

Representing the Communication Services Industry



SRSP: The revised Framework for Spectrum Pricing
Ofcom proposals following a review of our policy and practice of setting spectrum fees

FCS response- 21 June 2010

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Introduction

The Federation of Communication Services, FCS, is the UK trade association for the communication services industry representing 300 businesses delivering communications products and services.

We welcome the strategic review of spectrum pricing and the comprehensive analysis it includes. It was very helpful for stakeholders to be able to attend the series of workshops in April and May 2010, which provided a better understanding of the proposals

Ofcom of course must have a strategy for its radio spectrum licence fees, where the spectrum has not been allocated via an auction. In general that strategy should be a set of very high level principles since the diverse uses to which the spectrum is applied introduce many commercial and societal issues.

We concur with Ofcom that there can never be a one size fits all approach to spectrum pricing as spectrum is not homogenous. Spectrum management is a multidimensional activity taking account of frequency, time, reuse and location. The principle that "use of spectrum pricing will ensure only those that value the spectrum most highly will make best use of it" may apply to those with commercial national networks or where there is real spectrum congestion that is not mitigated by technical solutions. It falls down when seeking to apply the principle generally to the myriad of uses well established and central to UK life, and particularly where spectrum is an essential input to other services to maintain national resilience.

Central to the consideration is Ofcom's duty under the Communications Act 2003 to ensure the optimal use of radio spectrum. The terms "optimal" and "value" cannot merely be economic descriptors and in the consultation are not comprehensively defined. That may be why so many stakeholders appear confused and have responded with their own interpretations of how "value" applies to the spectrum frequency and location where they use it. In fact as Ofcom notes broader social benefits are an important consideration. In our view these can only be determined by the elected Government as a policy for national life which provides the framework for Ofcom as an independent regulator to implement. There are factors other than economics that contribute to use of radio spectrum- such as national policy on resilience, security and maintenance; these aspects need to be understood and clarified to include them in national spectrum policy

This response summarises the views of the business radio members of FCS, which were expressed in the workshop for the sector on 20 April 2010

<http://www.ofcom.org.uk/radiocomms/ifi/srsp/documents/srspworkshops.pdf>

Other FCS member companies that deliver mobile telephony services have nothing to add to the points made by the mobile network operators in their workshop on 26 April 2010

Spectrum Pricing and Business Radio

In developing this response we have drawn on a recent comprehensive study of the UK business radio sector by the FCS, "Business Radio Future Strategy", carried out in April and May 2010. The commentary on spectrum pricing was as follows:

Administrative Incentive Pricing

Respondents were asked their view whether the application of Administrative Incentive Pricing would modify the spectrum requirement. **100%** of respondents replied that it would not. The systems they provide are carefully designed to use the right amount of spectrum, not more.

Respondents doubted whether it would be advisable to raise prices so high that users who are not using the spectrum consider returning it. The view was that the collateral damage caused by such a policy could have a negative impact on investment and growth leaving the users faced with increased costs without any corresponding benefits

We conclude that the view of the business radio industry is that AIP may be useful for commercial suppliers of mobile telephony or broadcasting, but not to a business radio user. The Business Radio user either has access to spectrum and keeps his operation [such as a port or tube train] functioning or does not have access to spectrum and his operation stops working. Business radio is not substitutable by other services.

Spectrum efficiency improvements have been developed through technical solutions. Exciting digital developments through new technical standards DMR and dPMR have led to new products using narrower band widths that permit more services transmitted over the same amount of spectrum.

While an AIP regime that raises the price of spectrum so high that the user has to give up spectrum is unsuitable for the Business Radio sector, some cost based licence pricing signals could be offered as encouragement to look at new services using 6.25/k/hz bandwidth.

At the moment, customers who may wish to use 6.25 kHz technologies are required to pay for 12.5 kHz spectrum that they do not require. But if customers only need one 6.25 kHz channel, they still need to "buy" a 12.5 kHz channel and pay for a 12.5 kHz channel although they use only half of it.

Although OFCOM uses the 6.25 kHz raster as a basis for channel frequency calculations, the pricing policy does not but should reflect this. This example demonstrates that administrative pricing, but not AIP, should be flexible and responsive to technical developments. We encourage Ofcom to demonstrate less control and be more enabling in this regard.

Consultation questions

General principles

Question 1: Do you agree with our proposed core principles of setting AIP? Are there additional matters that it would be helpful to clarify?

Proposed principle 1: role of AIP. AIP should continue to be used in combination with other spectrum management tools, in both the commercial and the public sectors, with the objective of securing optimal use of the radio spectrum in the long term. AIP's role in securing optimal use is in providing long-term signals of the value of spectrum which can be indicated by its opportunity cost.

Answer

We are not clear that AIP will have the desired outcome set out by Ofcom; AIP would have application for the commercial and public telephony sector only, not the public sector

Proposed principle 2: users can only respond in the long term. The purpose of AIP is to secure the optimal use of spectrum in the long term, so as to allow users to be able to respond to AIP as part of their normal investment cycle. Even where users have constraints imposed on their use of spectrum, in general, some if not all users have some ability to respond to AIP.

Answer:

Even for the limited application of the commercial sector, optimal spectrum use might be achieved more effectively and in a more timely manner by means of technical developments rather than by long term AIP constraints imposed by the regulator.

Proposed principle 3: when AIP should be applied AIP should apply to spectrum that is expected to be in excess demand from existing and/or feasible alternative use, in future, if cost-based fees were applied. In determining *feasible* alternative uses, we will consider the relevant timeframe, any national or international regulatory constraints, the existence of equipment standards, and the availability and cost of equipment.

