



Information Notice

3.5 GHz FWALA Channel C & 10.5GHz FWALA Channels C & D Spectrum – Comparative Evaluation Process & Form

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3.5 GHz FWALA Channel C & 10.5 GHz FWALA Channel C & D Spectrum –
Comparative Evaluation Process & Form

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1 Introduction

Recently, 3.5 GHz Fixed Wireless Access Local Area (“FWALA”) Channel C and 10.5 GHz FWALA Channels C & D spectrum have become available in the Castlebar area.

As demand for the available 3.5 GHz FWALA Channel C and 10.5 GHz FWALA Channel C & D spectrum in these areas may exceed supply, the Commission for Communications Regulation (“ComReg”) has set out a two phase application process for the assignment of these licences.

Phase 1: Comparative Evaluation

Phase 2: First Come First Served

ComReg wishes to ensure the earliest possible provision of service in these areas and so, compared to previous competitions, ComReg has made a number of revisions to the FWALA comparative evaluation competition and licence offer process in respect of this competition. The main revisions are listed below

1. Any former holder of a 3.5 GHz or 10.5 GHz FWALA licence in a particular geographic area, whose licence was revoked by ComReg for failure to comply with licence conditions, may not apply for a new FWALA licence in that same area under this competition. This also applies to any “connected person” of such a former licence holder (see the definition of “connected person” in Annex 2).
2. Introduction of a “Speed to Market” evaluation criterion.
3. Revised characteristics for the residential and business offer, i.e. revised download speeds etc.
4. Issue of a “temporary” FWALA licence to match the “Speed to Market” pledge. A licensee may apply for an “annual” FWALA licence once the “temporary” licence has expired.

ComReg invites all interested parties to submit applications before **1:00pm on 11 July 2008**.

If no valid applications are received prior to the closing date of this competition, ComReg will then offer any remaining 3.5 GHz and 10.5 GHz spectrum on a “first come first served” basis, in accordance with the ‘Revised Guidelines to applicants for Fixed Wireless Access local Area (FWALA) Licences’ (Document No. 06/17R3) (“the FWALA Guidelines”).

It should be noted that any reference in this Information Notice to a “licence” should be construed as a reference to both a “temporary licence” and an “annual licence”, unless indicated otherwise.

2 Existing 3.5 GHz FWALA Channel C and 10.5GHz FWALA Channel C & D Spectrum

Appendix 1 of this document contains the current 3.5 GHz FWALA Channel C and 10.5 GHz FWALA Channels C & D maps¹ indicating the existing licensees. Applicants should use these maps to identify the geographical areas in Ireland where 3.5 GHz FWALA Channel C & 10.5 GHz FWALA Channels C & D spectrum is currently available.

As stated in the introduction, 3.5 GHz FWALA Channel C and 10.5 GHz FWALA Channels C & D spectrum have recently become available in the Castlebar area. The centre point of the previous licence is denoted on the maps with a green icon and the letters 'NA', as well as a red circle outlining the interference contour of the previous licence.

¹ These maps are also available on the on FWALA section of ComReg's website http://www.comreg.ie/radio_spectrum/search.541.874.rslicensing.html.

3 Application Process

The ‘Revised Guidelines to Applicants for Fixed Wireless Access Local Area (FWALA) Licences’ (ComReg Document 06/17R3) (“the FWALA Guidelines”) provides guidance on the general terms and conditions associated with the FWALA licensing process. All applications should be in compliance with the FWALA Guidelines unless indicated otherwise in this Information Memorandum.

As demand for the available 3.5 GHz FWALA Channel C & 10.5 GHz FWALA Channel C & D Spectrum may exceed supply, the application process for this spectrum is split into two phases:

- Phase 1: Comparative Evaluation
- Phase 2: First Come First Served

3.1 Phase 1: Comparative Evaluation

All valid applications for 3.5 GHz FWALA Channel C & 10.5 GHz FWALA Channel C & D Spectrum received by ComReg before **1.00 pm on 11 July 2008** will enter a comparative evaluation competition.

Compared to previous competitions, ComReg has made a number of revisions to the FWALA comparative evaluation and licence offer process. The main revisions are listed below. Appendix 2 provides more detailed guidance of the comparative evaluation and licence offer process.

1. Any former holder of a 3.5 GHz or 10.5 GHz FWALA licence in a particular geographic area, whose licence was revoked by ComReg for failure to comply with licence conditions, may not apply for a new FWALA licence in that same area under this competition. This also applies to any “connected person” of such a former licence holder (see the definition of “connected person” in Annex 2).
2. Introduction of a “Speed to Market” evaluation criterion
3. Revised characteristics for the residential and business offer, i.e. revised download speeds etc.
4. Issue of a “temporary” FWALA licence to match the “Speed to Market” pledge. A licensee may apply for a “permanent” FWALA licence once the “temporary” licence has expired.

