



## Response to Consultation

### FWALA Geographical Service Areas (GSAs)

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## 1 Foreword

On behalf of the Commission for Communications Regulation (ComReg) I am pleased to present ComReg's response to the consultation on Geographical Service Areas (GSAs). I would like to thank all of the respondents for their contributions.

Four respondents to the earlier ComReg consultation document 06/59 "Increased FWALA Flexibility" proposed that it would be desirable if an operator with several FWALA licences on the same channel in adjacent or overlapping areas could offer services over the entire area covered by the licences, thereby creating one large service area with a regional as opposed to a local area footprint.

ComReg's consultation document 07/29 put forward the proposal of introducing Geographical Service Areas into the FWALA licensing scheme to permit FWALA licensees to provide services in areas that previously were considered 'dead zones'.

Summaries of the responses to that consultation are presented in this paper, together with ComReg's consideration of those responses and how ComReg now intends to proceed with the introduction of Geographical Service Areas in order to provide increased availability of wireless broadband services.

**Mike Byrne,  
Chairperson.**

## 2 List of Respondents

There were 3 responses to the Consultation Document 07/29<sup>1</sup> and ComReg would like to thank these respondents for the time and effort taken in making their responses and for the valuable information provided. All responses received by ComReg except for annexes marked confidential will be made available on the ComReg website [www.comreg.ie](http://www.comreg.ie).

Respondents:

- **Digiweb**
- **Irish Broadband**
- **WestNet**

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<sup>1</sup> Response to Consultation Increased FWALA Licence Flexibility and Consultation FWALA Geographical Service Areas (GSAs)

### 3 Introduction

The FWALA licensing scheme was launched in late 2003. Since then, this scheme has proved to be very successful with ComReg estimating that 16% of the broadband market, or 102 500 subscribers, were served via Fixed Wireless Access in September 2007<sup>2</sup>, a year-on-year growth of 95%. There are currently 189 FWALA licences issued to 19 operators in both the 3.5 GHz and 10.5 GHz bands.

While the FWALA local area licensing scheme has met ComReg's objectives in terms of increased competition and broadband rollout, the nature of the licensing scheme has resulted in 'black spots' or 'dead zones' between licensed areas where no further FWALA licences can be issued in the same band. The Geographical Service Areas is a further step towards reducing the extent of such 'dead zones'.

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<sup>2</sup> ComReg Quarterly Report – ComReg 07/67 – Published 7 September 2007.

## 4 Consultation Topic

### 4.1 Description of ComReg's GSA proposal

ComReg proposed to authorise the provision of FWALA services in areas previously unauthorised where two or more licences held by the same licensee overlap on the same channel, and the area in question is too small to facilitate a standard FWALA frequency assignment to another licensee. Areas authorised by existing FWALA licences and newly authorised areas will constitute a Geographical Service Area (GSA).

The maximum area that can be applied for in respect of a GSA is dependent upon:

- maintenance of the existing 10km Interference Buffer Zone to the edge of each FWALA licence, as specified under the FWALA licensing scheme; and
- not exceeding the interference field strength limits at the edge of the buffer zone as specified under the FWALA licensing scheme.

In developing ComReg's proposal for introducing GSAs into the FWALA licensing scheme, ComReg took the following into consideration:

- it must be possible to form a GSA under the existing FWALA licensing scheme;
- the services in a GSA should receive the same level of protection from unwanted interference as currently provided under the FWALA licensing scheme;
- facilitating improved availability of FWALA services to the consumer.

In the consultation ComReg posed the following questions:

**Q. 1. Taking in to account the future development of wireless broadband in Ireland, do you agree that ComReg’s proposal to introduce Geographical Service Areas into the FWALA licensing scheme is appropriate?**

**Q. 2. If not, please specify your reasons and any alternative proposal(s) that you may have which would achieve the same aims and objectives.**

**Q. 3. What difficulties, if any, do you foresee with ComReg’s Geographical Service Areas proposal? Do you have any views on how these might be addressed or mitigated? Please provide reasons and explanations for your views.**

**Q. 4. The use of a Performance Bond is suggested as an appropriate regulatory measure in order to ensure compliance with the GSA Commitment. Are there any alternative mechanisms, in your view, which would be more appropriate? Please give reasons for your answer.**

