

The Consultation Paper
on
Spectrum Utilization Fee (“SUF”)
For
Spectrum Assigned Administratively

Submission by
SmarTone Mobile Communications Limited
And
SmarTone Communications Limited

SmarTone Mobile Communications Limited and SmarTone Communications Limited (“SmarTone-Vodafone”) is pleased to provide comments on the captioned consultation paper issued by OFTA on 26 November 2010 (the “Paper”) as below.

Question 1

Do you agree that SUF for administrative assigned spectrum should only be applicable to the congested frequency bands on the criteria of congestion given in paragraph 22?

The Paper proposes that SUF to be applied to frequency bands which are congested (i.e. 75% occupied) and are anticipated to become more congested in the future. However, it will be too risky to define a band / spectrum to be congested in this way. Operators may then rush to use the presumed not congested band because no SUF is required. According to paragraph 3.1 of the “Radio Spectrum Policy Framework (April 2007)”, a market-based approach in spectrum management will be used ... unless there are overriding public policy reasons to do otherwise.” Thus, SmarTone-Vodafone opines that market-based approach is still the best way for spectrum allocation and to avoid the need to identify congested or not congested band.

Question 2

Do you agree that SUF levied on the administratively assigned spectrum should be based on the LCA approach?

We have reservation in using a hypothetical scenario to determine the least cost alternative (LCA). The cost of such LCA could be unrealistically high or such LCA is impractical to implement because of the physical limitation of a particular frequency band, technology and/or the specific location of the fixed link under consideration. This could mean the use of LCA not possible for certain cases.

We opine that the use of LCA approach in setting SUF is over-simplified and need to consider the market benchmark approach in parallel.

Question 3

Do you agree with the approach on setting the SUF for congested frequency bands for fixed links mentioned in the above paragraphs?

It is stated in paragraph 34 Table 1 of the Paper that a fixed link can be provided by alternatives such as by using more efficient technology, higher and uncongested frequencies, public services – leased line etc.

As explained above, the approach of using a hypothetical LCA is not applicable in some situations. For instance, it would be impractical to replace a microwave link to Outlying Island by a submarine cable or using multiple-hop link in uncongested band with repeater stations built midway in the sea.

It is also noted in paragraph 37 of the Paper that it assumes a reuse factor of six in the derivation of the SUF. This is a pure assumption based on past applications and is not reflecting the actual situation.

For a fair arrangement, the approach on setting the SUF should be carefully considered.

Questions 4 and 5

Do you agree with the approach on setting the SUF for congested frequency bands for ENG/OB links mentioned in the above paragraphs?

Do you agree with the approach on setting the SUF for congested frequency bands for satellite uplinks mentioned in the above paragraphs?

SmarTone-Vodafone opines that the approach should be consistent with that for fixed links.

Question 6

Do you agree that SUF should be imposed as annual payment regardless of the valid duration of the licence?

SmarTone-Vodafone has no objection for the SUF to be imposed as an annual fee paid over the duration of the licence similar to current arrangement for that of FTNS/FC/UC and SSC licence.

Question 7

Do you agree that fixed links operated by mobile carriers should be assigned under UC licence (instead of WBLRS licence) and thus be charged with the relevant SUF accordingly?

According to paragraph 54 of the Paper, the total fee (i.e. SUF plus licence fee) payable would be normalized to a fairly similar level under both the UC licences and WBLRS licences, SmarTone-Vodafone wonders if it is still required for fixed links operated by mobile carriers to be assigned under UC licence instead of WBLRS licence.

Question 8

Do you agree that SUF should be applied to all users of the designated congested frequency bands irrespective of the same time when the licence of the user is due for renewal?

As some frequency bands are assigned to users under different licences, viz, annual telecommunications licences (e.g. WBLRS licence), FTNS/FC/UC licences and SSC licences, a careful consideration to introduce different SUF to all affected users is required to maintain fairness among operators.

Question 9

Do you agree with the transitional arrangements for implementing the SUF charging scheme (i.e. the grace period, the phase-in introduction of the SUF and the one-off grant arrangement) as proposed in paragraph 57 above?

It is stated in paragraph 4.3 of the “Radio Spectrum Policy Framework (April 2007)” that “If a spectrum assignment is to be varied or withdrawn before the assignment expires, the spectrum assignee to be affected will be notified before the variation or withdrawal is to take place ... a notice period of not less than three years before the date of variation or withdrawal would be given insofar as it is practicable in the circumstances.” Hence, using this as a reference, it is more reasonable to have the transitional arrangements shorten to 3 years for the spectrum users to evaluate their spectrum use and to consider whether to continue using the spectrum at the proposed SUF.

Question 10

Do you agree that SUF charging scheme should be reviewed every five years?

In paragraph 6.2 of the “Radio Spectrum Policy Framework (April 2007)” concerning the spectrum for Government Services usage, it states that “The efficiency of the use of those spectrum will be reviewed by TA every three years.” Hence, SmarTone-Vodafone opines to have the review period being shorten. We propose to have an annual review as the spectrum occupancy for the congested and non-congested band may change soon after the implementation of the SUF for certain frequency bands.