Answer:

This principle may be too restrictive: investment cycles in business radio and international applications such as aeronautical and maritime are rarely less than 15 years, and frequently 25 years or more. Therefore, unless extortionate price changes are made, the market will be almost completely inelastic.

Whether or not spectrum is 'congested' is more a function of historic spectrum allocation decisions than usage. Thus services traditionally allocated large amounts of spectrum – defence, broadcasting and fixed & satellite services – do not experience the same congestion as mobile services because historically they have been

allocated the bulk of the spectrum. If the spectrum allocations for business radio and broadcasting service below 1 GHz were reversed, Business Radio would be an uncongested service with a corresponding lower AIP.

Proposed principle 4: the ‘relevant timeframe’ for AIP In general, we seek to assess excess demand, congestion and feasible alternative use over a timeframe that reflects the length of existing users’ investment cycles.

Answer:

As above, this principle may be too restrictive

Proposed principle 5: AIP and spectrum trading. Many secondary markets are unlikely to be sufficiently effective to promote the optimal use of the spectrum without the additional signal from AIP. Therefore AIP will likely continue to be needed to play a role complementary to spectrum trading for most licence sectors.

Answer:

Reviewing the trades published on the Ofcom spectrum trading register shows that business radio spectrum trades have generally only occurred for a company name change, rather than the “spectrum market” envisaged by Ofcom in 2004 when spectrum trading was introduced.

While there might be a commercial spectrum market for mobile telephony and broadcast spectrum at some point in the future it has not been demonstrated yet in the UK.

Proposed principle 6: AIP and wider policy objectives. Socially beneficial uses of spectrum do not, as a general rule, justify AIP fee concessions, because direct subsidies and/or regulatory tools other than AIP are normally more likely to be efficient and effective. For cost-based fees there might be some circumstances in which it could be appropriate to provide a concession.

Answer:

We do not agree- the wider public interest should prevail when allocating spectrum for essential UK use and an appropriate administrative price applied

Proposed principle 7: AIP and the promotion of innovation. It will generally not be appropriate to provide AIP concessions in order to promote innovation. We may consider whether cost-based fees should be set at a lower level in order to promote innovation.

Answer:

We believe there may be a case for lower cost based fees to incentivise new technology such as 6.25 kHz business radio services.

Proposed principle 8: use of market valuations; We will take account of observed market valuations from auctions and trading alongside other evidence where available. However, such market valuations will be interpreted with care and not applied mechanically to set AIP fees.

The financial “value” of auctioned spectrum in £/MHz appears to value widely. The DECT guard band auction in 2006 generated successful bids between £50k to £1.5 million for concurrent use of the spectrum. The [UHF](#) auction in the same year, which in our view was poorly designed as it permitted the entire available spectrum to be placed in the hands of a single licensee, generated £1.5 million for 2x2 MHz spectrum. This data is 4 years old and cannot be relied upon for a calculation today with any certainty.

Proposed principle 9: setting AIP fees to take account of uncertainty Where there is uncertainty in our valuations and the likelihood of demand for feasible uses appearing we will consider the risks from setting fees too high, or too low, in light of the specific circumstances. When spectrum is tradable we will consider the extent to which trading is expected to promote optimal use, and will also have particular regard to the risk of undermining the development of secondary markets.

Fee-setting methodology

Question 2: Do you agree that we should charge cost-based fees where AIP is not appropriate or AIP would not cover our costs? How do you think we should set cost-based fees in future fee reviews? Are there particular

factors you think we should take into account, for specific licences fees or cost-based fees in general? Question 3: Do you agree with our proposed fee-setting methodology principles (set out below)? Are there additional matters that it would be helpful to clarify?

Answer:

Ofcom should set cost based fees where AIP is not appropriate; business radio licences are one area where AIP is not appropriate.

Proposed methodology 1: AIP and congestion In setting AIP fees, we will assess current and future congestion in existing use and demand for feasible alternative uses in the frequency band in question and at different geographic locations over the relevant timeframe, given technological, regulatory and international constraints and using readily available evidence.

Proposed methodology 2: reference rates Reference rates will be based on the estimated value of the spectrum in the current use and any feasible alternative uses. These estimates will be informed, where appropriate, by the available market information (if any), and economic studies of spectrum value.

Proposed methodology 3: calculating individual licence fees In converting reference rates to fees, we will take account of the value of the amount of spectrum denied to others. This will generally be based on frequency, geographical location, bandwidth, geographical coverage or other measure that reflects the geographical extent of co-ordination requirements and in some cases the exclusivity of an assignment.

Proposed methodology 4: impact assessments We will undertake Impact Assessments on our fee proposals to identify any potential detrimental impacts to spectrum users, consumers and citizens. We will need to consider carefully the balance of benefits and risks of the implementation of all changes in fees.

Plans and priorities for spectrum fee reviews

Question 4: Do you agree with our proposal to move away from regular full-scale reviews to reviewing in response to evidence, as set out in Option 5?

Question 5: Do you agree with our process for assessing the priority of future fee reviews? Are there other sources of evidence of misalignment between fees and spectrum value or spectrum management costs that you can think of, and what weight should we give them?

Question 6: Based on our proposed criteria, or other criteria you would propose we use, what do you think our priorities for future fee reviews should be? Please tell us your reasons for thinking these should be prioritised. Do you agree that we should prioritise a fixed link fee, as some stakeholders have suggested to us?

Question 7: Do you agree with our proposed approach to post-review evaluation

We have no comments on questions 4-7 at this time

The attached document may be helpful to explain the views of the business radio sector. The full report of the "Strategic Future for Business Radio" will be published on the FCS website shortly