



Commission for  
**Communications Regulation**

## Information Notice

### **GSM Liberalisation Project: Publication of correspondence provided by respondents (and ComReg written responses to same)**

<b>Document No:</b>	<b>12/94</b>
<b>Date:</b>	<b>24 August 2012</b>

**A.1 Non-confidential correspondence provided by respondents in relation to ComReg's multi-band spectrum release proposals from 14 June 2012 until 1 August 2012 (and ComReg written responses to same).**

1. Telefónica: letter to ComReg "Multi-band Spectrum Release– 800 MHz, 900 MHz & 1800 MHz Consultation" (letter dated 14 June 2012)
2. ComReg: reply to Telefónica letter of 14 June 2012 (letter dated 19 June 2012);
3. Telefónica: reply to ComReg letter of 19 June 2012 (letter dated 22 June 2012);
4. ComReg: reply to Telefónica letter of 22 June 2012 (letter dated 12 July 2012);
5. A&L Goodbody: letter to ComReg "Multi-band Spectrum Release Consultation – 800 MHz, 900 MHz & 1800 MHz ("the Consultation")" (letter dated 25 June 2012);
6. ComReg: reply to A&L Goodbody letter of 25 June 2012 (letter dated 12 July 2012);
7. A&L Goodbody: reply to ComReg letter of 12 July 2012 (letter dated 20 July 2012);
8. ComReg: reply to A&L Goodbody letter of 20 July 2012 (letter dated 10 August 2012);
9. H3GI: letter to ComReg "COMREG DOC. NO. 12/49" (letter dated 18 June 2012);
10. ComReg: reply to H3GI letter of 18 June 2012 (letter dated 12 July 2012);
11. Vodafone: letter to ComReg (letter dated 18 July 2012);
12. ComReg: reply to Vodafone letter of 18 July 2012 (letter dated 20 July 2012)
13. Vodafone: reply to ComReg letter of 20 July 2012 (letter dated 1 August 2012);
14. ComReg: reply to Vodafone letter of 1 August 2012 (letter dated 24 August 2012).

**A.2 ComReg's response to correspondence (anonymous)**

**A.1 Non-confidential correspondence provided by respondents in relation to ComReg's multi-band spectrum release proposals from 14 June 2012 until 1 August 2012 (and ComReg written responses to same).**

1. Telefónica: letter to ComReg "Multi-band Spectrum Release– 800 MHz, 900 MHz & 1800 MHz Consultation" (letter dated 14 June 2012)

By Post &  
Email-[george.merrigan@comreg.ie](mailto:george.merrigan@comreg.ie)

George Merrigan  
Commission for Communications Regulation  
Abbey Court  
Irish Life Centre  
Lower Abbey Street  
Dublin 1

14<sup>th</sup> June 2012

[REDACTED]

**Multi-band Spectrum Release - 800 MHz, 900 MHz & 1800 MHz Consultation**

Dear Mr Merrigan,

We refer to the above matter and to our separate letter of 13<sup>th</sup> June 2012. [REDACTED]

[REDACTED]

We are writing to you in relation to a specific issue in relation to the requirement for all applicants to submit an Applicant's Declaration as part of their application to participate in the Proposed Auction.

As you are aware, Telefónica Ireland and Meteor entered into a network sharing arrangement called Mosaic in 2011, details of which arrangement were provided to ComReg. Through Mosaic, Telefónica Ireland and Meteor jointly procure network leases, equipment, software and services which procurement is carried out by the Mosaic team, a team separated from the two companies with detailed restrictions in place to prevent the transmission of company specific information back to either Telefónica Ireland and/or Meteor and the details around such restrictions were previously notified to ComReg. [REDACTED]

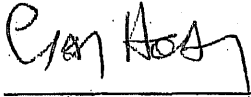
[REDACTED]

Separately, we understand that as part of the application process, applicants are required to declare that "*failure to obtain consents, approval, apparatus or funding necessary to deploy a network or complete transitional activities shall be deemed to be a breach of the Auction Rules by that Winning Bidder*". As you are aware, it is a necessary element of deploying a network to apply for planning permission for sites and to purchase equipment. Telefónica Ireland assumes therefore that for the

purposes of the Proposed Auction a refusal of planning permission for a site (being outside the control of the applicants) will not of itself be deemed a failure to obtain consents. Equally, in circumstances where a supplier fails to deliver equipment for which an applicant has placed an order, Telefonica Ireland assumes that this will not of itself be deemed a breach of the auction rules. Please let us know if either of these assumptions are incorrect.

We look forward to hearing from you with confirmation as to the above mentioned issues by no later than 19<sup>th</sup> June 2012:

Yours sincerely

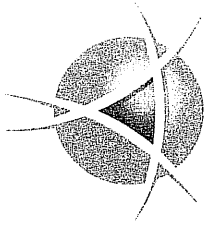


Gary Healy

Head of Regulatory and Public Policy  
Telefónica Ireland Limited

Copy: Dr. Samuel Ritchie, Commission for Communications Regulation

2. ComReg: reply to Telefónica letter of 14 June 2012 (letter dated 19 June 2012);



*By Post and Email*

19 June 2012

Dr. Gary Healy  
Head of Regulatory and Public Policy  
Telefónica Ireland Limited  
28-29 Sir John Rogerson's Quay  
Docklands  
Dublin 2

**Multi-Band Spectrum Award Process**

Dear Dr. Healy,

I refer to your letter of 14 June 2012, postmarked 15 June, concerning the above matter which I received by post on 18 June 2012 (and not by email as your letter indicates). I have responded separately to the letter from A&L Goodbody, sent on your behalf, dated 13 June.