To submit a valid application for the comparative evaluation stage of this process it is necessary:

- to submit a completed Comparative Evaluation Application as set out in Appendix 2 to this document;
- to submit the full “temporary” licence fee as set out in Section 6A of Appendix 2; and
- that ComReg receives this application by **1.00 pm on 11 July 2008**

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3.2 Phase 2: First Come First Served

All applications for FWALA spectrum received **after 1.00 pm on 11 July 2008** shall be considered on a “first come first served” basis, in accordance with the FWALA Guidelines.

Appendix 1: 3.5 GHz FWALA (Ch C) & 10.5 GHz FWALA (Channel C & D) Spectrum Maps

This Appendix contains the current 3.5 GHz FWALA Channel C and 10.5 GHz FWALA Channels C & D maps² indicating the existing licensees.

² These maps are also available on the on FWALA section of ComReg's website http://www.comreg.ie/radio_spectrum/search.541.874.rslicensing.html.

3.5GHz – Channel C

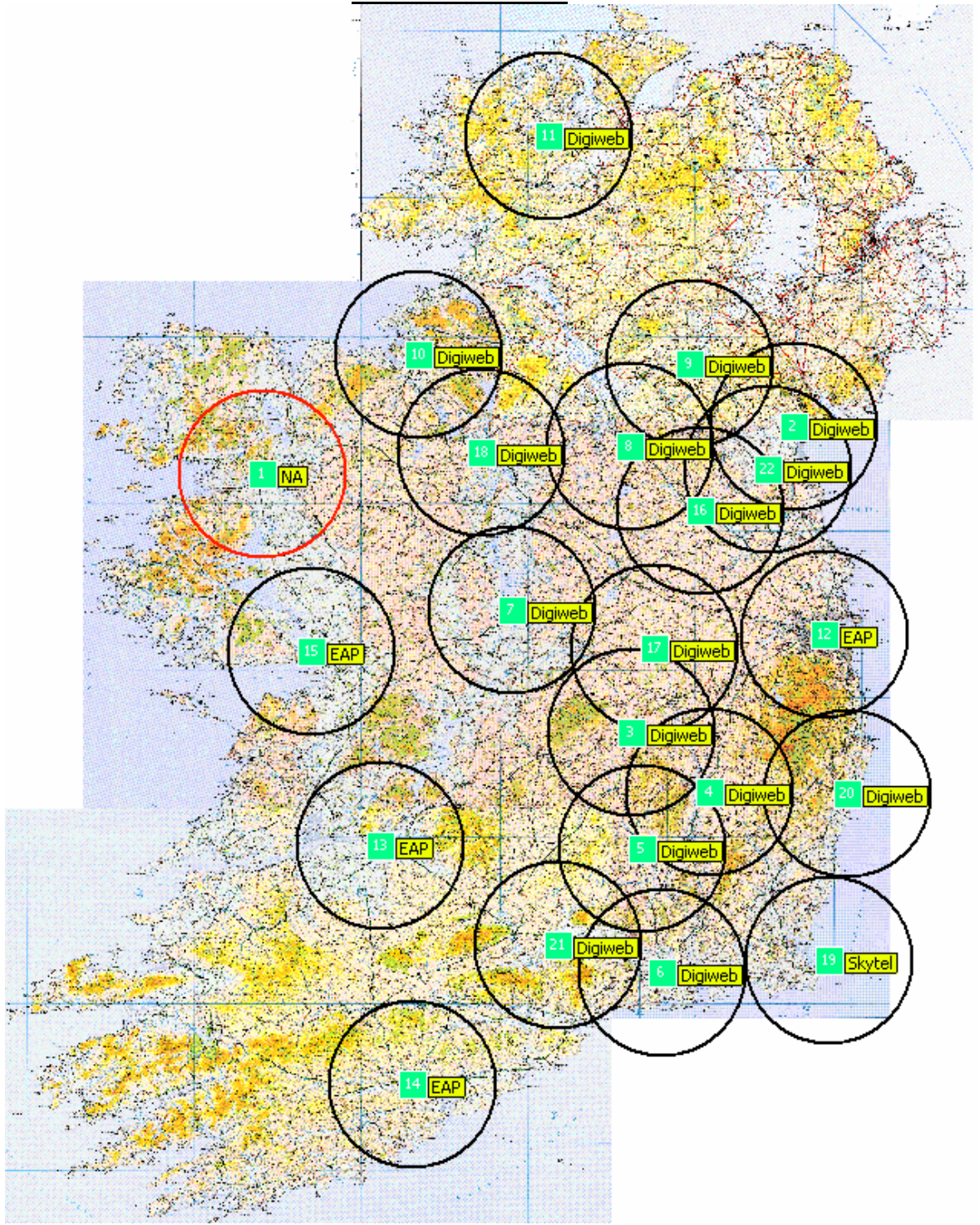


Figure 1: 3.5 GHz FWALA Channel C map

10.5GHz Channel C

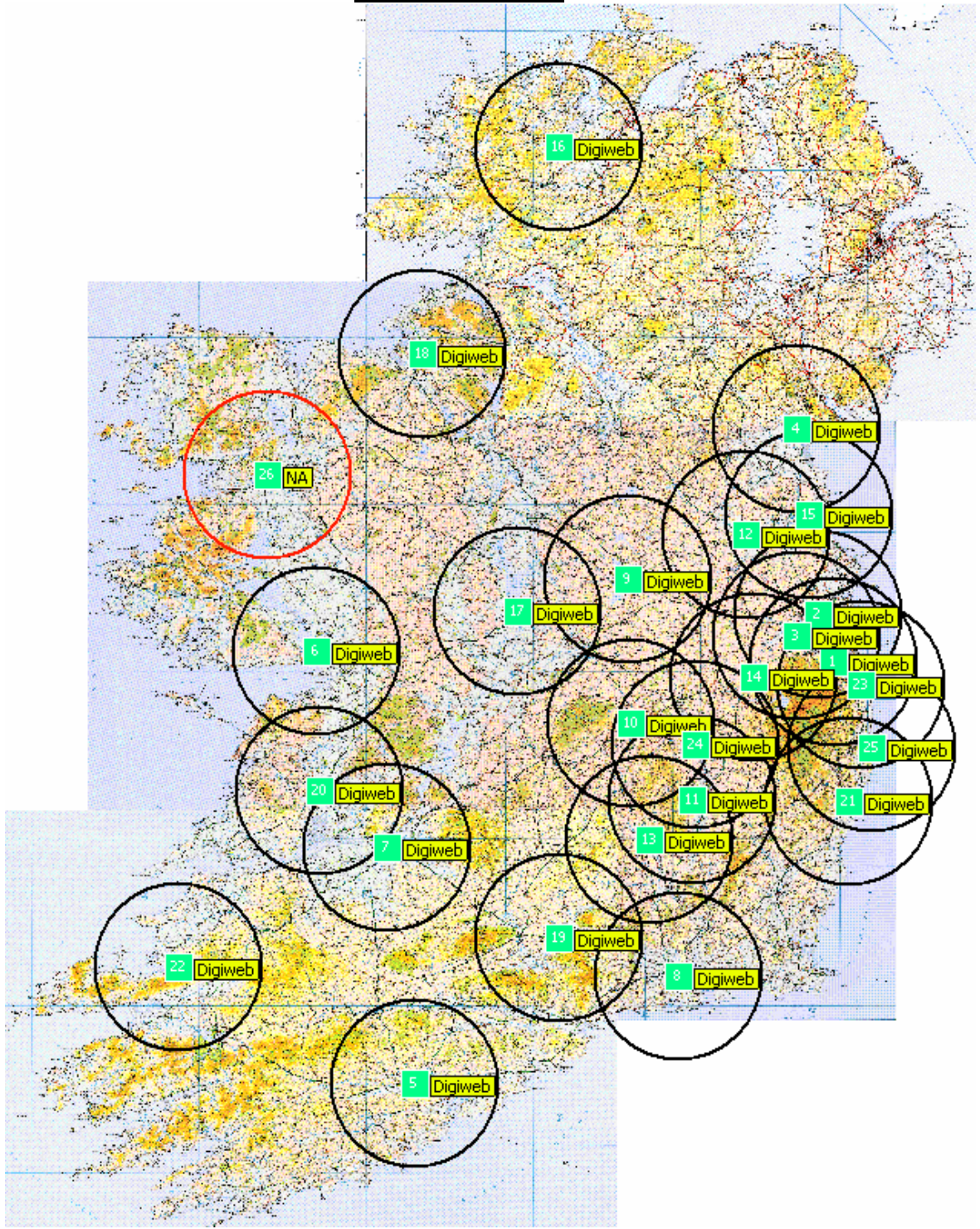


Figure 2: 10.5 GHz FWALA Channel C map

10.5GHz Channel D

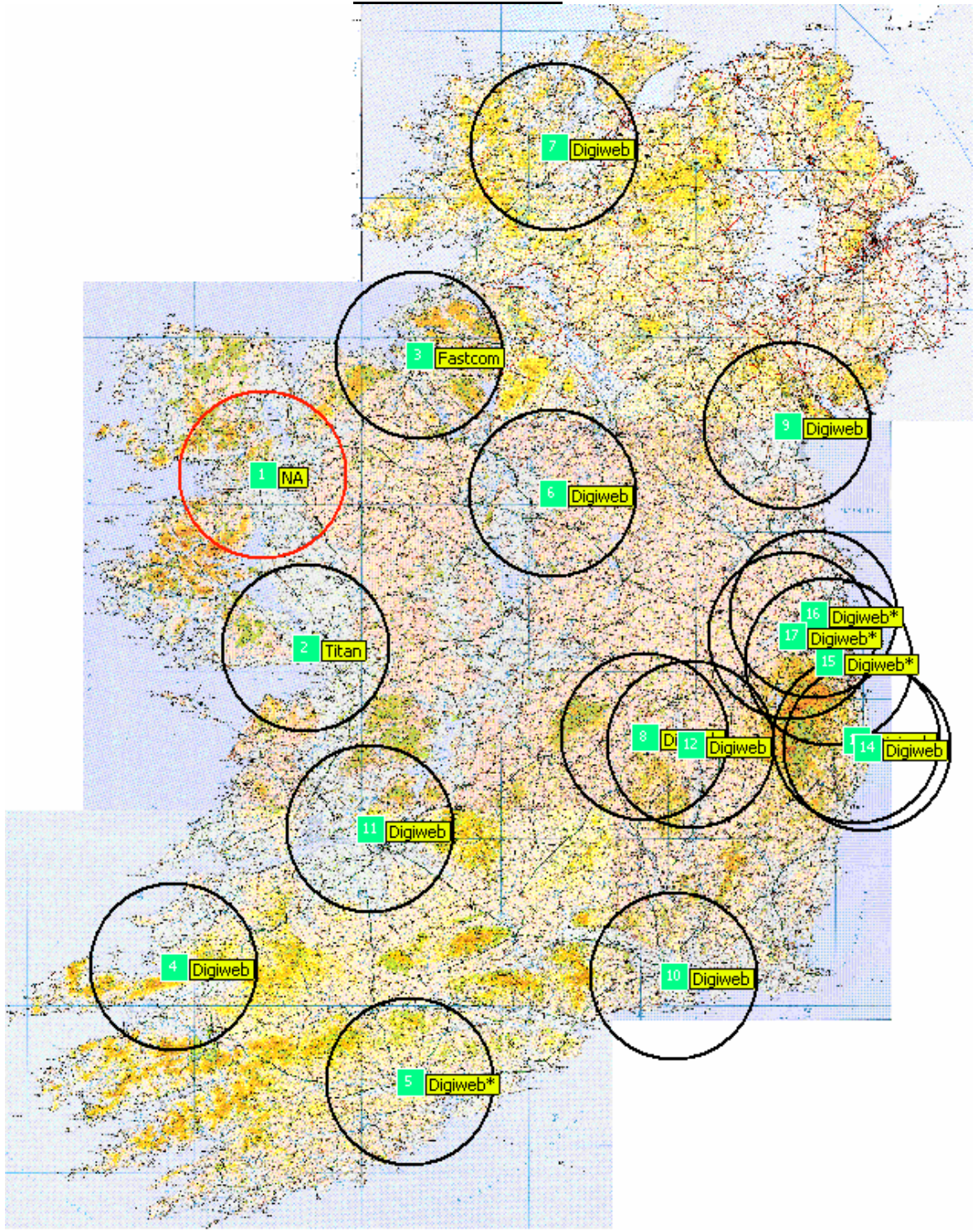


Figure 3: 10.5 GHz FWALA Channel D map

Appendix 2: Comparative Evaluation Application Form for a 3.5 GHz FWALA Channel C or 10.5GHz Channel C & D Licence

