



## Information Notice

### **Mobile TV – Call for expressions of interest**

**Call for expressions of interest on potential award of spectrum in the UHF band for the provision of a Mobile TV service in the five urban areas of Cork, Dublin, Galway, Limerick and Waterford**

<b>Document No:</b>	<b>10/89</b>
<b>Date:</b>	<b>10, November 2010</b>

This document is not a binding legal document and also does not contain legal, commercial, financial, technical or other advice. The Commission for Communications Regulation is not bound by it, nor does it necessarily set out the Commission's final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this document and the due exercise by it of its functions and powers, and the carrying out by it of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of the Commission for Communications Regulation. Inappropriate reliance ought not therefore to be placed on the contents of this document.

**Contents**

1 Introduction.....2

    1.1 RECENT DEVELOPMENTS ..... 3

    1.2 CONSIDERATION OF RESPONSES TO INFORMATION NOTICE 10/26..... 4

Appendix A – Responses to 10/26..... 7

## 1 Introduction

Since June 2008, ComReg has been consulting on proposals for the licensing of spectrum rights of use for 8 MHz of Ultra High Frequency (UHF) spectrum in the five urban areas of Cork, Dublin, Galway, Limerick and Waterford (“the coverage area”)<sup>1</sup>, either on a service- and technology-neutral basis or for the provision of a broadcast mobile television (Mobile TV) service. After taking due account of responses received to its consultations, ComReg settled on a proposal to make available the rights of use of spectrum for the provision of a Mobile TV service, and that a comparative evaluation process would be used.

In March 2010, ComReg invited views on key aspects of its proposed comparative evaluation process and, in particular, on proposed evaluation criteria relating to:

1. Speed to market – where applicants could put forward proposals for network rollout in advance of the 24 month rollout obligation;
2. Proposals in relation to the provision of wholesale Mobile TV service, including:
  - Access to common programme material;
  - Provision of differentiation;
  - Provision of information; and
  - Recourse to negotiation and dispute resolution procedures;
3. The ability of applicants to put forward voluntary performance bonds in relation to commitments made; and
4. Proposals in relation to the level of spectrum access price.

That consultation yielded two responses<sup>2</sup>, both of which are addressed in this paper. Generally, ComReg notes that substantial comments on the finer details of the key aspects of its proposals were not received.

The limited interest shown would suggest to ComReg that industry are either not supportive of the key aspects of the proposal or are not interested in availing of spectrum rights of use for a Mobile TV service at this time. In order to clarify matters, ComReg would welcome views regarding these issues from interested parties by no later than 5.00 p.m. on **9 December 2010**.

In the remainder of this document, ComReg outlines a number of recent developments which may inform the inputs from interested parties. In particular, as the date for switch-off of analogue TV transmissions in the UHF band (ASO) is planned for Quarter 4 2012<sup>3</sup>, ComReg expects to be in a position, following ASO, to consider awarding additional rights of use of spectrum in the UHF band, which could be used to provide broadcast Mobile TV services amongst other things.

---

<sup>1</sup> ComReg Documents 08/44, 09/63 and 10/26. The relevant submissions received were set out in ComReg Documents 09/63s, and Annex 1.0 to document 10/26.

<sup>2</sup> Responses of RTÉ/RTÉNL and Meteor Mobile Communications Ltd are set out in Annex 1.

<sup>3</sup> DCENR Press Release 29 July 2010

Finally, ComReg sets out its consideration of matters raised by the two respondents to Consultation 10/26.

## 1.1 Recent developments

ComReg notes that activities in relation to broadcast Mobile TV services elsewhere in Europe have declined, as evidenced in the low number of service launches and, in some cases, the abandonment of launches.<sup>4</sup> One reason for this decline may be the general economic climate, which, amongst other things, is reducing the availability of investment finance and particularly for relatively unproven business opportunities (such as broadcast mobile TV services).

In addition, the potential demand for broadcast Mobile TV services may be moving away from UHF spectrum to higher frequency bands. Recently, the Association for Global Systems for Mobile Communications (GSMA) endorsed another broadcast Mobile TV standard (the Integrated Mobile Broadcast (“IMB”) standard), which is based on using unpaired Time Division Duplex (TDD) spectrum in higher frequency bands, such as the 2.1GHz band. In June 2010, mobile network operators Telefonica O2, Orange and Vodafone in the UK collaborated for a trial of a broadcast Mobile TV system using the alternative IMB standard.

Furthermore, since ComReg first consulted on this matter, it has been able to significantly progress the potential availability of other UHF spectrum on a service- and technology-neutral basis. For example, the 800 MHz band, which ComReg is now considering releasing as part of a joint award with the 900 MHz band (and potentially 1800 MHz band)<sup>5</sup>. This may be another factor that is reducing the need to immediately make available rights of use of spectrum specifically for broadcast Mobile TV services.

Given all of the above factors, ComReg is currently minded not to proceed with its proposed Mobile TV award, noting that suitable spectrum could be made available for award at a later date and perhaps also for other purposes. For example, it could be made available as part of an award for other digital dividend spectrum (yet to be identified in the band 470 to 790 MHz).