You write in relation to two specific issues regarding the application process for the Multi-Band Spectrum Award Process:

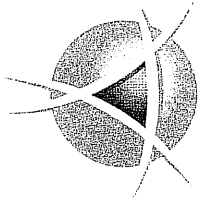
1.

[REDACTED]

2. Whether (a) refusal of planning permission for a site (being outside the control of an Applicant) and/or (b) where a supplier fails to deliver equipment for which an Applicant has placed an order will be deemed a breach of the auction rules.

[REDACTED]

[REDACTED]



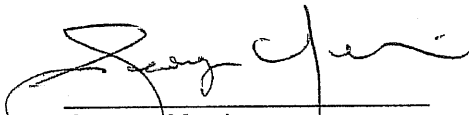
Commission for  
**Communications Regulation**  
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**Railail Cumarsaide**

As you know, it is ComReg's policy to publish exchanges of correspondence such as this in accordance with its usual procedures

[REDACTED]

and inform ComReg of any specific confidential material in your letter that Telefónica considers ought not to be published in accordance with these procedures.

Yours sincerely,

  
\_\_\_\_\_  
George Merrigan  
Director  
Market Framework Division



3. Telefónica: reply to ComReg letter of 19 June 2012 (letter dated 22 June 2012);

[REDACTED]

22<sup>nd</sup> June 2012

Dr Samuel Ritchie  
Multi-Band Spectrum Award  
Commission for Communications Regulation  
Abbey Court, Irish Life Centre  
Lower Abbey Street  
Dublin 1

Dear Samuel

**Multi-Band Spectrum Award**

I refer to Telefonica's letter dated 14<sup>th</sup> June, and ComReg's response dated 19<sup>th</sup> June.

[REDACTED]

As you are aware, Telefónica Ireland and Meteor entered into a network sharing arrangement called Mosaic in 2011, details of which arrangement were provided to ComReg. Through Mosaic, Telefónica Ireland and Meteor jointly procure network leases, equipment, software and services which procurement is carried out by the Mosaic team, a team separated from the two companies with detailed restrictions in place to prevent the transmission of company specific information back to either Telefónica Ireland and/or Meteor and the details around such restrictions were previously notified to ComReg.

[REDACTED]



Yours Sincerely

A handwritten signature in black ink, appearing to read 'Tom Hickey', written over a horizontal line.

Tom Hickey

4. ComReg: reply to Telefónica letter of 22 June 2012 (letter dated 12 July 2012);

12 July 2012

Mr Tom Hickey  
Telefónica Ireland Limited  
28-29 Sir John Rogerson's Quay  
Docklands  
Dublin 2

**Multi-Band Spectrum Award Process**

Dear Tom,

We refer to your letter of 22 June and to preceding and related correspondence concerning ComReg's Multi-Band Spectrum Award Process.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Yours sincerely,



Dr. Samuel Ritchie  
Manager Spectrum Operations

5. A&L Goodbody: letter to ComReg “Multi-band Spectrum Release Consultation – 800 MHz, 900 MHz & 1800 MHz (“the Consultation”)” (letter dated 25 June 2012);



our ref | JFW/MEH 01366740

your ref |

date | 25 June 2012



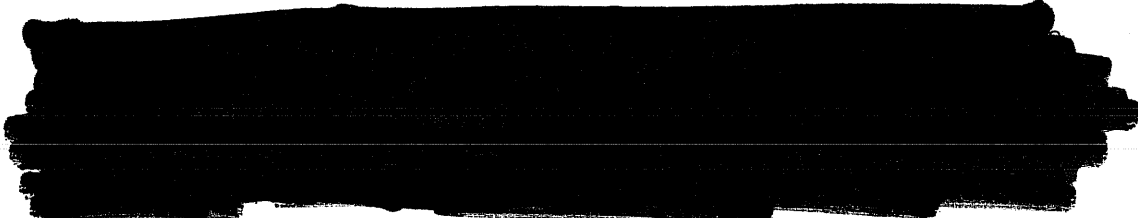
Commission for Communications Regulation  
Abbey Court  
Irish Life Centre  
Lower Abbey Street  
Dublin 1

**Multi-band Spectrum Release Consultation - 800 MHz, 900 MHz & 1800 MHz  
("the Consultation")**

Dear Sirs

We refer to your letter of 15 June 2012.

Our client maintains that it is fully entitled to have raised the issues contained in our letter of 13 June 2012, on the basis of legal advice and its view that such matters have not been adequately addressed by ComReg in the Consultation. We would draw your attention to the fact that although a lengthy and delayed consultation process has been carried out, this does not as you suggest simply translate to all matters being duly and carefully considered, or fully and properly addressed.



