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**NON-CONFIDENTIAL**

8 August 2018

Dear Kirsty,

**Hutchison 3G UK Ltd (“Three”) and UK Broadband Limited (“UKB”) response to Ofcom’s consultation on the variation of UKB’s spectrum access licence for 3.6 GHz spectrum (the “Licence”)**

Three and UKB welcome the opportunity to respond to Ofcom’s consultation on the variation of the Licence dated 27 June 2018 (the “Consultation”).

The Consultation has been published by Ofcom in response to a request submitted by UKB to Ofcom on 29 May 2018. In the Consultation, Ofcom states that their *“provisional conclusion is that it is appropriate to grant the requested variation and [Ofcom] are minded to do so.”*<sup>1</sup> As one may expect, Three and UKB agree with Ofcom that it is not only appropriate to vary the Licence, but that the Licence should be so varied as soon as practicable.

Given these circumstances, we do not propose to reiterate the details of our original variation request in this response. However, we do have a couple of comments, as follows.

**The three elements of UKB’s request**

In its request, UKB proposed three elements to the licence variation, namely:

- a) Inclusion of the frequencies 3600-3605 MHz within those it is authorised to operate the relevant radio equipment;
- b) Modification of certain technical requirements to align with UKB’s 3.5 GHz licence; and
- c) Surrender of UKB’s rights to use the frequencies 3680-3689 MHz.

Three and UKB are very supportive of Ofcom’s provisional view that it is both appropriate and proportionate to vary UKB’s 3.6 GHz licence in each of the ways suggested by UKB; and that the proposed variation is also in line with Ofcom’s statutory duties, including to promote competition and the efficient management and use of spectrum.

We would like to take this opportunity to record again that each of these elements is complementary and form part of a single request. UKB reserves the right to refuse its consent to any final version of the variation that includes only some and not all elements requested.

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<sup>1</sup> Consultation, paragraph 4.67

## Timing and the transitional arrangements

In the Licence variation request, UKB also set out a proposed approach to timing of the variation, and the transitional arrangements we suggested should apply following the variation. We note that the details of our request regarding the transitional arrangements have been subsequently refined, as recorded by Ofcom in paragraph 2.9 of the Consultation, as follows:

*“2.9 In order to manage the transition from the current use of 3605 – 3689 MHz to future use of 3600 – 3680 MHz, UK Broadband has requested a transitional period during which equipment on some sites could continue to operate temporarily in the 3605 – 3689 MHz range to avoid adversely affecting existing customers. Equipment on upgraded sites would operate in the new 3600 – 3680 MHz range during this period. Subsequent to the submission of the variation request, UK Broadband has requested that:*

- access to the 3600 – 3680 MHz range be granted under technical requirements consistent with those in the UKB 3.4 – 3.6 GHz Licence (as shown in the new Schedule 1 of the draft licence at Annex A7); and*
- access to the 3605 – 3689 MHz range continue under the existing technical requirements of the UKB Licence, with this access to be withdrawn from the later of 1 September 2019 or nine months from the date of the licence being varied.”*

These transitional arrangements, including the sunset clause for the frequency block 3605-3689 MHz, have been reflected by Ofcom in Schedules 1 and 2 to the draft UKB Licence, included in the Consultation as Annex A7. Three and UKB are satisfied that these proposed amendments to the Licence are a pragmatic way of managing the transition from our current use of the 3605-3689 MHz range to future use of the 3600-3680 MHz range, ahead of next year's expected spectrum award.

Finally, we urge Ofcom to act quickly once the Consultation period ends, so that the identified benefits of the variation can be realised. Therefore, we welcome Ofcom's stated plan to move quickly to publish a statement and look to vary the Licence as soon as practicable.

We would be happy to discuss any of these points further, should this be helpful.

Yours sincerely



**Michelle Bick**  
Legal Counsel – Regulatory and Competition