**Q. 5. In your view is the proposed level of the Performance Bond sufficient to ensure roll-out of services in the GSA Commitment areas? If not, please support your views with alternative levels and reasoning for your proposal.**

#### 4.1.1 Views of Respondents

All of the respondents supported ComReg’s proposal to introduce Geographical Service Areas with two of the three respondents not foreseeing any difficulties with the GSA proposal. The third respondent was of the view that the proposed GSA Commitment would create an artificial layer of planning and licensing beyond that envisaged in the original FWALA scheme. Further they were not in favour of ComReg’s proposal not to permit, except in extraordinary circumstances, further applications to alter the relevant GSA for a period of twelve months from the date of

amendment of the licence by ComReg. One respondent held the view that this approach may adversely impact the flexibility of the FWALA licensing scheme.

Two of the three respondents were not in favour of the use of performance bonds to ensure compliance with the GSA commitment. They stated that such bonds would inhibit the rollout of services to these areas. However one of the two respondents went on to say that if ComReg were to proceed with the imposition of performance bonds then the level suggested in the consultation documents i.e. pro rata by area with levels similar to existing bonds, would severely inhibit the scope of extended rollout and investment in rural and underserved areas. They went on to propose that ComReg should incorporate in the assessment of any GSAs an evaluation of the operator's track record to date and compliance with prior deployment commitments. They stated that a GSA should initially be awarded on a 12 month basis with a zero or nominal performance bond and subsequently on demonstration of live deployment of the GSA and associated lead licences would be renewed for a suitable extended period. In addition they were of the view that FWALA and GSA licence periods should be brought in line with most other infrastructure and investment heavy authorisation and be awarded for periods of 5 to 15 years. This would be in line with other spectrum licences and would encourage investment thereby bringing services to underserved areas.

The second respondent not in favour of performance bonds stated that the rollout of services in the GSAs will be driven by commercial realities and should not be held up by the artificial requirement of a "GSA Commitment" and performance bond. They went on to state that the requirement that interference limit contours overlap before a GSA can be formed is an artificial restriction that will limit the scope for the creation of a GSA, and therefore potentially deny services to many consumers. They went on to propose a "geometric" definition of GSAs that, rather than a requirement that licence areas overlap, there should be a consistent geometric approach to defining the GSA that could be created from any combination of adjacent licences. They stated that the requirement should simply be that a GSA can only be created such that it does not impinge on any possible neighbouring licence that could be issued to another operator in the future.

One of these two respondents was also of the view that an additional performance bond should only be required where a new FWALA licence is required to provide service to a particular area and that in cases where there is simply an amalgamation of existing licences no bond should be required. They stated that in the latter case that the bond is largely superfluous as the application should already be meeting the terms of the individual licences.

The third respondent was of the view that ComReg should not set the level of the performance bond too high as this may deter firms from availing of the opportunity to enhance their service footprint.



## 5 Commission's Position

The Commission has carefully considered the views of the respondents to the questions posed and has decided to proceed with the implementation of Geographical Service Areas as detailed in ComReg document 07/29.

In forming a GSA an operator may require fewer FWALA licences to cover a larger geographical area which could therefore result in reduced licence fees. No licence fee is applied to GSA applications.

The Commission recognises the concerns raised by respondents regarding the need to ensure that performance bonds are not too onerous such that they would inhibit rollout of services. However the Commission is mindful of its duty to ensure that spectrum is used in the most efficient manner possible and that imposing licence compliance conditions on licensees is an appropriate mechanism to ensure rollout of services. The Commission is of the view that there is a requirement to deter operators from applying to form a GSA and not subsequently providing services within it, ComReg believes that seeking a monetary commitment from operators is part of the incentive to prevent this occurrence. It is worth noting that operators who meet their GSA commitment will not incur any financial penalty from ComReg.

Therefore the Commission will be seeking a "GSA Commitment" from all licensees applying to form a GSA. In respect of a previously unauthorised area of 1257 square kilometres<sup>3</sup> (equivalent to the size of an existing FWALA licence), a performance bond of €15,000 will apply. In respect of any other size of previously unauthorised area, the performance bond will be scaled pro rata from the baseline figure of €15,000 with a minimum performance bond of €5,000. The formula to be used to calculate the performance bond will be:

Performance bond (in euro) = ((area/1257) \* 15,000) rounded up to the nearest euro.