**Confidentiality Concerns**

In relation to the confidentiality concerns raised in our letter of 13 June 2012, we note the following from your response:

- (i) ComReg regards information-security as an important matter, takes information-security issues very seriously, and regrets the incidents that have occurred;
- (ii) ComReg has engaged a reputable consultancy organisation to ensure that such incidents do not occur in future, and that the work of the consultancy organisation is ongoing;

Dublin	Belfast	London	New York	Palo Alto							
R.B. Buckley	B.M. Cotter	S.M. Doggett	M.P. McKenna	E.A. Roberts	A.C. Burke	D.R. Baxter	B. Walsh	R.M. Moore	K. Furlong	D.R. Francis	
P.M. Law	J.G. Grennan	B. McDermott	K.A. Feeney	C. Rogers	J. Given	A. McCarthy	A.M. Curran	D. Main	P.T. Fahy	L.A. Murphy	
J.H. Hickson	J. Coman	C. Duffy	M. Sherlock	G. O'Toole	D. Widger	J.F. Wheilan	A. Roberts	J. Cahir	A.J. Johnston	A. Walsh	
M.F. O'Gorman	P.D. White	E.M. Brady	E.P. Conlon	J.N. Kelly	C. Christie	J.B. Somerville	C. Widger	M. Traynor	M. Rasdale	A. Casey	
C.E. Gill	V.J. Power	P.V. Maher	E. MacNeill	N. O'Sullivan	S. Ó Cróinín	M.F. Barr	M. Dale	P.M. Murray	D. Inverarity	B. Hosty	
E.M. FitzGerald	L.A. Kennedy	S. O'Riordan	K.P. Allen	M.J. Ward	J.W. Yarr	M.L. Stack	C. McCourt	N. Ryan	M. Coghlan		
Consultants:	J.R. Osborne	S.W. Haughey	T.V. O'Connor	Professor J.C.W. Wylie	A.F. Browne	M.A. Greene	A.V. Fanagan	J.A. O'Farrell	I.B. Moore		



(iii)

[REDACTED]



It is unfortunate that ComReg goes on to say that it "*does not feel obliged*" to provide our client with the assurances that it seeks regarding the confidentiality of its information

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A&  
LG

[REDACTED]



[REDACTED]

Our client reserves its position with regard to the fact that decisions, designations, determinations, specifications, requirements, directions, notifications and notices, and acts of equivalent nature, are only being made, or being made clear, as the auction process proceeds through its various stages.

Please note that our client does not require any redactions to this correspondence.

Yours faithfully

A+L Goodbody

M-13110163-3

6. ComReg: reply to A&L Goodbody letter of 25 June 2012 (letter dated 12 July 2012);



*By Post and Email*

12 July 2012

A&L Goodbody Solicitors  
International Financial Services Centre  
North Wall Quay  
Dublin 1

### **Multi-Band Spectrum Award Process**

Dear Sirs,

We refer to your letter of 25 June, 2012, concerning the above matter. We refer also to your earlier letter of 13 June and our letter of response dated 15 June.

In relation to the point you make concerning the raising of particular issues by your client at this stage, ComReg was not, as you assert, merely suggesting that, simply by virtue of there having been a lengthy and detailed consultation process, this necessarily translated into all matters having been duly and carefully considered. The points sought to be made in our letter of 15 June were that, with regard to issues raised by you on behalf of your client in your letter of 13 June which were also raised by it during the course of ComReg's consultation on its Multi-Band Spectrum Award Process ("the Consultation"):

- if your client now feels they were not adequately addressed in the Consultation, ComReg does not agree that there is any substance to this;
- ComReg feels that all such matters were in fact duly and carefully considered by it, as reflected in the Consultation documentation, and taken on board (or not, as the case may be) to the extent reflected in ComReg's Decision (Document 12/25 and Decision 04/12) and ComReg's Information Memorandum (Document 12/52); and
- whilst, of course, ComReg cannot force Telefónica to agree that all matters were duly and carefully considered, that does not mean that ComReg is not entitled to take the view that they have indeed been so considered, to draw a line under its decision-making, and at this juncture to decline to entertain any revisiting of issues perceived by Telefónica not to have been adequately addressed in the Consultation.

[REDACTED]

[REDACTED]

[REDACTED]

**Confidentiality Concerns**

In relation to your comment concerning ComReg not 'feeling obliged' to provide your client with the assurances it sought in your letter of 13 June, and this being "unfortunate", ComReg points out for clarity that this was not an obstructive refusal, but, rather one based on principle, and on ComReg's view that your requests for replies to particulars sought and for certain assurances were based on a premise of there being systemic problems within ComReg relating to information-handling and security, with which ComReg does not agree for the reasons set out by it in recent correspondence, both with you and with Vodafone (see Documents 12/49R and 12/74). There being, in ComReg's view, no platform for requiring the furnishing of particulars and assurances with regard to these matters generally, beyond those already appropriately given by ComReg with regard to the information-handling arrangements specific to the current process, ComReg did not, and does not, as a matter of law, feel obliged to furnish such particulars and assurances.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





[REDACTED]

Finally, please note that ComReg will publish this exchange of correspondence in accordance with its usual procedures [REDACTED]

[REDACTED] In that regard, we note that your client does not require any redactions to this correspondence.

