

## **BEIRG Response to Ofcom's Draft MCWSD Licence**

BEIRG believes that the manual configuration of white space devices represents a significant threat to the PMSE industry. All previous consultations on WSDs, from Ofcom or in Europe, have concluded that manual configuration presents an unacceptable risk to PMSE, which is why Ofcom originally arrived at the decision to require WSDs to geolocate. We therefore strongly oppose Ofcom's decision to compromise on this protection in order to accelerate the development of an untried, untested technology.

We urge Ofcom to reconsider its decision to issue licences to MCWSDs. However, if Ofcom chooses to proceed with this policy, there are several aspects of the proposed licence that BEIRG believes must be corrected before MCWSD licences are issued.

### **The Quality Assurance process**

Ofcom's statement on MCWSDs acknowledges 'an increased risk of interference associated with MCWSDs compared to automatically configured devices'. The QA process is clearly central to attempts to mitigate this interference, yet the control of the whole process, from design to maintenance, has been delegated to the WSD industry.

In our initial consultation response BEIRG said:

*"MCWSD users have the most to gain from keeping the Quality Assurance process vague and flexible; as such, they should not lead on its development. BEIRG asks for confirmation and detailing of a control arrangement to prevent such abuse of spectrum access."*

The QA process was, and remains, a key concern for BEIRG, yet Ofcom's response to this issue in the annexe of stakeholder responses did not deal with, or reference, our specific concerns. In BEIRG's view Ofcom has not adequately explained why it believes that a process intended to protect PMSE from interference should be designed, administered, and maintained by the same users that would be causing the interference.

By absolving itself of control over the content of the QA process, Ofcom is neglecting its duty as an independent regulator. The QA process is supposed to be central to the protection of PMSE, but it has been delegated to a party, or parties with a vested interest, that does not stand to be disadvantaged if the process fails to achieve such protection.

BEIRG believes that no licences should be issued until Ofcom has issued official, binding and substantive guidance as to what the QA process should include. It should require MCWSD users to provide Ofcom with a copy of their QA process and installation records and Ofcom should have to ratify the installation record before the MCWSD is allowed to operate. These records should be publically available.

### **The role of the WSDBs**

Clearly, licensees and databases require additional oversight, yet Ofcom has elected to do the opposite; Ofcom no longer plans to obligate licensees to provide copies of their installation records to Ofcom, instead

relying on the WSDBs to oversee a system for which they are ultimately unaccountable. They have no stake in ensuring the accuracy of information provided to them by licensees as they are not responsible for any inaccuracies, as evidenced by this comment in the Ofcom statement:

*“To be clear, the licensee remains responsible for ensuring that devices comply with the terms of the licence. The database will not be responsible for verifying whether the information provided to it by the licensee is accurate – only for checking the consistency between the installation record and the device parameters in the request.”<sup>1</sup>*

In addition, the fact that WSD operators are the customers of the WSDBs raises serious concerns about a conflict of interests; WSDBs are incentivised to create the most favourable possible conditions for the operation of WSDs, which may well include lax regulatory oversight.

BEIRG objects to Ofcom abdicating its central role in preventing interference. No licences should be issued until this situation is resolved and Ofcom has repatriated these responsibilities.

### **Licensing on a transitional basis**

In the response to stakeholders, Ofcom claims that ETSI standard EN 301 598, requiring databases to have automatic configuration, is not affected by MCWSDs because the licences are a temporary measure. There are further suggestions that, in the event of licences becoming more permanent, ‘we would expect licensable devices to follow an alternative route that ensures compliance with the essential requirements of the R&TTE Directive, for example, going through a notified body’ and that ‘we think industry is best placed to decide on the best route for compliance, which could be to update the ETSI standard to cover MCWSDs.’<sup>2</sup> In short, there is no real assurance that MCWSDs are not here to stay.

The ETSI standard is central to protection of PMSE. The fact that its modification is under consideration at all suggests that Ofcom does not consider safeguarding PMSE to be a priority. Given that the standard exists for the specific purpose of protecting PMSE, one would expect arguments for its modification to focus on the protection of PMSE. However Ofcom does not reference PMSE at all, instead arguing that the standard could be modified if it becomes necessary for the continued provision of MCWSD services. This clearly demonstrates Ofcom’s desire to implement WSDs at any cost.

BEIRG appreciates that Ofcom will be reviewing the MCWSD licences in three years, and we are aware that Ofcom expects automatic configuration to be available by that time. However, we are not convinced by claims that the licensing regime will not impact on the pace of geolocation development. If a company is able to deploy MCWSDs under a licensed scheme, and Ofcom insists on using language that casts doubt over its

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<sup>1</sup> Ofcom: ‘Licensing Manually Configured White Space Devices’, paragraph 3.103, accessed at [http://stakeholders.ofcom.org.uk/binaries/consultations/manually-configurable-wsds/statement/Licensing\\_manually\\_configurable\\_white\\_space\\_devices.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/manually-configurable-wsds/statement/Licensing_manually_configurable_white_space_devices.pdf)

<sup>2</sup> Ofcom: ‘Summary of stakeholder responses’, pages 28-29, accessed at [http://stakeholders.ofcom.org.uk/binaries/consultations/manually-configurable-wsds/statement/Annex\\_1\\_Summary\\_of\\_stakeholder\\_responses.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/manually-configurable-wsds/statement/Annex_1_Summary_of_stakeholder_responses.pdf)

commitment to this being a temporary arrangement, what incentive is there for an MCWSD provider to invest time and money in developing geolocation?