Notes for Applicants

1. In accordance with the Wireless Telegraphy Acts, 1926 to 1988, a licence must be held to possess or use radio equipment. Possession or use of radio equipment without a licence is an offence which renders the offender liable to prosecution and, on conviction, fines and confiscation of equipment.
2. A Fixed Wireless Access Local Area (FWALA) licence allows the licensee to offer telecommunications services by means of a local area fixed wireless access network in a defined service area. A separate FWALA application is required for each service area.
3. The FWALA application form sets out the information that is required of a licence applicant. The FWALA Comparative Evaluation Application Form is to be completed in line with the comparative evaluation information set out in Annex 1 of this Appendix and the “Revised Guidelines to applicants for Fixed Wireless Access local Area (FWALA) Licences” (Document No. 06/17R3). The Commission for Communications Regulation reserves the right to seek further information or clarification from the applicant.
4. Applications for a FWALA licence must be submitted along with the appropriate fee to:

The Commission for Communications Regulation
Licensing Section (Ref: **FWALA** Licensing Scheme),
Abbey Court,
Irish Life Centre,
Lower Abbey Street,
Dublin 1.

5. A valid licence application must include:
 - A completed Comparative Evaluation Application Form as set out in this Appendix.
 - The full “temporary” licence fee as per Section 6A of this form.

Application forms not properly completed cannot be considered as valid applications and will be returned to the applicant.

6. Any former holder of a 3.5 GHz or 10.5 GHz FWALA licence in a particular geographic area, whose licence was revoked by ComReg for failure to comply with licence conditions, may not apply for a new FWALA licence in that same area under this competition. This also applies to any “connected person” of such a former licence holder (see the definition of “connected person” in Annex 2).
7. If there is insufficient space on the application form, please attach any additional information on a separate sheet(s), indicating the appropriate section and question.
8. Every effort will be made to process applications quickly so that operations can start at the earliest possible date. To facilitate speed of processing, please ensure that your application is legible i.e. typed or completed in block capitals.

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9. While ComReg makes every effort to accommodate each applicant's requirements, it should be appreciated that this may not be possible in all cases.

