









Proposals to make auction regulations for the mmWave award

BT's response to Ofcom consultation
document issued on 14 May 2024



Issue: v1.0

8 July 2024



BT Group



1 Introduction

BT is pleased to provide its comments in response to the notice of Ofcom's proposal¹ to make regulations for the award of the 26 GHz and 40 GHz spectrum bands.

Our comments in the draft regulations² are provided in section 2 below. These comments mostly relate to fairly obvious editorial errors in the drafting, such as mistakes in numbering and cross references. However, we do also have a small number of more substantive comments that we believe need to be addressed before the regulations are finally made.

2 Detailed comments on the draft regulations

Table 1 – Editorial comments on the draft auction regulations

| Regulation | Comment |
|-------------------|--|
| 1(1) | The reference to 2025 does not align with the [2024] date in the title |
| 7(3), 7(4) | Should be re-numbered 7(2), 7(3) |
| 33 | The first two clauses are both numbered (1). The clauses should be re-numbered (1) to (2) |
| 34 | The first two clauses are both numbered (1). The clauses should be re-numbered (1) to (2) |
| 41 | The first two clauses are both numbered (1). The clauses should be re-numbered (1) to (10). The references should then work. |
| 43 | The first two clauses are both numbered (1). The causes should be re-numbered (1) to (8). After re-numbering the clause 8(b) should cross-reference to sub-paragraph (a) instead of (b). There are some unnecessary spaces at the beginning of (c) in the last clause. |
| 44 | The first two clauses are both numbered (1). The causes should be re-numbered (1) to (8). After re-numbering the clause (5) should be amended |

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0035/285299/Consultation-Proposals-to-make-auction-regulations-for-the-mmWave-award.pdf

² https://www.ofcom.org.uk/_data/assets/pdf_file/0034/285298/Annex-5-Draft-Wireless-Telegraphy-Licence-Award-Regulations-2024.pdf

| Regulation | Comment |
|--|--|
| | to insert the word “to” before the word “or” so it reads “... equal <u>to</u> or greater than zero”. |
| 55 | The first two clauses are both numbered (1). The causes should be re-numbered (1) to (5). |
| 98(2) | The cross-reference should be to regulation 97(b) not 97(6). |
| 112 | Reference to “regulations” should be singular not plural, i.e., “regulation” |
| Schedule 4 Fourth Requirement 5 (3) | The formula should contain subscripts $c_A = b_A - (t - u_A)$ |
| Schedule 5 Fourth Requirement 5 (3) | The formula should contain subscripts $c_A = b_A - (t - u_A)$ |
| Schedule 6 Fourth Requirement 5 (3) | The formula should contain subscripts $c_A = b_A - (t - u_A)$ |
| Schedule 7 Fourth Requirement 5 (3) | The formula should contain subscripts $c_A = b_A - (t - u_A)$ |

Table 2 – Substantive comments on the draft auction regulations

| Regulation | Comment |
|-------------------|---|
| 31 (4) (b) | For clarity, should this clause state ‘a simple bid to decrease demand’ to make it clear that it is not an all or nothing bid to decrease demand? |
| 64(3) | Suggest that the cross reference should be to paragraph (1) in addition to paragraph (2) as it is both the date as well as the amount of the deposit which is relevant. |

| Regulation | Comment |
|-------------------|---|
| 76(1), 76(3) | It is unclear why references are made to Regulation 77 as that regulation only deals with prices to be paid, not the identification of the winning combination. |
| 81(1), 81(3) | It is unclear why references are made to Regulation 82 as that regulation only deals with base prices to be paid, not the identification of the winning combination. |
| 86(1), 86(3) | It is unclear why references are made to Regulation 87 as that regulation only deals with base prices to be paid, not the identification of the winning combination. |
| 92(1), 92(3) | It is unclear why references are made to Regulation 93 as that regulation only deals with base prices to be paid, not the identification of the winning combination. |
| Part 7, Chapter 1 | Should regulations be added to cover the 'Particular frequencies' and the 'Licence Fee Payable' for the case if winners are assigned frequencies without bidding in accordance with regulations 67, 68 and 69? |
| 120 | Should the regulation not also provide for the possible case of grant of licences without assignment bidding in accordance with regulations 67, 68 and 69? |
| 123 | The regulation should also include publication of all valid 40GHz and 26GHz assignment bids in line with Ofcom's November 2023 Statement ³ . |
| 124(2) | We are unclear why some text is in square brackets. More importantly it is unclear to us as to when collusion rules will be waived in relation to assignment information. If the regulation is interpreted to allow confidential information to be shared after each stage rather than after all stages of the assignment rounds have completed, that would completely undermine and could unfairly distort bidding in the second and third assignment rounds. The reference to regulation 104 needs to be expanded to more clearly explain at what point information can be shared without breaching the rules. If, as we assume, it is Ofcom's intention to only waive penalties for collusion after <u>all</u> assignment bids have been placed and results announced, this should be stated more clearly. |

³ See para 6.41 and A7.52 of https://www.ofcom.org.uk/data/assets/pdf_file/0022/271129/consultation-statement-mmwave-auction-design.pdf



8 July 2024

Find out more at [bt.com](https://www.bt.com)



Offices worldwide




© British Telecommunications plc 2024

Any services described in this publication are subject to availability and may be modified from time to time. Services and equipment are provided subject to British Telecommunications plc's respective standard conditions of contract. Nothing in this publication forms any part of any contract.

Registered office: 1 Braham Street, London E1 8EE

Registered in England No. 1800000



BT Group