Whilst the regime is intended to be transitional, BEIRG has little confidence that Ofcom will end the scheme if automatic geolocation technology does not become available, especially given Ofcom's already evident willingness to compromise on the protection of PMSE to deliver WSDs in any form.

### **Nomadic devices**

The draft licence permits the use of 'nomadic devices' – a category of device, with a far greater potential for human error or malpractice. Given the greater threat that these devices pose to PMSE, BEIRG enquires as to why Ofcom considers that the need for these devices is great enough to warrant the additional risk. BEIRG notes that Ofcom did not set this out in their statement or annexes.

If these devices are to be permitted, Ofcom should set out how they plan to police these devices specifically. For instance: will nomadic devices be subject to more frequent 'proactive compliance checks'?

BEIRG believes that no licences should be issued until Ofcom has provided comprehensive reassurances as to how it will mitigate the additional risks posed by nomadic devices, above and beyond the steps taken to prevent interference from non-nomadic MCWSDs.

### **The United States**

After the failure of American WSDBs to maintain accurate location information, there is now pressure from both broadcasters and WSD manufacturers for devices to geolocate and for the existing MCWSDs to be grandfathered<sup>3</sup>.

Ofcom stakes much of its interference management regime on the provision of detailed installation records and a QA process. However, both of these rely on the WSD operators submitting accurate information in the first instance, the same group that systematically failed to do this in the US. Whilst UK MCWSD operators will be licensed, unlike in the US, licensing is only as effective as the enforcement that supports it.

BEIRG objects to any licences being issued until Ofcom has provided an explanation of how licences will be enforced and how this enforcement will be sustainable as MCWSD use proliferates.

The US experience also highlighted a lack of accountability for the WSDBs. The National Association of Broadcasters identified a need for 'real and effective accountability measures not only for parties registering a white space device but also for database administrators<sup>4</sup>'. This is a situation that BEIRG does not believe has been remedied in Ofcom's proposed model.

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<sup>3</sup>NAB: Letter on 'TV White Spaces Databases Accuracy and Technical Rules', accessed at [http://www.nab.org/documents/newsRoom/pdfs/071715\\_TVWS\\_joint\\_letter.pdf](http://www.nab.org/documents/newsRoom/pdfs/071715_TVWS_joint_letter.pdf)

<sup>4</sup> NAB: 'NAB Files Petition to Correct Television White Space Database Design Flaws', accessed at <http://www.nab.org/documents/newsroom/pressRelease.asp?id=3618>

## The future of WSDs

WSDs are a new technology. Ofcom's statement is predicated on the future use of MCWSDs being relatively predictable. For instance; Ofcom does not anticipate releasing a large number of licenses over the three year transition period (and makes no provision to cap licences as a result). It would be useful to know what contingencies Ofcom has in place should MCWSD use differ from expectations.

BEIRG believes that it is irresponsible of Ofcom to begin issuing licences until it has satisfied incumbent users that it has a clear idea of the direction this new technology will take and its likely proliferation. In any event, licences should be capped in order to avoid unintended and potentially interference causing scenarios.

Ultimately, BEIRG is extremely concerned that an experiment in future spectrum management is to be conducted in an area of spectrum where so much damage could be caused. Live performance, in whatever form, is by its very nature 'of the moment'. Any interference that ruins that moment will have severe consequences for the performer, the technicians responsible for delivering the event, the audience and any downstream revenue generation. There also exists the real possibility that peoples' TV reception could be adversely affected by inappropriately configured MCWSD networks. UHF spectrum is already a shared resource – DTT and PMSE. BEIRG believes that Ofcom's desire to open this already congested resource up to an additional third 'service' will ultimately result in problems for the existing, legitimate, incumbent users.

In short, BEIRG believes that this is a bad policy, to be implemented in a very sensitive area of spectrum that could have serious negative consequences. The PMSE sector is fundamental to the success of the UK's world leading creative industries, which are worth £76.9 billion per year to the UK economy and are directly responsible for 1.7 million jobs<sup>5</sup>. Poorly regulated MCWSDs threaten the future viability of PMSE and the continued success of the creative industries which depend on these services. BEIRG strongly urges Ofcom to re-think this policy.

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<sup>5</sup> <https://www.gov.uk/government/news/creative-industries-now-worth-88-million-an-hour-to-uk-economy>