

**Intellect response to Ofcom consultation on 'Request by UK Broadband for 3.5GHz Licence Variation' (due date 27<sup>th</sup> August 2007)**

Intellect welcomes this opportunity to comment on the proposed changes to the UK Broadband 3.5 GHz licence and to reply to the specific question set out in the consultation document.

Before dealing with the separate parts of this question we would like to confirm that there is broad support within Intellect for the general principle of more flexible market based spectrum licensing and our comments are concerning the details of this particular proposal.

***Question 1: Do you agree that the case for making changes requested by UK Broadband to its licence has been made? If not, why would it not be appropriate to vary UK Broadband's Wireless Telegraphy Public Fixed Wireless Access Operator Licence by (i) allowing application neutrality and (ii) increasing the permitted maximum in-band EIRP, and why would it not be appropriate to vary the licence as soon as practicable?***

On the basic question asked in the consultation document: ***that the case has been made for Ofcom to vary the UK Broadband operator's licence***, we are supportive that the case has been well prepared. Our members note the technical (interference) and competition concerns discussed in the main body of the consultation document and in the impact statement and we acknowledge that there is a balance to be struck between the benefits to UKBB, the citizens generally and certain third parties affected by the changes.

Benefit should be derived from further consideration of where this balance is made during the process leading up to the licence changes being finalised.

In answer to the point ***(i), allowing application neutrality***, several Intellect members raised the issue of the way that the liberalisation of spectrum management through variation of licensing conditions will be applied across other bands, i.e. bands that can support related/competing services including the arrangements envisaged in the WAPECS initiative, and especially the bands currently licensed for GSM networks. Clearly the changes to licensing in the different bands will have to be phased in over a period of time, but we consider that Ofcom should further clarify its policy and schedule in order to minimise distortion of the market place during the transition.

In answer to point ***(ii), increasing the permitted maximum in-band EIRP***, there is still some concern about the increased potential for interference with C band satellite systems in the frequencies close to the UK Broadband licence blocks, particularly if the EIRP values are increased as proposed in the consultation document. Intellect therefore considers that Ofcom should further explore this issue with the incumbent users and operators with minimum delay before making any changes to the licence, and hence ensure that the related issues of power limits and coordination procedures balance the interests of all the parties concerned.

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