Airwave O2 Limited response to Ofcom’s consultation on the Spectrum Framework Review: Implementation Plan

Dear Peter

Airwave O2 Limited [Airwave] is delighted to be able to respond to Ofcom’s consultation on the Spectrum Framework Review: Implementation Plan (SFR:IP), relating to Ofcom’s plans for the future management of the radio spectrum. In particular, Airwave has chosen to respond to two specific aspects of the consultation in this response, relating to the use of part of the 410-425MHz band [Section 5, paragraphs 5.14-5.29], and the 872-876/917-921MHz band [5.35-5.50]. O2 (UK) Limited are responding separately to all questions and issues raised in the consultation.

410-425MHz

Airwave notes that Ofcom is discussing with MoD the most suitable channelling arrangements that would optimise future civil use while safeguarding military use. We also note that the need to co-ordinate civil and military use is likely to put substantial constraints on use above 420MHz, particularly in northern England.

Ofcom has considered three options relating to the spectrum configuration and six options relating to the future civil use of spectrum in the 410-425MHz band. Airwave believes that optimal future civil use will be achieved by retaining the current configuration of spectrum, with two 4MHz blocks in each of the sub-bands 410-415MHz and 420-425MHz, and with a conventional duplex direction (uplink in the lower sub-band). We also believe that up to 2x3MHz of spectrum should be allocated to the emergency services, although we consider that the amount of spectrum that needs to be set aside varies through the country. Both this differential regional requirement and the management of a significant part of this spectrum by one licensee will assist in the safeguarding of military use in this band. From our calculations the largest requirements are in London and other major metropolitan areas.
Airwave agrees that one option that Ofcom should consider with regard to any remaining spectrum, not reserved for emergency service use, is the award of a single UK national licence on a service and technology neutral basis. It remains unclear to us, however, whether guard bands would be needed between spectrum reserved for emergency service use and any remaining spectrum, since the need for guard bands would depend in part on the technologies being deployed in the adjacent bands. We would therefore expect, once a decision has been made on ring-fencing spectrum for emergency service use, that further work may be needed to define the package(s) of spectrum that could be made available for other uses. We note also that there may be additional constraints, arising from the outcome of Ofcom’s discussions with the MoD, that might prevent any remaining spectrum being offered on a national basis.

Alternatively, another option that Ofcom could consider is the award of the remaining spectrum to a band manager to assign the spectrum to individual users and uses. This hybrid option of partial reservation and partial band management was not addressed explicitly in the consultation, but is the option preferred by Ofcom's consultants¹, who have studied the allocation options for several of the bands being considered in the SFR:IP. The consultants note in their report to Ofcom that firm evidence of demand from parties willing to take on band management is lacking at this time, but attribute some of this to the lack of clarity surrounding the role of the band manager. They believe that private interest in band management will increase once Ofcom has clarified the role. Airwave also looks forward to seeing clarification of how issues such as interference co-ordination and/or policing would be passed on to a band manager, particularly as they relate to co-ordination with the MoD to safeguard military use, and further details of how Ofcom would address the following competition concerns.

The award of spectrum to a band manager would be likely to bring benefits in terms of reduced co-ordination costs amongst participants in this niche market. However, Ofcom’s SFR:IP proposals appear in some instances to disadvantage parties that might wish to participate in such an award process as a result of its stated aim of addressing “disparity in market power between different potential bidders” [5.92]. Within the SFR:IP, Ofcom makes a number of statements concerning entry assistance and the desirability or otherwise to design auctions in a way which favours those without “market power”. It would be ironic if any intervention by Ofcom ended up disadvantaging a band manager which might offer the most efficient use of this spectrum.

Airwave considers that it is neither necessary nor desirable to distort competition by discriminating between potential bidders. We also note that Ofcom has failed, first, to define what is meant by market power in the context of this consultation (and, in particular, its relationship with the regulatory and competition law concepts of significant market power and dominance); and secondly to identify or analyse any economic market on which it is thought that potential bidders might enjoy ‘market power’ (however it is defined). Airwave notes that our sister company O2 (UK) Limited is responding to this consultation in some detail concerning the

¹ “Allocation options for selected bands”, DotEcon and Analysys Mason Group, February 2005.
need for Ofcom to conduct a thorough and transparent market analysis if it were minded to discriminate between potential bidders and we refer you to its response for further detail.

**872-876/917-921MHz**

Regarding the 872-876/917-921MHz band, Airwave notes that our sister company O2 (UK) Limited is responding to this consultation in some detail concerning the need to protect networks in adjacent bands from harmful interference, and we concur with this requirement.

Ofcom’s consultants have noted that “demand for this spectrum is likely to be very limited” and “there does not appear to be a rush to release it to the market”. We support their conclusion that Ofcom should hold back the band until further evidence of demand emerges, noting that this band is still a European harmonised band for Wide Band Digital Land Mobile PMR/PAMR (ECC Decision (04)06), which includes public safety and security applications. Even though the European studies relating to emergency systems (known as Public Protection and Disaster Relief) were not considered in the strategic plan for PMR/PAMR applications\(^2\), Airwave considers that the 872-876/917-921MHz band remains a candidate band for such systems.

We look forward to continuing to work with you on the more detailed aspects of implementation, and in particular the award of spectrum in the 410-425MHz band, that will follow this consultation. If you would like to discuss any of these issues further with me or any of my colleagues, please do not hesitate to contact me.

Yours sincerely

\[\text{Simon Wilson}\]

**Simon Wilson**

**Spectrum Policy Manager**

**O2 plc**

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