



Commission for
Communications Regulation

Multi-band Spectrum Release: Questions & Answers and Clarifications

Information Notice

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An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

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Chapter 1

1 Introduction

- 1.1 In Document 12/52¹, and following consultation on its proposals in Document 11/75², ComReg published an Information Memorandum setting out the processes and procedures for the Multi-band Spectrum Award (MBSA) process it had developed concerning the 800 MHz, 900 MHz and 1800 MHz spectrum bands,
- 1.2 The processes and procedures that ComReg will employ in the MBSA implement ComReg's Decision 04/12 as detailed in Document 12/25³. Interested Parties are referred to Document 12/25, and to previous documents in the consultation process for a description and summary of ComReg's MBSA proposals, as reflected in its Decision D04/12 contained in Chapter 8 of Document 12/25.
- 1.3 In accordance with (i) the Questions and Answers procedures set out in section 3.3.1 of Document 12/52 and (ii) paragraph 5.25 of Document 12/52 relating to errors, omissions and lack of clarity in the Information Memorandum, ComReg sets out in this document:
- ComReg's final answer to each of the questions properly submitted in the Question and Answer phase of the MBSA process; and
 - ComReg's response to errors, omissions and/or lack of clarity raised by Interested Parties or have otherwise come to ComReg's attention by the time of publication of this document.
- 1.4 In that regard:
- **Chapter 2** lists the questions properly submitted during the Question and Answer phase of the MBSA process and sets out ComReg's final answers to same;

¹ ComReg Document 12/52 – Multi-band Spectrum Release, Information Memorandum - published 25 May 2012

² ComReg Document 11/75 – Multi-band Spectrum Release, Draft Information Memorandum - published 24 October 2011

³ ComReg Document 12/25 – Response to Consultation and Decision on Multi-band Spectrum Release [D04/12] - published 16 March 2012.

- **Chapter 3** lists matters for clarification following submissions received, or which have otherwise come to ComReg's attention, in relation to the MBSA process and sets out ComReg's clarifications on same; and
- **Chapter 4** lists the questions & answers and clarifications in tabular format for ease of reference.

1.5 For the avoidance of doubt:

- all provisional answers issued by ComReg on its website in accordance with the Question and Answer procedure are superseded by the corresponding final answer set out in this document;
- ComReg does not intend to issue a new Information Memorandum or a revised Information Memorandum but has provided a concise list of textual changes to the Information Memorandum in Table 1 of this document; and
- the Information Memorandum of 25 May 2012, as amended by (i) the answers issued by ComReg pursuant to this Question and Answer process and (ii) any other amendments communicated by ComReg to Interested Parties and/or Bidders after the publication of this document, should be relied upon by Interested Parties in preparing their Applications and by Bidders in preparing for the Award Process.

Chapter 2

2 Questions and Answers

- 2.1 This chapter sets out ComReg's final answers to each of the questions properly submitted during the Question and Answer phase of the MBSA process.
- 2.2 In total ComReg received 85 questions before the deadline of 16:00 hours (local time) on 22 June 2012 and each of these questions are answered in turn below.
- 2.3 Two (2) questions were received by ComReg after the above deadline and, in accordance with the Question and Answer procedures and paragraph 3.99 of Document 12/52 these have not been addressed by ComReg.
- 2.4 ComReg notes that the text of some Questions submitted has been amended to:
- align the capitalisation of defined terms with the Information Memorandum;
 - divide questions into sections where that facilitates clarity;
 - remove information likely to identify the querist; or
 - correct what were obvious typographical errors.

2.1 Question and Answer A

Question: Is it possible to modify submitted Applications up until 17 August (the deadline for withdrawal of Applications by Bidders)?

Answer: As set out in subsection 3.3.6 of Document 12/52, during the week of 16 July 2012 to 20 July 2012 between 10.00 and 16.00 hours (Irish time), it is possible for an Applicant to replace its previous Application. As noted in paragraph 3.95 of Document 12/52 "*[i]n the event that an Applicant submits more than one Application prior to 16.00 on the Application Date, only the latest Application received from that Applicant will be taken into consideration.*"

After the deadline date for submission of Applications (namely 16:00 local time on Friday 20 July 2012), and aside from the procedures as set out in section 3.4.2 of Document 12/52, it is not possible to modify a submitted Application. However, as set out in paragraph 3.121 of Document 12/52 "*an Applicant may withdraw its*

Application on or before the deadline date of Friday 17 August as set in Table 9 [of Document 12/52] without forfeiture or partial forfeiture of Deposits.”