Interested parties are therefore invited to provide views with regard to ComReg’s assessment of the current situation in relation to interest in a comparative evaluation process for the award of a licence for broadcast Mobile TV services by **9 December 2010**. Respondents are kindly asked to frame their views having regard to, amongst

---

<sup>4</sup> For example, the proposed Mobile TV licensing process in France suffered from delays as content providers failed to agree carriage with a multiplex operator and more recently the proposed service in Poland has suffered disagreements between the multiplex operator and the mobile network operators. The proposed service in Spain was abandoned altogether as there was considered insufficient demand for it, reference: <http://www.broadbandtvnews.com/2010/05/19/spain-abandons-terrestrial-mobile-tv/>

<sup>5</sup> See ComReg Document 10/71.

other things: (i) the current opportunity for broadcast Mobile TV services in the State; and (ii) alternative timing of availability and/or uses of this spectrum.

## **1.2 Consideration of responses to Information Notice 10/26**

A number of issues were raised by respondents to Information Notice 10/26, to which ComReg would respond as follows.

### ***Frequencies to be licensed***

One respondent stated that it was necessary for ComReg to identify the specific frequencies that would be used for its Mobile TV licensing proposal as it considered that it would be important to minimise the risk of the assigned frequencies later becoming part of a harmonised sub-band of frequencies for other uses (such as mobile broadband).

### ***ComReg's view***

ComReg agrees with the principle that it would be more prudent to not award spectrum rights of use for one purpose now where that spectrum could likely become harmonised for use on another basis at a later date. In this regard, it is noted that there is the potential to miss out on the benefits associated with such harmonisation (e.g. economies of scale of equipment manufacture, roaming etc).

ComReg notes, however, that the current preferred set of harmonised UHF frequencies for other non-broadcasting services in Europe is in the frequency range 790 to 862MHz (the "800 MHz band"). Importantly, the identified spectrum for ComReg's proposed Mobile TV award (located in the spectrum band up to UHF channel 55) would not form part of the 800 MHz band.

Moreover, ComReg cannot predict with certainty what other frequencies in the UHF band (if any) might become part of future harmonised spectrum bands. That said, through its active participation in various European regulatory and policy making bodies<sup>6</sup>, ComReg would be in a position to provide soonest indication of any such developments.

### ***Minimum wholesale Mobile TV requirements and minimum spectrum access price***

One respondent agreed with ComReg's proposed evaluation criteria, but queried whether ComReg should go further and identify a range of minimum wholesale requirements. This respondent believed that doing so would help avoid the potential outcome of unattractive terms being set by the licensee, which it considered could arise if there were a limited number of applicants for the licence.

---

<sup>6</sup> ComReg actively participates in the following groups; the Body of European Regulators for Electronic Communications ("BEREC"), the Radio Spectrum Policy Group ("RSPG") and various technical working groups of the European Conference of Postal and Telecommunications Administrations ("CEPT")

This respondent also submitted that ComReg should consider setting a minimum spectrum access price for the proposed Mobile TV licence.

*ComReg's view*

In relation to the first issue, ComReg re-iterates its view that appropriate and effective wholesale access commitments are critical for the successful provision of wholesale Mobile TV service and the provision of Mobile TV services for the benefits of consumers more generally. To this end, and as set out in Section 4.5 of ComReg Information Notice 10/26, it was proposed that prospective applicants would be requested to demonstrate how they would implement their proffered commitments to wholesale service by submitting draft terms of an Access Contract, which would be evaluated in terms of their comprehensiveness and the quality of information provided in regard to wholesale service. ComReg also noted that an applicant could, of course, provide details of commitments additional to the kind identified by ComReg in relation to the provision of wholesale service for which it might be favourably evaluated.

At the same time, ComReg considers that the specific terms and conditions under which wholesale service would be provided should, wherever possible and within the framework of the wholesale commitments made by the licensee (which would be reflected in its licence), be the subject of commercial negotiation and agreement between the mobile TV licensee and third parties seeking wholesale services.

With regard to the issue of a minimum spectrum access price, ComReg considers that potential applicants would be better placed to identify the appropriate monetary value for gaining access to this spectrum right of use - noting that mobile TV remains a relatively nascent business proposition in Europe. In this context, ComReg therefore sees no present need for it to impose a minimum spectrum access price.

***Voluntary performance bonds***

One respondent submitted that ComReg should not use the proffering of performance bonds as an evaluation criteria, as it considered that any operator willing to invest in mobile TV infrastructure would be taking a significant risk given the prevailing economic climate. In this context, it was submitted that performance bonds could reduce the likelihood of a successful application being made.

*ComReg's view*

Firstly, ComReg remains of the general view that performance bonds provide appropriate incentives for a licensee to properly deliver on commitments made. This reflects ComReg's experience with performance bonds relating to, for instance, rollout and coverage obligations which, in ComReg's view, have encouraged efficient spectrum use by licensees.