To ensure that services are offered within the GSA Comreg will require, by the first anniversary of the GSA being formed that the licensee shows to ComReg's satisfaction that broadband is being provided on a best effort basis within the GSA. This should be done through the provision of;

- Field strength coverage plots;
- Subscriber numbers within the GSA traceable to physical addresses;
- Traffic statistics to GSA subscribers.

Failure to supply this information by the required date will result in the forfeit of the performance bond and withdrawal of the GSA.

The FWALA Guidelines document 06/17R1 has been revised to include details of the GSA application process. In summary when applying to form a GSA the licensee will have to provide ComReg with the following

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<sup>3</sup> The value of 1257 km<sup>2</sup> is the area of a 20km radius circle (rounded up to the nearest whole number).

1. the ComReg reference numbers of the licences that it wishes to use to form a GSA, this determines the maximum size of the GSA that can be formed;
2. The renewal dates of all the licences being amended to form the GSA will be brought forward such that they will have the same commencement date as the GSA.
3. a map showing the area that the licensee wishes to be covered by the GSA. This map should be dated so that it can be displayed on the ComReg website, and
4. a signed declaration committing to publicly offer services in all of the area previously unauthorised and forming part of the GSA within 12 months of amendment by ComReg of the Licences (this will be known as the “GSA Commitment”);
5. the licensee should provide ComReg with the area in square kilometres of the proposed GSA Commitment;
6. a performance bond<sup>4</sup> in respect of the GSA Commitment. The performance bond will be a maximum of €15,000 and a minimum of €5,000 depending on the size of the GSA. The formula to be used to calculate the performance bond will be:  
Performance bond (in euro) = ((area/1257) \* 15,000) rounded up to the nearest euro

If ComReg approves the formation of a GSA, the relevant Licence will be amended and the licensee informed accordingly. Once a GSA has been authorised ComReg will not, except in extraordinary circumstances, consider further applications to alter the relevant GSA for a period of twelve months from the date of amendment of the licence by ComReg. The signed declaration committing to provide services in the GSA within 12 months of amendment of the lead licence will be used to measure compliance at the end of the 12 month period.

Two other issues were raised by respondents to the consultation: the first asked ComReg to address the issue of bringing licence terms into line with other such licences and award FWALA licences for periods of 5 to 15 years; the second was a proposal for a geometric definition of GSAs.

With regard to the first issue ComReg made a commitment to conduct a review of the FWALA licensing scheme 7 years after its implementation. Therefore ComReg expects to conduct such a review on or before 2010 and is of the view that this would be an appropriate time to consider making changes to the FWALA licence duration.

With regard to the proposal for a geometric definition of GSAs, ComReg’s objective with the GSA proposal was to develop a scheme that would be easily implemented

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<sup>4</sup> Other conditions concerning the performance bond such as period of validity will be similar to those described in ComReg Document 06/17 “Revised Guidelines to Applicants for Fixed Wireless Access Local Area (FWALA) Licences”.

using the existing FWALA licensing scheme. Therefore ComReg was of the view that making it a prerequisite that interference contour limits must overlap for a GSA to be formed was the simplest way to implement the scheme. If ComReg was to allow the forming of GSAs with adjacent area licences it would be necessary to define a distance beyond which adjacent licences could not be used to form a GSA. This in ComReg's view would be arbitrary and subject to dispute by licensees. Licensees with service areas on the same channel that do not overlap can apply for another licence to overlap with their existing licences and thereby form a GSA if they wish.

## 6 Next Steps

The following steps will be taken to implement the Commission's decision as outlined in Section 5 above:

- ComReg's FWALA Guidelines document, 06/17R1 will be revised to reflect the GSA related changes;
- A separate application form for GSAs will be created and posted on the ComReg website.

## 7 Submitting Comments

All comments are welcome and will be taken into account in developing the final Information Memorandum.

All comments and responses to this publication should be clearly marked:-  
“Reference: Submission re ComReg 07/72” and sent by post or e-mail, to arrive on or before 5pm on 26 October 2007, to:

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After analysis and consideration of the comments, ComReg intends to publish a final Information Memorandum which will, inter alia, summarise the comments received. Please note that ComReg will publish all respondents' submissions with the Decision, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24. We request that electronic submissions be submitted in an-unprotected format so that they can be appended into the ComReg submissions' document for publishing electronically.