COMPARATIVE EVALUATION APPLICATION FORM FOR A 3.5 GHz FWALA CHANNEL C OR 10.5 GHz FWALA Channel C & D LICENCE - JULY 2008
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Section 1: Contact Details

1A: Applicant Details

Full Name of the Company, Firm or Person in whose name the Licence is sought:	
Have you or a connected³ person previously held a 3.5 GHz or a 10.5 GHz FWALA licence that could serve this area?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Registered Number in the Companies Registration Office:	
Trading Name: (If different from above)	
ComReg Account Number⁴: (If applicable)	
Business Address:	Address:
	County or Postcode:
	Country:
Contact Name⁵:	
Phone No:	
Fax No:	
E-Mail:	

³ The definition of a Connected Person is provided in Annex 2 to this document

⁴ This is the account number allocated to you by ComReg; it is unique for you/your company. You generally have an account number if you applied in the past to ComReg for any type of licence. This account number is printed on ComReg correspondence such as invoices, renewal notices etc.

⁵ Generally this is the person in your organisation to contact in relation to the licence application.

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Name and Address to which the Licence / Correspondence is to be sent: (if different from address given above)	Name: Address: County or Postcode: Country:	
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1B: Technical Contact Details⁶

Name:		
Address:	Address: County or Postcode: Country:	
Phone No:		
Fax No:		
E-Mail:		

⁶ If the technical contact person is not the same as the person(s) in the Applicant Details section, the applicant should nominate a technical contact who will be in a position to act for the applicant and to furnish information about the application if called upon to do so.

Section 2: Application Details

Type of Application Please tick one box only	<input type="checkbox"/> New Application <input type="checkbox"/> Amendment to Existing Licence
Frequency band Please tick one box only	<input type="checkbox"/> 3.5 GHz <input type="checkbox"/> 10.5 GHz
Preferred Channel(s) in frequency band for which the application should be considered⁷	Specific Channels in order of preference 1. _____ 2. _____ 3. _____ 4. _____ 5. _____

For Amendment Request Only:

Existing Licence Number to be amended:	
Details of amendment:	<input type="checkbox"/> Additional Channel Bandwidth Requested (This is only applicable where the existing licence has not been allocated the full channel bandwidth available) <input type="checkbox"/> Other <hr/> Details of Amendment

⁷ Note: The channel plans and bandwidths for each of the FWALA frequency bands are set out in the Revised Guidelines to Applicants for FWALA Licences, ComReg Document 06/17R3.

Section 3: Service Area Site Details

FWALA Service Area⁸ Name & Location	Name: Location (e.g. town, county)
Service Area Centre Point Co-ordinates	<u>Site Co-ordinates:</u> Easting: ----- AND Northing: -----
Radius of Service Area Requested (km)	<input type="checkbox"/> <u>Maximum for Band</u> <input type="checkbox"/> <u>Other, please specify in km</u>

⁸ The service area for a licence is defined by a centre point and a maximum permitted radius from that point. The centre point is normally the geographic location of the base station.

Section 4: Comparative Evaluation Commitments
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Guidance on the Comparative Evaluation process is provided in Annex 1 to this document. Applicants are advised to read this guidance before completing this section.

Each applicant is invited to make voluntary commitments in respect of the following;

Speed to Market	_____ Full Months (Minimum Speed to Market – 2 Months) (Maximum Speed to Market – 12 months)
Maximum Residential Charge per month (including VAT and all charges)	€ _____ per month
Maximum Business Charge per month (including VAT and all charges)	€ _____ per month
Value of Performance Bond	€ _____ (Maximum Value €15,000)

Section 5: Declaration Form – Fixed Wireless Access Local Area

I have read the “Revised Guidelines to applicants for Fixed Wireless Access local Area (FWALA) Licences” (Document No. 06/17R3) and the guidance notes associated with each question in the application form.

I accept that ComReg may publish information relating to licensed radio systems and that certain information relating to any licence issued pursuant to this application may be contained in any such publication.

I agree to comply fully with all the terms and conditions of the licence, if granted, in accordance with the Wireless Telegraphy (Fixed Wireless Access Local Area Licence) Regulations, 2003.

I agree to comply with the Field Strength Limits as detailed in the Revised Guidelines to Applicants 06/17R3 (and its revisions) and which will be condition of the licence, if granted.

I certify that all equipment to be used under this FWALA licence, if granted, will comply with the essential requirement of the R&TTE directive (S.I. 240 of 2001)

ComReg will endeavour to minimise the potential for interference. I accept that ComReg will not be liable for any interference received and that I will comply with whatever ComReg requests in preventing interference being caused by this system to other licensed users of the radio spectrum.

I accept that a licence does not confer any right of ownership of the frequency spectrum. It allows the assigned frequency channel to be used during the term of the licence in accordance with the conditions of the licence.

I certify that all information provided on this form, including all documentation attached, is true and accurate.