2.2 Question and Answer B

Question: Part 1 of the Application Form only has room for two (2) Authorised Agents to be listed. Can any additional authorised agents be designated or are you restricted to two?

Answer: Annex 1 of Document 12/52 defines an Authorised Agent as “*A person who the Applicant has notified ComReg is entitled to bind an Applicant contractually in relation to the Award Process*”. Further information on Authorised Agents is provided in Annex 5 of Document 12/52.

The structure of the Application Form for the Multi Band Spectrum Award, published as Annex 5 of Document 12/52 and also separately in PDF editable format as Document 12/52a, allows for the provision of details of two Authorised Agents only.

As discussed further in ComReg’s answer to Question 7 below, a revised version of the Application Form in PDF editable format labelled Document 12/52aR has been issued by ComReg in tandem with this document. Document 12/52aR replaces the Application Form in Document 12/52a and the Application Form in Annex 5 of Document 12/52.

Applicants **must** use this revised Application Form (Document 12/52aR) when submitting an Application.

When submitting an Application using the revised Application Form, an Applicant may, if they wish, notify ComReg of more than two (2) Authorised Agents by:

- appending details of each additional Authorised Agent, using the prescribed format in Document 12/52aR (i.e. name, position, contact details and specimen signature of Authorised Agent) and providing appropriate evidence of the authorisation of Authorised Agents in accordance with paragraph 3.29 of Document 12/52, to its Application Form; and
- clearly noting that more than two (2) Authorised Agents are being specified in an attachment to Part 1 of their Application Form.

In accordance with the notes set out in Annex 5 of Document 12/52, where two or more Authorised Agents are identified by an Applicant, an Applicant must clearly identify the order of priority of every Authorised Agent. The priority assigned by the Applicant to each Authorised Agent will determine:

- in the event of any duplication of submissions made on behalf of the Bidder by different Authorised Agents, which submission would be considered as final and binding; and
- in the event that the Auctioneer needs to contact a Bidder, the order in which the Authorised Agents would be contacted.

Where an Applicant does not clearly identify the order of priority of its Authorised Agents, the order of priority will be determined by the order in which the Authorised Agents are listed by the Applicant in the Application Form (i.e. Authorised Agent 1 and then Authorised Agent 2 as identified in "Part 1: Administrative Information", and then the order in which any additional Authorised Agents are identified in the appended details).

An Applicant should ensure a high level of availability of all of its Authorised Agents during the Award Process and, specifically, during the Auction for contact by the Auctioneer in the case of technical failure. If, for some reason, one or more of these Authorised Agents will not be available during the Auction, this must be notified to ComReg immediately.

2.3 Question and Answer 1

Question: Does ComReg intend to make the winner and price determination software referred to in the Workshop Announcement available to interested parties and if so, when?

Answer: ComReg made it clear that it would make a beta version of the winner and price determination software, referred to in its announcement of workshop on multi-band spectrum award process (ComReg 12/54), available to interested parties (please see paragraph 381 of Document 12/51).

ComReg made the winner and price determination software available on Tuesday, 12 June 2012.

2.4 Question and Answer 2

Question: The text in paragraph 4.95 refers twice to a round “M_k”. Since the only relevant round in this context is the most recent round in which B was eligible to bid for Z_k, namely “M_{k+1}”, should “M_k” be replaced with “M_{k+1}” in both cases where it is used?

Answer: “M_k” should actually have read “M_{k+1}” in both cases where it is used in paragraph 4.95 of Document 12/52.

2.5 Question and Answer 3

Question: Regarding the description in paragraphs A 8.21 – A.8.24: Can ComReg confirm that a scenario, in which a certain Bidder releases no party-specific Lots and this Bidder in the (unique) winning combination is allocated their zero bid, will be considered feasible?

Answer: This is a feasible scenario.

2.6 Question and Answer 4

Question: Footnote 132 on page 249 refers to paragraph A9.20 but this paragraph does not exist. Can ComReg please clarify?

Answer: The reference to “Paragraph A9.20” in footnote 132 of Document 12/52 was intended to refer to what was published as the second part of paragraph A9.19 on page 252 of Document 12/52 starting with “*ComReg maintains the right to make a Deposit Call*” and ending with “*..... win its Final Primary Package*”, which was not allocated a distinct paragraph number due to a formatting error.