In addition, ComReg does not consider that making provision for applicants to provide performance bonds should reduce the likelihood of a successful application

being made, having regard to the fact that an applicant would, under ComReg's proposal, have discretion as to:

- whether or not to proffer a performance bond at all;
- which commitment/s it proffered a bond in connection with; and
- the level of the bond proffered.

### *Coverage area extension*

One respondent submitted that, following ASO and depending on the availability of additional spectrum, it would be most appropriate to offer the successful Mobile TV licensee the opportunity to extend their coverage if needed. This respondent contended that a mechanism to facilitate this should be included in the proposed licence competition, without the need for a separate future competition.

### *ComReg's view*

Whilst ComReg understands and appreciates the rationale behind this submission, ComReg does not consider it appropriate to include a mechanism that would earmark additional spectrum for the successful Mobile TV licensee and/or Mobile TV services generally in circumstances where it is not clear yet whether any spectrum for this purpose might become available, the purposes for which any such spectrum may be used (especially where such spectrum may become the subject of European harmonisation activities), noting that to do so in these circumstances could restrict the ability to make available any such spectrum in an effective manner and for potentially more efficient uses.

More generally, ComReg considers this to be another reason why it may be more appropriate to defer its mobile TV proposals until such time that greater clarity in relation to the above matters is obtained and particularly where such developments would allow spectrum to be made available that could support a national Mobile TV service (amongst other things).

## Appendix A – Responses to 10/26





**RTÉNL Comments on ComReg Information  
Notice:**

**Award of available UHF spectrum in the urban  
areas of Cork, Dublin, Galway, Limerick and  
Waterford**

**Mobile TV Wireless Telegraphy Licence Award**

30<sup>th</sup> April 2010

RTÉNL welcomes ComReg’s information notice on the award of a Mobile TV licence, laying out the proposed process, details and schedule. We are also pleased to have the opportunity to make comments on the scheme prior to its launch.

COMMENTS:

1. (Section 2.2.1) Digital Broadcasting Services – Broadcasting Act 2009

Following ASO it would be most appropriate to offer the holder of the initial 5 urban area licence the opportunity to extend their coverage if needed, allowing them to build on the likely substantial investments already made by that time. The initial licence competition should therefore build in a mechanism allowing the incumbent operator to extend coverage should the spectrum become available after ASO, without the need for a separate competition.

2. (Section 3) Evaluation Criteria

Voluntary performance bonds should not be considered in the evaluation criteria. Any operator willing to investing in mobile TV infrastructure under the current economic conditions will already be taking a significant risk. We believe that performance bonds will reduce the likelihood of a successful application being made.

We believe that Table 1 should be modified with the following evaluation criteria, placing greater emphasis on network commitments:

<b>Evaluation Criteria</b>	<b>Max Number of Marks</b>
Network commitments	45
Wholesale access commitments	40
Level of spectrum access price	15



**Vodafone Response to the ComReg Information Notice: Mobile TV  
Wireless Telegraphy Licence Award**

## **Introduction**

Vodafone welcomes the opportunity to respond to ComReg's proposals for the award process for a Mobile TV licence in the UHF band as set out in Information Notice 10/26 and is in broad agreement with the general approach as set out in the document. In particular Vodafone agrees with the evaluation criteria to be assessed in the comparative evaluation process and with the large weighting (45 marks out of 100) proposed to be assigned in the marking scheme to the proposals for wholesale access commitments to be included in the applications of prospective licensees. Vodafone considers that this approach is appropriate and justified in the context where only a single licence for the provision of Mobile TV services is to be awarded.

Although Vodafone is in agreement with the general approach proposed, we consider that the licence award process would be improved by the formal inclusion in the Licence Information Memorandum and award process of specific minimum requirements that would have to be met by licence applicants for each of the evaluation criteria to be assessed, in addition to the current general guidelines set out in the Information Notice. Applicants would have full discretion to exceed these minimum requirements in their applications.

## **Minimum Requirements**

With regard to the wholesale access commitments that would be required to be offered by participants in the comparative evaluation process for the award of the Mobile TV licence, Vodafone considers that specific minimum requirements should be published by ComReg in respect of the terms of wholesale access offers required to be provided. These requirements would be basic minimum standards but should be set to facilitate viable downstream competition by efficient entrants in the provision of Mobile TV services.

Vodafone considers that setting out minimum requirements in relation to the terms of wholesale access commitments would avoid the potential outcome of unattractive terms being set by a successful applicant for the Mobile TV licence, which could arise in the case where there were few participants, or only one participant, in the award process for the licence following the conclusion of the pre-qualification process.

In relation to the proposed spectrum access price, Vodafone considers that a specific minimum price should be stated in the Information Memorandum, and that this should be set at a low but non-trivial level.

## **Location of Mobile TV Licence in the UHF Band**

Vodafone notes that the exact frequencies to be licensed are not provided in the Information Notice but that ComReg intends to make this known prior to the publication of the final invitation to submit application documents. It is important that frequencies to be assigned for the provision of Mobile TV services in the designated urban areas should be located in the UHF band so as to minimise the risk of preventing the assignment of spectrum on a harmonised basis to other uses such as mobile broadband in the future.