Signature of Applicant: _____

On behalf of (Company): _____

Name in Block Letters: _____

Date: _____

(If applicant is part of a company, please state position held):

Section 6: Fees and Method of Payment

6A: FWALA Licence Fee

The annual licence fee for all new FWALA applications is €2800 (twenty-eight hundred euro).

The “temporary” licence fee is calculated on a pro rata basis to the annual licence fee using the “speed to market” commitment (in months) as the duration of the licence. The formula is given below:

$$\text{Temporary Licence Fee (€)} = \text{€2800} \times \frac{\text{“Speed to Market (months)”}}{12 \text{ (months)}}$$

6B: Method of Payment:

<input type="checkbox"/> Cheque / Postal Order	Cheques / Postal Orders should be crossed and made payable to <i>The Commission for Communications Regulation</i>
<input type="checkbox"/> Bank Transfer / Electronic Funds Transfer (EFT)	<p>Transfers to ComReg’s account should be made to: Bank of Ireland, 6 Lower O’Connell Street, Dublin 1. Account Number: 17806887 Sort Code: 90-00-33 BIC Code: BOFIIIE2D IBAN No: IE62 BOFI 9000 3317 8068 87.</p> <p>If making a bank transfer/EFT, please ensure that:</p> <ul style="list-style-type: none"> o Your Bank quotes your Name and “FWALA Application” in making the transfer to ComReg. o You forward details of the date of and amount of payment to our Accounts Department (accounts@comreg.ie).
<input type="checkbox"/> Credit Card	<p>Credit card payments can be accepted</p> <ul style="list-style-type: none"> o By completing the Credit Card payment form below <p>For existing ComReg account holders, payments can made</p> <ul style="list-style-type: none"> o Over the telephone - contact accounts at 01 8049618 o On-Line, using www.licensing.comreg.ie

Credit Card Payment Form:

Type of Card: **Visa** **Access / MasterCard** **Laser**

Card Number : ___ ___ ___ ___ / ___ ___ ___ ___ / ___ ___ ___ ___ / ___ ___ ___ ___

Cardholder’s Name: _____

Cardholder’s Address: _____

Expiry Date: ___ ___ / ___ ___

Signature: _____ Date: _____

Annex 1: Guidelines on Comparative Evaluation and Licence Offer Process

Any reference in this Annex to a “licence” should be construed as a reference to both a “temporary licence” and a “permanent licence”, unless indicated otherwise.

A1.1 Comparative Evaluation Criteria

Four criteria are included in the Comparative Evaluation Process, namely:

1. Speed to Market Offering;
2. Maximum Monthly Charge for Residential Service Offering;
3. Maximum Monthly Charge for Business Service Offering;
4. Performance Bond Offering.

With the exception of the Promotion of Competition Criterion, all of the above are based upon voluntary offerings from the applicant. The applicant’s voluntary offerings will form part of the licensee’s licence text. An example of the licence text is provided in Section A1.5.

The following provides guidance on each of the Comparative Evaluation Criteria.

1. Speed to Market Offering

The applicant is invited to make a speed to market offering by stating the maximum number of full months from the date of licence issue that the applicant requires to make meaningful FWALA services available to all end users within coverage in the licensed area.

“Meaningful FWALA services” in this context means the provision of actual broadband services to all end users, within coverage in the licensed area, who request such services. Anything that falls short of providing actual services is unacceptable and may result in revocation or non-renewal of a licence. For example, setting up a base station or transmitter in a licensed area would not of itself constitute providing meaningful services or using a licence, nor would providing services to a token number of customers while turning away numerous others.

2. Maximum Monthly Charge for Residential Service Offering

An unbundled and stand-alone FWALA service having the attributes as set out in Table 1 is to be made available on request to all of residential (“non-commercial”) end users within coverage in the licensed service area.

Table 1: Residential Offering Characteristics

Nominal data transmission rate, network to subscriber:	1 Mbit/s
Nominal data transmission rate, subscriber to network:	128 kbit/s
Maximum contention ratio:	48:1
Inclusive data allowance in monthly tariff:	10 GByte per month

The applicant is invited to make a voluntary offering in respect of the maximum monthly charge, **including VAT**, for such a residential service. The maximum monthly charge must be clear, unambiguous and all inclusive, with no hidden extras. The charge shall include the monthly tariff and any additional charges, such as installation charge and equipment rental, averaged over a 12 monthly period.

For an uninterrupted period of 12 months from date of service launch, the applicant shall make its residential service offering available to all end users in the licensed area at a monthly charge not exceeding the maximum monthly charge committed to by the applicant.

For the avoidance of doubt, licensees will be free to offer additional services beyond those to which their committed charge relate.

3. Maximum Monthly Charge for Business Service Offering

An unbundled and stand-alone fixed wireless access service having the attributes as set out in Table 2 is to be made available on request to all commercial end users within coverage in the licensed service area.

Table 2: Business Offering Characteristics

Nominal data transmission rate, network to subscriber:	2 Mbit/s
Nominal data transmission rate, subscriber to network:	2 Mbit/s
Maximum contention ratio:	10:1
Inclusive data allowance in monthly tariff:	Unlimited

The applicant is invited to make a voluntary offering in respect of the maximum monthly charge, **including VAT**, for such a business service.