Yours faithfully,

**George Merrigan**  
Director, Market Framework

7. A&L Goodbody: reply to ComReg letter of 12 July 2012 (letter dated 20 July 2012);

# A&L Goodbody

our ref | JFW/MEH 01366740

your ref |

date | 20 July 2012

Commission for Communications Regulation  
Abbey Court  
Irish Life Centre  
Lower Abbey Street  
Dublin 1



## Multi-band Spectrum Release Consultation - 800 MHz, 900 MHz & 1800 MHz ("the Consultation")

Dear Sirs,

We refer to your letter of 12 July 2012.

Our client is writing to you separately with regard to important issues that remain to be more fully addressed in the Consultation. Whether such matters have been adequately addressed to date is a matter to be determined by the proper interpretation of the relevant statutory provisions, ComReg's legal obligations and objectives, and their application to the facts and circumstances. Our client, along with other operators in the industry, remains of the view that there are key issues outstanding from the Consultation documents [REDACTED]. It remains the case that the auction proposed fundamentally conflicts with many of ComReg's statutory and non-statutory legal obligations. ComReg is obliged in law to take the option that has the least adverse effect on the market, licensees and ultimately consumers, which has not been the case [REDACTED].

### Confidentiality Concerns

Our client made no reference to "systematic" problems within ComReg, but simply sought basic assurances with regard to safeguards around the confidentiality of its information, and transparency in relation to adequacy of procedures. [REDACTED]

[REDACTED] We fully reserve our client's position in relation to the manner in which this issue has been handled, the fact that ComReg has refused to provide the necessary legal comfort to our client, and the fact that we may raise such matters again.

Dublin Belfast London New York Palo Alto

R.B. Buckley	B.M. Cotter	S.M. Doggett	M.P. McKenna	E.A. Roberts	A.C. Burke	D.R. Baxter	B. Walsh	R.M. Moore	K. Furlong	D.R. Francis
P.M. Law	J.G. Grennan	B. McDermott	K.A. Feeney	C. Rogers	J. Given	A. McCarthy	A.M. Curran	D. Malin	R.T. Fahy	L.A. Murphy
J.H. Hickson	J. Coman	C. Duffy	M. Sherlock	G. O'Toole	D. Widger	J.F. Whelan	A. Roberts	J. Cahill	A.J. Johnston	A. Walsh
M.F. O'Gorman	P.D. White	E.M. Brady	E.P. Conlon	J.N. Kelly	C. Christie	J.B. Somerville	C. Widger	M. Traynor	M. Rasdale	A. Casey
C.E. Gill	V.J. Power	P.V. Maher	E. MacNeill	N. O'Sullivan	S. Ó Cróinín	M.F. Barr	M. Dale	P.M. Murray	D. Inverarity	B. Hosty
E.M. FitzGerald	L.A. Kennedy	S. O'Riordan	K.P. Allen	M.J. Ward	J.W. Yarr	M.L. Stack	C. McCourt	N. Ryan	M. Coghlan	

Consultants: J.R. Osborne S.W. Haughey T.V. O'Connor Professor J.C.W. Wylie A.F. Browne M.A. Greene A.V. Fanagan J.A. O'Farrell I.B. Moore



[REDACTED]

In particular, our client continues to reserve its position with regard to the fact that decisions, designations, determinations, specifications, requirements, directions, notifications and notices, and acts of equivalent nature, are only being made, or being made clear, as the auction process proceeds through its various stages.

Finally, in the interests of transparency we request that this and our recent correspondence be published in unredacted form in accordance with ComReg's usual procedures. We note that despite already confirming this in response to a request from you on 27 June 2012, our letter of 25 June 2012 was for some reason omitted from the documents that ComReg published on 6 July 2012. We trust that this will be corrected.

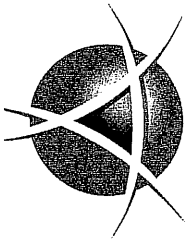
Yours faithfully

*A + L Goodbody*

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M-13275465-2

8. ComReg: reply to A&L Goodbody letter of 20 July 2012 (letter dated 10 August 2012);



10 August, 2012

A&L Goodbody Solicitors  
International Financial Services Centre  
North Wall Quay  
Dublin 1

**Multi-Band Spectrum Award Process – 800 MHz, 900 MHz & 1800 MHz  
("the Process")**

Dear Sirs,

We refer to previous correspondence in relation to the above matter, resting with your letter to us dated 20 July, 2012.

ComReg's position(s) in relation to the matters raised in your latest letter remain(s) as fully articulated in previous correspondence, which it reiterates and adopts.

The matters rehearsed in your letter under reply have, accordingly, been fully rehearsed between your firm and ComReg at this stage, and a difference of views remains in relation to a number of them. In light of this, there is nothing ComReg can usefully add.

The only remaining issue is for ComReg to disagree strongly with the general assertions contained in the first paragraph of your letter, to the effect that there are "key" outstanding issues in the Process, and to the effect that ComReg's proposed auction conflicts with ComReg's obligations at law.

Finally, we note your request that the correspondence be published in un-redacted form in accordance with ComReg's usual procedures.