2.7 Question and Answer 5

Question: With reference to paragraph 381 and 382 of DotEcon’s issues Report (ComReg Document 12/51), ComReg’s response to Question 1 in this Q & A process and ComReg’s Information Notice 12/61 and 12/61A, the querist stated that “*...a Linux machine of the type specified is a very powerful machine and not normally one freely available to a telecoms operator. As a result, it has to be specifically*

ordered and will take in excess of a week to deliver. In addition, interested parties need to review the software and conduct simulated tests in order to ensure that they fully understand the winner and price determination for the main stage of the auction. This will take at least two weeks to complete”.

On this basis the querist requested a two week extension to the deadline for submissions of Questions regarding the award process. That is, an extension of the deadline for Questions from 22 June 2012 to 6 July 2012.

The querist submitted that, whilst this would result in an extension of the final date for responses to Questions on the award process to be published on ComReg’s web-site, it did not foresee any reason why this should result in an extension to the deadline date for submission of application forms (which closes on 20 July 2012).

Answer: As noted by the querist, the system requirements for running the Winner Determination and Pricing (WDP) software were initially set out in paragraph 382 of Document 12/51, which was published on 25 May 2012. These WDP system requirements were then subsequently re-stated at the Multi-band Spectrum Award Workshop on 8 June 2012 in DotEcon’s presentation on the “Electronic Auction System (EAS) and Winner Determination and Pricing (WDP) software” as published in Document 12/61a.

While the WDP system requirements are specific in nature, it is ComReg’s view that these requirements are not particularly onerous and equipment of this nature can quite readily be sourced for purchase, lease or rent. Given this and the publication of the WDP system requirements on 25 May 2012, ComReg is of the view that the timelines as set out in Table 9 of Document 12/52 provided sufficient time for potential Bidders to put in place arrangements for the running of the WDP software. ComReg would have expected potential Bidders to have made sufficient arrangements by this stage and ComReg is also therefore surprised that this issue should only be brought to its attention on June 13, more than two weeks after the publication of Document 12/52.

In considering the request contained in this question further, ComReg is also aware of the importance to all Interested Parties for ComReg to progress the Multi-band Spectrum Award and bring the current Question and Answer phase to an orderly conclusion, in accordance with the timeline as set out in Table 9 of Document 12/52, so that such parties can sufficiently reflect on the answers provided by ComReg in advance of submitting an Application, which potentially could be submitted as early as 16 July 2012.

Accordingly, and having carefully considered the querist's request, and bearing in mind the expectation of all Interested Parties that ComReg will progress the Multi-band Spectrum Award in an orderly fashion, ComReg is of the view that it is not appropriate or necessary to modify the timelines as set out in Table 9 of Document 12/52.

Interested Parties can continue their familiarisation of the WDP software up to the Application Date of 20 July 2012, and Bidders thereafter. Should an Interested Party discover any errors or omissions or lack of clarity associated with the WDP software, the Award Process allows Interested Parties to bring such errors to ComReg's attention as follows:

"If Interested Parties discover any error or omission or lack of clarity in this Information Memorandum, such Interested Parties must immediately notify ComReg in writing of such error, omission or lack of clarity which will be resolved by ComReg in such manner as it considers appropriate." (Paragraph 5.25 of Document 12/52)

2.8 Question and Answer 6

Question: The Spectrum Award Process Application Form (ComReg document 12/52a) allows Applicants to designate only 2 Authorised Agents. Can ComReg clarify whether Applicants can designate 3 or more Authorised Agents and append the details of these additional Authorised Agents to the Application Form? If not, what is the basis for the restriction of the number of permitted Authorised Agents to just 2?

Answer: Please see the answer to Question B above.

2.9 Question and Answer 7

Question: There appears to be an error in the text of Part 2 of the Application Form (The Applicant Declaration). Paragraph 13 requires Applicants to state that they have ensured that agreements already entered into, or understandings already established, as claimed to be mentioned in Paragraph 6 have been terminated.

However Paragraph 6 of the Applicant Declaration relates only to ensuring that information contained in the Application Form and associated appendices is correct and accurate.

Does ComReg agree that this is an error in the drafting of the Application Form and if so, does ComReg intend to remedy it?

