessary. Receipts are an obvious proof, but bear in mind that under the Inland Revenue regulations, people are only obliged to hold receipts and financial records for 6 years. As you suggest, other forms of proof of Ownership could be from Insurance Lists and maybe a statement provided by the user's Accountant that such equipment is part of his Capital Investment for book keeping purposes.

**Question 9: Do you think we should make assumptions about the date of purchase of equipment for which where there is no evidence? If so, what assumptions do you think we should make?:**

I dispute Ofcom's assessment of useful life therefore such assumptions are not relevant. However, we recognise the problem that the lack of proof of purchase will cause and we offer the suggestions that the onus must be on the claimant to prove legal ownership before any agreed cutoff date. This should be reasonably easy to administer.

**Question 10: Do you agree with the factors we propose to consider when designing the methodology for determining the funding payable for each piece of eligible equipment? Are there any additional factors we should consider?:**

I agree with your methodology statement. We hope that 5.18 will take into account all our reservations on your funding proposals.

**Question 11: Do you agree with our proposal determine a set value and lifecycle for each equipment type, in the interests of simplifying the**

**application and funding process? If not, what would you suggest? Do you think there is scope to group similar equipment into larger sub-groups to simplify the process?:**

I do not agree with your proposals. However, we agree that any scheme based on detailed information such as equipment type, model, age, initial value and condition would be difficult to administer, highly bureaucratic, and open to disputes and thus cannot be recommended. In 5.22, Ofcom states that a blanket tariff would be simplest to administer but then suggest that this would be unsatisfactory. To the contrary, AMPS would recommend this approach. We also propose that we simplify all the calculations further by accepting the principle that every Channel 69 user will need new Channel 38 equipment. It should be born in mind that no second-hand Channel 38 equipment is available and new replacement is the only option. This cost should be FULLY funded by the scheme and this will even simplify the calculations required for the total fund since the cost of the replacement equipment will be know and supplied by the manufacturers. All

that would be required to reach this total is an accurate estimate of the number of units to be replaced. In 5.23, Ofcom claims that they desire simplicity in the application of the funding. A full replacement policy must simplify all the concerns raised with no need to determine age or

condition, only requiring a decision on suitable replacements. We cannot understand how this is

?imprudent use of public funds? since these funds are being generated by the sale of Channel 69 to higher bidders under the guise of European harmonisation of frequencies, and current legitimate PMSE users are being effectively evicted. As stated in the Digital Britain Review, Government has

already AGREED to meet the costs incurred by the PMSE Users and Broadcasters. They do not say

that they will only meet PART of the costs nor is it implied that they will only SHARE the costs.

**Question 12: Do you agree that a rate card approach would be a practical way of calculating the funding for each item of eligible equipment? If not, how do you consider the amount of funding for each item of equipment should be calculated?:**

I agree that a rate card will be desirable in calculating replacement funding. We suggest that all Manufacturers provide a list of Channel 69 and other affected equipment that they have produced over the years and indicate which current model would be considered an equivalent, given

that some models will no longer be manufactured. This, together with the costing for new units,

would form the basis of replacement models offered to eligible users. Complex aging tables are a

retrograde step and we would not support this. Our answer to Question 11 suggests that FULL

funding for new equipment should be applied for all eligible users, regardless of age and condition

of their redundant equipment.

**Question 13: Do you agree with our proposal not to distinguish between equipment by type of user? If not, what would be your preferred approach?:**

I agree with your suggestion not to distinguish by type. Our suggestion is that eligible users should receive a comparable grade of equipment, equivalent to their existing Channel 69 equipment from the manufacturer's current range.

**Question 14: What type(s) of equipment do you own (e.g. wireless microphone, in-ear monitor) which uses channel 69? For each equipment type:(a)How many pieces of equipment do you own?(b) Can this equipment be modified (or re-tuned) to function in channel 38? If so, what would be the average cost of this modification? (c)What was the average purchase price (excluding VAT)? (d)on average, how many years would you normally keep this equipment in operation?(e)Does the useful life of equipment vary with the amount and method of use? If so, in what way?(f)What is the average age of the equipment?(g)Would you normally sell or dispose of the equipment at the end of its useful life? If sold, how much on average would you expect to receive for it? If disposed of, how would you normally dispose of it? How much does this disposal normally cost?:**

I own:

6 x Audio Ltd 2020 radio mics with 4 channel and 2 channel racks

6 x Audio Ltd 2040 radio mics

1 x sennheiser EW100 (G2) with handheld microphone

1 x Lectrosonics IFB transmitter 5 x Lectrosonics receivers (T6)

Question (b): I have some concerns that, if the modification path is enforced by Ofcom, there will

be long delays whilst this work is carried out due to the sheer volume of equipment returned to the

Manufacturers, with users losing the use of their equipment for an unacceptable period. We would

like to see the choice of modification or new replacement left to the individual user since he is in

the best position to assess whether he can accommodate these potential delays.

Question(c): I find this question rather vague and difficult to answer. Are we considering what

the user actually paid for the equipment, new or second-hand, and how should this be averaged??

Question (d): I have already stated that, if properly maintained and serviced, professional equipment can have a very long useful life, well in excess of the 10 years that has been earlier suggested by Ofcom.