Yours faithfully,

Dr Samuel Ritchie

**An Coimisiún um Rialáil Cumarsáide**

**Commission for Communications Regulation**

Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland  
Telephone +353 1 804 9600 Fax +353 1 804 9665 Email info@comreg.ie Web www.comreg.ie

9. H3GI: letter to ComReg "COMREG DOC. NO. 12/49" (letter dated 18 June 2012);

Hutchison 3G Ireland Limited  
Registered office

3<sup>rd</sup> Floor  
One Clarendon Row,  
Dublin 2, Ireland

Registered Number: 316882  
Place of Registration: Republic of Ireland



Dr Samuel Ritchie  
Multi-Band Spectrum Award  
Commission for Communications Regulation  
Abbey Court, Irish Life Centre  
Lower Abbey Street  
Dublin 1  
Ireland  
**BY COURIER**

18 June 2012

Dear Dr Ritchie

**COMREG DOC. NO. 12/49**

I refer to ComReg Doc. No. 12/49, "*Information Notice – GSM Liberalisation Project: Publication of correspondence provided by respondents (and ComReg written responses to same) and redacted paragraphs from Document 12/25*". Hutchison 3G Ireland Limited ("H3GI") has the following comments and questions.

Can the Commission for Communications Regulation ("ComReg") please clarify whether it has published the letter from eircom Limited ("eircom") to ComReg dated 9 March 2012 referred to in eircom's letter to ComReg dated 3 April 2012? If not, when does ComReg expect to publish this letter?

Can ComReg please: (i) clarify the reference to "*as below*" in the email from Mr Alex Chisholm, Chairperson, ComReg to Vodafone Ireland Limited ("Vodafone") dated 23 April 2012; (ii) confirm that this email has been published in full; and (iii) if not, clarify why not? This email should be published in full by the final date for responses to questions on the award process to be published on ComReg's website, failing which H3GI reserves all rights.

In relation to the letter from Mr Paul Ryan, of Vodafone to Mr Alex Chisholm, Chairperson, ComReg dated 23 April 2012 and subsequent correspondence, H3GI shares Vodafone's concerns. Can ComReg please confirm that there has been no misdirection of correspondence intended for H3GI?

In relation to the email from Vodafone to ComReg dated 8 May 2012 and entitled "*Custodianship of Data and Spectrum auction process – Confidential*", can ComReg please confirm when this email will be published (in redacted or non-redacted format)?

In relation to the letter from Mr George Merrigan, of ComReg to Mr Damian Collins, of McCann Fitzgerald Solicitors ("McCann Fitzgerald") dated 18 May 2012 and the following statement: "*I also refer to your letter dated 16 May regarding the same matters. ComReg will address this issues raised in this letter separately, including in relation to the report from Deloitte referred to in both letters*", can ComReg please confirm whether ComReg has responded to the letter from McCann Fitzgerald dated 16 May? If so, can ComReg please confirm when this response will be published? If not, when does ComReg expect to respond to this letter? ComReg's response to this letter should be published by the final date for

Directors  
Robert Finnegan: Irish  
Canning Fok: British  
Frank Sixt: Canadian  
Robert Eckert: U.S.A  
Edmond Ho: British  
David Dyson: British  
Richard Woodward: British

A Hutchison Whampoa Company



Hutchison 3G Ireland Limited  
Registered office

3<sup>rd</sup> Floor  
One Clarendon Row,  
Dublin 2, Ireland

Registered Number: 316982  
Place of Registration: Republic of Ireland



Three.ie

responses to questions on the award process to be published on ComReg's website, failing which H3GI reserves all rights.

In relation to the letter from McCann Fitzgerald to ComReg dated 23 May 2012, can ComReg please confirm when this email will be published (in redacted or non-redacted format)?

[REDACTED] can ComReg please confirm that it will publish correspondence in relation to the award process within one working day of its responses, or in the case of correspondence the subject of a confidentiality claim, it will publish an information notice highlighting the existence of such correspondence within one working day of any such claim? Given the timing of the bidding rounds publication within one working day is reasonable.

Yours sincerely

  
**MARK HUGHES**  
Head of Regulatory

Directors  
Robert Finnegan: Irish  
Canning Fok: British  
Frank Sixt: Canadian  
Robert Eckert: U.S.A  
Edmond Ho: British  
David Dyson: British  
Richard Woodward: British

A Hutchison Whampoa Company

10.ComReg: reply to H3GI letter of 18 June 2012 (letter dated 12 July 2012);



12 July 2012

Mr Mark Hughes  
Head of Regulatory  
Hutchison 3G Ireland Limited  
3<sup>rd</sup> Floor  
One Clarendon Row  
Dublin 2

Dear Mr. Hughes,

**Ref: COMREG DOC. NO. 12/49**

We refer to your letter of 18 June 2012 in relation to publication of correspondence by the Commission for Communications Regulation ("ComReg") in connection with its Multi-Band Spectrum Award Process in Document 12/49 ("H3GI's Submission").

We would respond to the specific questions in H3GI's Submission as follows.

*Question 1: "Can the Commission for Communications Regulation ("ComReg") please clarify whether it has published the letter from eircom Limited ("eircom") to ComReg dated 9 March 2012 referred to in eircom's letter to ComReg dated 3 April 2012? If not, when does ComReg expect to publish this letter?"*

Answer 1: ComReg published this letter from eircom in Document 12/21 on 15 March 2012.

