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Ofcom's Revised Framework for Spectrum Pricing

The UK Office of Communications (Ofcom) have undertaken a review of their spectrum pricing policy and methodology, covering fees based on administered incentive pricing (AIP)¹ and administrative fee based cost recovery. Ofcom's proposals in relation to how they envisage setting spectrum charges in the future are set out in their document "SRSP: The revised Framework for Spectrum Pricing" ("SRSP") which was published on 29 March 2010² and they seek responses to their proposals by 21 June 2010.

The proposals are intended to be a guide to general principles and practices and do not include detailed fee proposals for specific sectors, fees for which will be covered by means of separate consultations.

Ofcom are consulting on 9 principal proposals:

1. **The role of AIP** – the continued use of AIP to promote the optimal use of the radio spectrum in both the commercial and public sectors; providing long-term signals of the value of the spectrum as indicated by its opportunity cost.
2. **AIP as a long term signal** – to promote the optimal use of spectrum over time and to allow users to respond to AIP as part of their normal investment cycle.
3. **When AIP should be applied** – AIP should be applied to spectrum expected to be in excess demand from existing or feasible alternative uses in the future, taking into account the relevant timeframe, "national or international regulatory constraints" and equipment standards. AIP is potentially applicable: to wireless telegraphy licences that have not been auctioned; to licences that have been auctioned, after their initial licence term; to grants of recognised spectrum access (RSA); and indirectly to Crown bodies including the Ministry of Defence.
4. **The relevant timeframe for AIP** – Ofcom intends to assess excess demand, congestion and alternative uses over a timetable that reflects the length of existing users' investment cycles.
5. **AIP and spectrum trading** – both spectrum trading and AIP are intended to encourage the efficient use of spectrum. However, secondary markets are unlikely to be effective to promote the optimal use of spectrum without AIP, particularly in the early stages of the development of the trading market, and therefore AIP is likely to continue to play a role complementary to spectrum trading.
6. **AIP and wider policy objectives** – in general, socially beneficial uses of spectrum do not justify AIP fee concessions, as direct subsidies by the government and regulatory tools, other than AIP, are more efficient. Those providing such socially beneficial uses should have the same incentives to use spectrum efficiently as other users to ensure that investment choices are not distorted. Direct subsidies should be targeted only at the desired outputs. There may be some circumstances in which it may be more effective to provide a concession in relation to cost-based fees.

1. Fees may be set above the level required to recover spectrum management costs with the aim of securing defined objectives. Fee levels are set administratively by reference to Ofcom's estimate of the value of the spectrum, based on the opportunity cost (the value of alternative spectrum use foregone by society).

2. <http://www.ofcom.org.uk/consult/condocs/srsp/>

7. **AIP concessions and the promotion of innovation** – Ofcom believe that relieving spectrum scarcity will promote innovation in electronic communications and therefore that through the use of AIP, aimed at the efficient use of spectrum, opportunities for innovative uses of spectrum can be increased. Therefore, Ofcom do not, in general, consider it appropriate to provide AIP concessions in order to promote innovation, although Ofcom may consider whether cost-based fees should be set at lower levels.

8. **Use of market valuations** – Ofcom will take account of market valuations from auctions and spectrum trades (if like-for-like comparisons can be found and where AIP can be linked to market prices without distorting trading incentives) when setting AIP fees, but not in a mechanical way to the exclusion of other considerations.

9. **Setting AIP fees to take account of uncertainty** – where there is uncertainty in their pricing, Ofcom will consider the relative risks of setting fees too high or too low in light of specific circumstances on a case-by-case basis and, when spectrum is tradable, the extent to which trading is likely to promote optimal spectrum use. Ofcom will apply a presumption that fees should be set conservatively and will consult on specific fee proposals.

Ofcom are also consulting on 4 proposed methodology principles for setting AIP and cost-based licence fees: AIP and congestion; reference rates; the calculation of individual licence fees; and impact assessments.

Ofcom expects to apply the framework set out in the SRSP to all future spectrum fee rate reviews.

Following the end of the consultation period, Ofcom intends to publish a statement in October 2010 summarising the responses and Ofcom's conclusions.

If you require any further information on Ofcom's proposals or wish to discuss how they may affect your business please contact Joanne Wheeler.



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