The maximum monthly charge must be clear, unambiguous and all inclusive, with no hidden extras. The charge shall include the monthly tariff and any additional charges, such as installation charge and equipment rental, averaged over a 12 monthly period.

For an uninterrupted period of 12 months from date of service launch, the applicant shall make this business service offering available to all end users in the licensed area at a monthly charge not exceeding the maximum monthly charge committed by the applicant.

For the avoidance of doubt, licensees will be free to offer additional services beyond those to which their committed charge relate.

4. Performance Bond Offering

The applicant is invited to submit a voluntary offering in respect of the value of the performance bond that is to be attached to the licence. The maximum value of the performance bond is €15,000.

The performance bond shall have effect for a period of 24 months from the date of licence issue and will be forfeit in the event of a failure by the licensee to comply with any of the conditions of its FWALA Licence. A performance bond that is not forfeited will be returned to the licensee after the 24-month period has elapsed.

A performance bond must be secured by means of a cash deposit or by means of a guarantee provided by a reputable bank.

The performance bond shall apply to any “temporary” and subsequent “annual” FWALA licence issued to the applicant. For example, if a temporary licence is issued for 9 months and a annual licence is subsequently issued, then the 24 month performance bond would apply to the 9 months of the initial temporary licence, the 12 months of the subsequent ‘annual’ licence, and the first 3 months of the second annual, 12-month licence.

A1.2 Guidance on Comparative Evaluation Scoring Mechanism

Where the number of valid applications received exceeds the number of available licences, the comparative evaluation criteria will apply. All applications will be evaluated in accordance with the procedure set out in Regulation 11 of the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations, 2003 (S.I. 306 of 2003).

The maximum points available to each of the criteria are set out in Table 3.

Table 3: Summary of evaluation criteria and associated marks

Evaluation Criteria	Maximum Marks
Speed to Market Offering	30
Residential Service Offering	25
Business Service Offering	25
Performance Bond	20

Guidance on the scoring mechanism for each of the criteria is set out below:

1. Speed to Market Offering

Marks will be awarded to applicants who commit to providing meaningful services in a time period shorter than 12 months. Maximum marks will be awarded to offerings within 2 months.

2. Maximum Monthly Charge for Residential Service Offering

Marks will be awarded to applicants based upon the maximum monthly charge for the residential service offering.

3. Maximum Monthly Charge for Business Service Offering

Marks will be awarded to applicants based upon the maximum monthly charge for the business service offering.

4. Performance Bond Offering

Marks will be awarded to applicants who commit to providing a performance bond. Maximum marks will be awarded to offerings the maximum value of the performance bond, namely €15,000.

Upon completion of the process each applicant will be informed of the outcome and presented with a summary of the evaluation result regarding its application.

A1.3 Outcome of Competition & Temporary Licence Offers

A temporary licence will be offered to the applicant who meets the minimum admittance criteria and is ranked highest following a comparative evaluation.

The duration of the temporary licence will be matched to the “speed to market” voluntary offering of the applicant. e.g. if an applicant states that it will provide meaningful FWALA services within 6 months of being granted a licence, then the temporary licence will run for 6 months.

Any remaining temporary licence(s) in that geographical area will then be offered to the next highest ranked, eligible applicant, and so on. In the event that the first successful applicant does not accept the temporary licence, the temporary licence will then be offered to the next highest ranked applicant, and so on.

If two or more applications cannot be differentiated by comparative evaluation, then the available temporary licence(s) shall be awarded by drawing of lots.

Where a temporary licence is offered, whether by comparative evaluation or not, ComReg will incorporate conditions into the licence based on the voluntary commitments contained in the application submitted.

Successful applicants will be notified in writing by ComReg. From the date of notification the applicant will have 14 days to accept the licence and 30 days to lodge its committed performance bond with ComReg. A performance bond must be secured by means of a cash deposit or by means of a guarantee provided by a reputable bank. The temporary licence offer will be deemed to have lapsed if it is not accepted within 14 days or if the performance bond is not lodged with ComReg within 30 days.

A1.4 Application for an Annual Licence

Prior to the expiration of the temporary licence, the licensee may apply to ComReg for an annual licence. In applying for an annual licence, the onus is on the licensee to prove that it has complied with its licence commitments.

Where the licensee has satisfied ComReg that it has met its licence conditions, ComReg may grant an annual licence to the licensee.

Where the licensee has not satisfied ComReg that it has met its licence conditions ComReg will either refuse to issue a permanent licence, thereby rendering the spectrum available for re-allocation, or where it is justified ComReg may extend the temporary licence.

A1.5 Example of Part VIII FWALA Licence Text

The following is an example of Part VIII of a FWALA Licence which may be issued following this comparative evaluation.

Part VIII - Commitments which the licensee made in the course of a competitive or comparative evaluation process

(1) Commitment regarding Speed to Market

Within _____ full months from the date of licence issue, the licensee shall make meaningful FWALA services available to all end users within coverage in the licensed service area.