*Question 2: "Can ComReg please: (i) clarify the reference to "as below" in the email from Mr Alex Chisholm, Chairperson, ComReg to Vodafone Ireland Limited ("Vodafone") dated 23 April 2012; (ii) confirm that this email has been published in full; and (iii) if not, clarify why not?"*

Answer 2: The reference to "as below" in Alex Chisholm's e-mail of 23 April 2012 (as published in Document 12/49) refers to his previous e-mail of 23 April 2012, which was also published in Document 12/49.

*Question 3: "Can ComReg please confirm that there has been no misdirection of correspondence intended for H3GI?"*

Answer 3: ComReg can confirm that there has been no misdirection of correspondence intended for H3GI in the context of the Multi-Band Spectrum Award Process.

*Question 4: "In relation to the email from Vodafone to ComReg dated 8 May 2012 and entitled "Custodianship of Data and Spectrum auction process - Confidential", can ComReg please confirm when this email will be published (in redacted or non-redacted format)?"*

Answer 4: ComReg published this e-mail in Document 12/49R on 3 July 2012.

*Question 5: "can ComReg please confirm whether ComReg has responded to the letter from McCann Fitzgerald dated 16 May? If so, can ComReg please confirm when this response will be published? If not, when does ComReg expect to respond to this letter?"*

Answer 5: ComReg has responded to this letter and this letter was published as item 13 in Document 12/74 on 6 July 2012.

*Question 6: "In relation to the letter from McCann Fitzgerald to ComReg dated 23 May 2012, can ComReg please confirm when this email will be published (in redacted or non-redacted format)?"*

Answer 6: ComReg published this letter in Document 12/49R on 3 July 2012.

*Question 7: "can ComReg please confirm that it will publish correspondence in relation to the award process within one working day of its responses, or in the case of correspondence the subject of a confidentiality claim, it will publish an information notice highlighting the existence of such correspondence within one working day of any such claim?"*

Answer 7: ComReg will continue to publish substantive correspondence as soon as practicable in accordance with its Guidelines for the Treatment of Confidential Information (Document 05/24) and, where relevant, the procedures set out in ComReg's Information Memorandum.

Finally, please note that ComReg will publish this exchange of correspondence in accordance with its usual procedures (and with such redactions as may be required in accordance with the procedures set out in ComReg's Information Memorandum). In that regard,

[REDACTED]

Yours sincerely,



**Dr. Samuel Ritchie**  
Manager Spectrum Operations

11. Vodafone: letter to ComReg (letter dated 18 July 2012);

18 July 2012



Dr. Samuel Ritchie,  
Manager Spectrum Operations  
Commission for Communications Regulation  
Irish Life Centre  
Lower Abbey Street  
Dublin 1

Dear Samuel

[Redacted]

[Redacted]

[Redacted]

1. [Redacted]

[Redacted]

[Redacted]

[Redacted]

2. Correspondence Remaining to be Published / Outstanding Correspondence

Vodafone Ireland Limited  
MountainView, Leopardstown, Dublin 18, Ireland  
T: +353 (0)1 204 7777 F: +353 (0)1 204 7778 W: [www.vodafone.ie](http://www.vodafone.ie)

Registered Office: MountainView, Leopardstown, Dublin 18, Republic of Ireland No. 22699  
Directors: James McCarthney (CEO), Rishi Chhabra (CFO), Thomas Reenan (COO), Paul Ryan

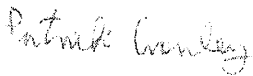
In relation to the Spectrum Auction more broadly, Vodafone notes that in the publication of correspondence in ComReg document 12/74, ComReg sets out in footnotes (such as in the footnote to letter number 4) that ComReg is awaiting clarification on the confidentiality status of the correspondence and will publish it at a later date. Can ComReg confirm when it will be in a position to publish those letters for which the confidentiality status was unclear at the time that ComReg document 12/74 was issued on the ComReg website? Can ComReg also confirm that there are no further letters awaiting publication other than the two letters referred to in document 12/74? As you will appreciate, [REDACTED]

3. Letter from A&L Goodbody dated 13 June 2012

We note that the letter from A&L Goodbody, acting on behalf of Telefonica Ireland Limited ("Telefonica"), dated 13 June 2012 has been substantially redacted and that in fact, approximately ten whole pages of the letter have been blacked out. This approach seems inconsistent with ComReg's standard approach of only redacting particular words or phrases that are deemed confidential but printing the balance of the letter. In particular, given that the part of page 2 of the letter which has not been redacted seeks assurances from ComReg on certain matters relating to the procedures for the Spectrum Auction, in our view it is not clear how the seeking of any such assurances could be deemed confidential in their entirety in order to warrant a complete blackout of the consequent ten pages. Again, to ensure that all participants have full information in advance of submitting their application forms for the Spectrum Auction and in the interests of full transparency, please specifically confirm that Telefonica were in agreement with the extent of these redactions and that either ComReg or Telefonica (as appropriate) provided substantive grounds to support the redaction of the final ten pages (approximately) of this letter and that the subject matter specifically required it to be redacted in full. Please provide details of these grounds and if this is not the case, we would ask that you publish as much of the non-confidential parts of the letter as possible.