Question (e) is generally covered by our comments on Question (d)

Question (g): I cannot accept the end of useful life concept. It is our experience that serviceable

equipment will be sold on and the price expected is dependent on age and condition. If the equipment is damaged beyond repair and not subject to an insurance claim, it is probably eventually disposed of in the local waste facilities. If an insurance claim is involved, the

Insurance

Assessor would normally take possession and dispose of it. But it is worth pointing out here that in the case of Channel 69 equipment, it will have little value at present and no value after 1st January 2012, regardless of age and condition.

**Question 15: How would a decision to clear PMSE from channel 69 on 1 January 2012 affect you? What could we and the Government do to provide for an orderly migration in these circumstances?:**

I have very strong reservations as to this proposed timetable. In an earlier statement, Ofcom AGREED that we needed at least a two year overlap with Channel 38 and Channel 69 to facilitate an orderly migration. It now appears that this will not be possible. Indeed, the changeover date of 1st January 2012 does not take into account that Channel 38 might still be geographically restricted until the final DSO in about September 2012. It will not be possible for manufacturers to supply all the units required on the 1st January 2012 and the idea behind the overlap period was to spread the demand. This concept of an 'instant' changeover is seriously flawed and Ofcom must address this problem further. If Channel 69 is withdrawn on 1st January 2012, this means that NO unrestricted nationwide channel would be available for PMSE users until the final DSO. Given the known restrictions on the use of Channel 38, 39 and 40 from now until some time in 2012, it is unclear to us how this shortfall can be addressed, apart from delaying the handing over of Channel 69 to the new owners for the promised two year overlap period, starting when Channel 38 is truly available nationwide and unrestricted. What must not be ignored in this consultation is the fact that these frequencies have been removed from PMSE use by Ofcom to be sold to higher bidders. PMSE users have every right to expect some consideration for this. Residual values are irrelevant if new equipment has to be purchased as a result of this action. It is unreasonable that Ofcom or Government now expects the user to bear the bulk of the cost of replacement through some rather arbitrary aging and valuation scheme. Users must be allowed to continue in business and earning their livings without being lumbered by increased debts. The only sensible and acceptable way forward is to award all eligible users the ability to replace his now useless equipment with new, fully funded.

**Question 16: Do you believe we should facilitate early migration to channel 38 of those PMSE users for which this is convenient? If so, can you quantify the benefits? Would you take advantage of this option if it were available? :**

I agree with the possible part solution to the instant changeover problem on the 1st January 2012 to allow eligible users to purchase Channel 38 equipment in advance of available nationwide coverage and migrate early and this may be possible for fixed site indoor users. But our particular sector of Film and Television production demands that we have extremely flexible nationwide outdoor access to spectrum without notice, thus any restrictions like those that will be imposed on Channel 38, 39 and 40 are unworkable, and thus Channel 69 remains our only option. What we might be prepared to do, to ease the potential migration backlog for new equipment, is to order in advance and effectively stockpile the new equipment until it becomes useable on the same basis as Channel 69, sometime in 2012. This scheme would have to be fully funded by Government since no user would be willing to invest any money in equipment that he could not use immediately. It would also make any possible conversions impractical since the old equipment will be in constant use. Moreover, we maintain that, in response to 6.7, it can only be in the public interest to keep users and business operating and not let any fail through lack of sufficient funding or equipment.

**Question 17: Do you agree with our proposal to allow each PMSE user to submit only one application for funding and to reserve the right to require the surrender of equipment for which funding has been received? If not, how do you suggest we ensure items are only claimed for on one occasion? :**

I agree that there should be only one application per eligible user and this should list all the equipment he wishes to exchange for funding. This should include all frequency dependant auxiliary equipment such as antennae, RF distribution amplifiers and receiver racks with built-in RF distribution amplifiers. Further, we would like to suggest a voucher scheme instead of cash payments. The idea is that an eligible claimant would be issued with a voucher for replacement equipment only redeemable for this purpose through the manufacturers and main distributors. This might go some way to preventing fraudulent claims. The surrender of old Channel 69 equipment, once it becomes redundant and unusable, would be necessary, and Ofcom's suggestion of financial penalties if not surrendered is a possible solution and could prevent multiple claims against

the  
same equipment.

**Question 18: What are your views on the three options for new licensing arrangements for channel 38 identified by JFMG? Do you prefer any different approaches?:**

I would prefer Option 3 since this seems the most flexible arrangement. We recognise that, once Channel 38 is fully available, this plan is superior to the current Channel 69 arrangements. We would like to commend JFMG Ltd. and Ofcom for their work on this plan.

**Question 19: Do you agree with our proposal to include frequencies from channels 39 and 40 in the shared licence arrangements for channel 38?:**

I am very unclear on this question. We note that the maps supplied show many restrictions on both indoor and outdoor use. As we read the situation from 3.7 to 3.9 and Annex 7, it does not seem possible that this can successfully mirror the utility of Channel 69 prior to 2012 as stated, since our sector requires outdoor nationwide access to spectrum. However, if the plan is to provide further licensable frequencies in these adjacent channels post-2012, even on a geographically restricted basis, we would welcome this idea. This question does, at least, acknowledge our concerns that no alternative frequencies are yet available and reinforces our view that the 30th June 2009 cut-off date for replacement funding eligibility is illogical until this condition is fulfilled and Channel 38 to Channel 40 equipment begins to be manufactured.