Meaningful FWALA services are defined as the provision of actual broadband services to end customers.

(2): Commitment regarding Maximum Monthly Charge for Residential Service Offering

For an uninterrupted period of 12 months from date of service launch, the licensee shall make available on request to all of its residential (“non-commercial”) end users within coverage an unbundled and stand-alone fixed wireless access service having the following attributes:

Nominal data transmission rate, network to subscriber:	1 Mbit/s
Nominal data transmission rate, subscriber to network:	128 kbit/s
Maximum contention ratio:	48:1
Inclusive data allowance in monthly tariff:	10 GByte per month

For an uninterrupted period of 12 months from date of service launch, the licensee shall make such a service available at a maximum charge of € _____ per month, **including VAT**.

The maximum monthly charge must be clear, unambiguous and all inclusive, with no hidden extras. The charge shall include the monthly tariff and any additional charges, such as installation charge and equipment rental, averaged over a 12 monthly period.

(3) Commitment regarding Maximum Monthly Charge for Business Service Offering

For an uninterrupted period of 12 months from date of service launch, the licensee shall make available on request to all of its commercial end users within coverage an unbundled and stand-alone fixed wireless access service having the following attributes:

Nominal data transmission rate, network to subscriber:	2 Mbit/s
Nominal data transmission rate, subscriber to network:	2 Mbit/s
Maximum contention ratio:	10:1
Inclusive data allowance in monthly tariff:	Unlimited

For an uninterrupted period of 12 months from date of service launch, the licensee shall make such a service available at a maximum charge of € _____ per month, **including VAT**.

The maximum monthly charge must be clear, unambiguous and all inclusive, with no hidden extras. The charge shall include the monthly tariff and any additional charges, such as installation charge and equipment rental, averaged over a 12 monthly period.

(4): Performance Bond

Where the licensee fails to comply with any of the conditions of its licence, within the time period of 24 months from the date of issue of its licence, then the licensee shall pay to ComReg by way of a performance bond, the amount of € _____.

In order to discharge its performance bond, the licensee must satisfy ComReg that it has complied with its licence conditions. The licensee shall provide ComReg with such information as may be requested. The performance bond shall remain valid for 24 months from the date of issue of the licence as stated in Part VII.

Collection or payment of the performance bond set out above shall not affect ComReg's powers to take such other measures as it deems necessary to ensure compliance with the licence conditions.

Annex 2: Definition of Connected Persons

For the purposes of this Information Memorandum:

“Applicant” means any individual or body corporate that applies to ComReg for a 3.5GHz FWALA Channel C or 10.5GHz FWALA Channel C or D Licence.

“Connected person” means a person who controls an Applicant or is controlled by an Applicant.

A person or persons shall be deemed to control a body corporate if –

- a) they have a direct controlling interest in it;
- b) they have a controlling interest in a body corporate which has a controlling interest in the body corporate; or
- c) although they do not have a direct controlling interest in the body corporate, or in any body corporate with a controlling interest in the body corporate, it is reasonable, having regard to all the circumstances, to expect that they would be able, by whatever means and whether directly or indirectly, to achieve the result that the affairs of the body corporate are conducted in accordance with their wishes;

and for this purpose a person or persons have a controlling interest in a body corporate if they hold, or are beneficially entitled to, 50% or more of the equity share capital in the body corporate, or possess 50% or more of the voting power in it and they shall be deemed to control a body corporate where they control another person which controls that body corporate.

“Person” means an individual, a body corporate or an unincorporated body of persons.

“Group”, in relation to an Applicant/licensee, means:

- a. any parent undertaking of the Applicant/licensee;
- b. any subsidiary undertaking of the Applicant/licensee;
- c. any subsidiary undertaking of any parent undertaking referred to in a);
- d. a shareholder or partner in the Applicant/licensee which beneficially owns (directly or indirectly) shares in the Applicant/licensee in circumstances where there is one other shareholder or partner in the Applicant/licensee which beneficially owns (directly or indirectly) the remaining shares in circumstances where neither shareholder or partner has control;
- e. any undertaking of which the Applicant/licensee beneficially owns (directly or indirectly) shares in circumstances where there is one other shareholder or partner in that undertaking which beneficially owns (directly or indirectly) the remaining shares in circumstances where neither shareholder nor partner has control;

3.5 GHz FWALA Channel C & 10.5 GHz FWALA Channel C & D Spectrum –
Comparative Evaluation Process & Form

- f. any undertaking in circumstances where two or more of its shareholders or partners which acting in concert together beneficially own (directly or indirectly) more than 50% of the shares or voting rights in that undertaking, acting in concert together beneficially own (directly or indirectly) more than 50% of the shares, or voting rights of the Applicant/licensee; and
- g. any undertaking of which the Applicant/licensee beneficially owns (directly or indirectly) together with one or more undertakings acting in concert more than 50% of the shares or voting rights of that undertaking.