[REDACTED] we should be obliged to hear from you by close of business on Thursday, 19 July next.

Yours Sincerely



Patrick Crowley

12.ComReg: reply to Vodafone letter of 18 July 2012 (letter dated 20 July 2012)





Patrick Crowley  
Regulatory Executive  
Vodafone Ireland Limited  
Mountain View  
Leopardstown  
Dublin 18

Dear Patrick

I refer to your letter and email to me of 18 July 2012.

I note that your letter contains three separate queries which I will address separately below.

[REDACTED]

In relation to your second query regarding the publication of outstanding correspondence, ComReg confirms that it has and will publish all correspondence and information relating to the Multi Band Spectrum Award Process in non-confidential format in a timely manner. ComReg is also satisfied that the type of information which will become available once non-confidential versions of outstanding correspondence are published would not influence applications submitted or have a material effect on the conduct of the Auction.

In relation to your final point regarding A&L Goodbody's letter dated 13 June 2012, please note that ComReg has treated the correspondence in question in the same manner as other correspondence relating to the Multi Band Spectrum Award Process. That is to say, all correspondence has been subject to the process as detailed in Document 05/24 and Document 12/52. In accordance with its processes and procedures, ComReg does not divulge the nature of or the reasoning for redaction of confidential material.

I trust this deals adequately with your queries.

Kind Regards,

Dr. Samuel Ritchie

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<sup>1</sup> Please see [http://www.comreg.ie/fileupload/MBSA\\_Clarification\\_16.pdf](http://www.comreg.ie/fileupload/MBSA_Clarification_16.pdf)

13. Vodafone: reply to ComReg letter of 20 July 2012 (letter dated 1 August 2012);



1 August 2012

Dr Samuel Ritchie  
Multi-Band Spectrum Award  
Commission for Communications Regulation  
Abbey Court, Irish Life Centre  
Lower Abbey Street  
Dublin 1  
Ireland  
**BY EMAIL**

[REDACTED]

Dear Samuel

I refer to my letter of 18 July and to your response received after business hours on 20 July 2012, the contents of which are noted.

In relation to the second query regarding the publication of outstanding correspondence, I note your confirmation that ComReg will publish all correspondence and information relating to the Multi-Band Spectrum Award Process in non-confidential format in a timely manner.

Notwithstanding this confirmation, the outstanding correspondence still does not yet appear to have been published. I should be obliged if you could please confirm when ComReg intends to publish all outstanding correspondence.

Yours Sincerely

A handwritten signature in cursive script that reads "Patrick Crowley".

Patrick Crowley

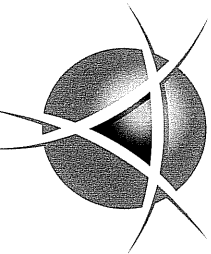
Regulatory Executive

**Vodafone Ireland Limited**

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Registered Office: MountainView, Leopardstown, Dublin 18 Registered in Ireland No. 328967  
Directors: Jeroen Hoencamp (CEO) (NL) (Chairman) Thomas Reisten (DE) Paul Ryan

14. ComReg: reply to Vodafone letter of 1 August 2012 (letter dated 24 August 2012).



Commission for  
**Communications Regulation**

**24 August 2012**

Mr. Patrick Crowley  
Regulatory Executive  
Vodafone Ireland Limited  
Mountain View  
Leopardstown  
Dublin 18

**Re: Vodafone letter of 1 August 2012**

Dear Mr. Crowley,

Thank you for your letter of 1 August 2012.

Please note that the correspondence to which you refer, and all other outstanding correspondence, will be published today.

Yours sincerely

**Dr. Samuel Ritchie**

**A.2 ComReg's response to correspondence (anonymous)**

## **Multi-Band Spectrum Release Consultation Response to Correspondence**

Following the publication of the Information Memorandum in relation to the Multi-band Spectrum Award Process, and the Questions, Answers and Clarifications document (ComReg Document 12/73), ComReg has received further correspondence from an interested party relating to issues discussed in Document 12/73.

ComReg does not intend to publish this correspondence until after the conclusion of the Award Process, as this could reveal information about the parties who intend to participate in the auction.

Notwithstanding this, in the interests of transparency, ComReg is publishing this document without identifying the party which raised these issues.

### **Question 36 - Party Specific Lots and Knockout Bids**

An interested party has asserted that:

1. a more refined calculation of knockout bid would be possible with more information about the bids of rivals; and
2. to minimise the level of this knockout bid, more information should be provided by ComReg prior to the Supplementary Bids Round (specifically a complete history of demand for party specific lots).

The party raising this issue points to a statement in ComReg Document 11/60 (Response to Consultation and Draft Decision) that "*an algorithm will be provided in the information memorandum which will allow a bidder who has won lots in the combinatorial clock rounds to calculate the minimum price that it would need a bid to be guaranteed to win those lots in the Supplementary Round*" [emphasis added].<sup>1</sup>

ComReg points out that the reference to "minimum" in that paragraph was a reference to a minimum price in light of the specific information that it was proposed to make available to all bidders. There is clearly a relationship between the level of information provided to bidders in relation to the bids of others and the calculation for the minimum value of a knockout bid.

ComReg remains of the view that the level of information that it is appropriate to provide is that which was consulted on and that the restrictions proposed are proportionate, justified and appropriate in mitigating the risk of collusion.

### **Question 38 – Bidder Exclusion**

1. An interested party has questioned ComReg's statement that it would typically expect to remove all bids of an excluded bidder but this is not guaranteed as

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<sup>1</sup> Paragraph 3.3.3. at page 159.

ComReg wishes to retain its discretion in this regard. The party questions the rationale for this as ComReg has already provided for the forfeiture of deposits in such circumstances which is, in the questioning party's view, sufficient, as it were, to 'keep bidders honest.'

ComReg notes that deposit forfeiture may be a disproportionate response in some cases, and equally, as it is within ComReg's discretion not to make deposit calls, deposits may be too small to provide an adequate incentive to prevent a bidder from walking away from the auction. Accordingly, ComReg does not propose to change its position in this regard.

2. An interested party has questioned ComReg's suggestion that there will be no mechanism in place to re-run the Supplementary Bids Round if a bidder is excluded, in consequence of a deposit call, subsequent to that round.

ComReg notes that the Information Memorandum is quite clear that Bidders are required to make Supplementary Bids on the basis that there is a risk – even if remote – that some Bidders might fail to meet deposit requirements and have some or all their bids excluded. As a result, the second price rule provides good incentives for straightforward bidding. If a Bidder considers that there is some chance that a rival Bidder might fail a deposit call, then it could make supplementary bids for larger packages to acquire otherwise unallocated lots. Therefore, given the incentives created by the auction mechanism, ComReg is of the view that there is no particular reason to expect that excluding a Bidder would result in an inefficient allocation to the remaining Bidders.

#### **Question 41 - Interim Licence Extensions**

On the assumption that there is no significant delay to the auction process, which ComReg believes to be a reasonable one, ComReg does not anticipate commencing any consultation on the issue of potential extensions to existing Interim GSM 900 MHz rights of use (or further interim licensing in the 900 MHz band) until after the auction outcome is known. This reflects, in particular, ComReg's position as set out in its answers to questions 39, 40, 41, 42 and 43 of Document 12/73 (and the materials referred to in same). In any event, ComReg notes that it has already been through a substantial consultation in relation to interim licensing, and, if such a consultation were required, is of the view that this could be carried out in a timely and efficient manner.

#### **Question 44 – Rebates in the event of delayed access to Spectrum**

An interested party has questioned ComReg's proposal to use final round prices in the final primary bids round to calculate the value of a refund due for lots subject to any delay.

ComReg acknowledges that Winning Bidders will pay a price for an overall package of lots, whereas a rebate might need to be given in regard to just some of the lots in



that package. Therefore, it is entirely unavoidable that some allocation of the price of the package will be needed to its component lots. The final clock prices are a fair and reasonable basis for this allocation. For the avoidance of any doubt, final clock prices will solely be used for allocating the price of the package won to its component lots, which will then be used as the starting point for the calculation of any rebate; final prices will not be used directly as an estimate of the price of a lot for calculating a rebate.

#### **Question 46 – Distortion to Competition as a result of Staggered Start Dates**

An interested party has further questioned ComReg's view that the potential for negative impacts on competition as a result of possibly staggered start dates is small.

ComReg remains of the view that this is a low risk. Moreover, ComReg notes that it has a range of powers and rights at its disposal to encourage operators to transition in a timely manner, and it does not believe, in any event, that, in practice, there are likely to be significant difficulties in this regard.

#### **Question 47 – Rebate and Opportunity Costs**

An interested party has suggested that the rebate be applied before the determination of winning bidders and base prices, rather than after.

ComReg is of the view that this could effectively require those parties bidding for Party Specific Lots to increase their bids by the value of the rebate only to receive the same rebate back. Accordingly, this appears to entirely negate the rebate mechanism.

ComReg notes that the rebate mechanism was included to produce a more level playing field between those parties that had already paid for spectrum rights of use on a GSM-only basis, and new entrants. Accordingly, ComReg is not minded to follow this suggestion.

#### **Joint Bidding and Spectrum Caps**

An interested party has asserted that by refusing to allow increased Spectrum Caps for a joint bidder and by stipulating that:

1. only a single licence will be issued to a bidding consortium; and
2. in the case of Party Specific Lots where incumbent GSM licence holders would have to assign their existing GSM Spectrum rights of use to the bidding consortium if they wished to make a bid to liberalise those holdings under such assignment subject to ComReg's prior consent,

it is clear that ComReg is in practice prohibiting joint bidding.

ComReg is not prohibiting joint bidding. However, ComReg is of the view that if more than one licence was issued to members of the bidding consortium, this could in effect lead to spurious arrangements whereby parties who were not bound together except for the purposes of the Auction could bid together. Moreover, ComReg is of the view that a bidding consortium is a single entity in the auction process and there is no reason why a bidding consortium should be permitted a higher spectrum cap than any other bidder in the auction. Once these considerations are taken into account, ComReg is of the view that it is clear that if a bidding consortium were to be permitted to bid on Party Specific Lots currently licenced to multiple operators, these lots would have to be assigned to the consortium prior to the start of the auction.