Can ComReg clarify what categories of agreements and understandings must be required to be terminated, as set out in the Application Form?

Answer: The PDF editable version of the Application Form (Document 12/52a) contained formatting errors that changed the paragraph numbering of this document when compared to the Application Form as set out in Annex 5 of Document 12/52. These formatting errors resulted in incorrect paragraph referencing in Document 12/52a.

In tandem with the publication of this document, ComReg has issued a revised version of the Application Form in PDF editable format with the above formatting errors corrected. This revised Application Form is labelled Document 12/52aR and replaces the Application Form in Document 12/52a and the Application Form in Annex 5 of Document 12/52.

Applicants **must** use this revised Application Form (Document 12/52aR) when submitting an Application.

Interested parties are also referred to ComReg's answers to Questions 78 and 79 below in relation to the Application Declaration.

2.10 Question and Answer 8

Question: Can ComReg outline its position in relation to potential future use of the frequencies from 960 MHz upwards by L-DACS systems?

Does ComReg believe that use of these frequencies in Ireland by L-DACS systems is likely within the time periods covered by the Time Slice 1 and Time Slice 2 Licences in the 900 MHz band?

Can ComReg indicate its approach to the management of interference (size of guard bands, transmit power limits etc.) that it would propose to apply in the event that L-DACS systems are deployed?

Does ComReg consider that L-DACS use of frequencies from 960 MHz could have a potential impact in terms of harmful interference being caused to licensed users of spectrum usage rights for frequencies in the 900 MHz band?

If so, does ComReg consider that this would have the effect of significantly limiting or restricting use of any part of the frequencies in the 900 MHz band by the holders of spectrum usage rights for these 900 MHz frequencies?

Answer: ComReg understands that the L-band Digital Aeronautical Communication System (L-DACS) and other similar aeronautical radio systems are planned in a harmonised manner on either a global (i.e. via the International Telecommunications Union – Radiocommunications (ITU-R)) or a regional basis (i.e. in Europe via the European Conference of Postal and Telecommunications Administrations (CEPT) and the European Commission (EC)).

In this regard, ComReg notes that CEPT has carried out compatibility studies between Universal Mobile Telecommunications System (UMTS), Long Term Evolution (LTE) and Worldwide Interoperability for Microwave Access (WiMAX) systems in the 900 MHz band and Distance Measurement Equipment (DME) and L-DACS in the spectrum band above 960 MHz.

The results of these compatibility studies are presented in CEPT Report 41⁴ and CEPT Report 42⁵ and these results were considered by the EC in the adoption of EC Decision 2011/251/EU⁶, as noted in recital (4) and (5) of this EC Decision:

“(4) CEPT’s response to the mandate is set out in CEPT Reports 40 and 41. Those Reports concluded that the LTE (Long Term Evolution) and WiMAX (Worldwide Interoperability for Microwave Access) systems can be introduced in the 900 MHz and 1 800 MHz bands using appropriate values for the separation between the channel edges of the respective carriers.”

⁴ CEPT Report 41: Report from CEPT to the European Commission in response to Task 2 of the Mandate to CEPT on the 900/1800 MHz bands “Compatibility between LTE and WiMAX operating within the bands 880-915 MHz / 925-960 MHz and 1710-1785 MHz / 1805-1880 MHz (900/1800 MHz bands) and systems operating in adjacent bands”
<http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP041.PDF>

⁵ CEPT Report 42: Report from CEPT to the European Commission in response to Task 3 of the Mandate to CEPT on the 900/1800 MHz bands “Compatibility between UMTS and existing and planned aeronautical systems above 960 MHz”
<http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP042.PDF>

⁶ “COMMISSION IMPLEMENTING DECISION of 18 April 2011 amending Decision 2009/766/EC on the harmonisation of the 900 MHz and 1 800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community”
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:106:0009:0010:EN:PDF>

(5) As regards coexistence between UMTS, LTE and WiMAX and aeronautical systems above 960 MHz, CEPT Reports 41 and 42 provide information and recommendations on how to mitigate interference.”

As discussed throughout ComReg's consultation process on this Multi-band Spectrum Award Process, ComReg's proposals for the 900 MHz band have taken into consideration the relevant European harmonisation measures, and ComReg's decisions as set out in Document 12/25⁷ are fully compliant, amongst other things, with EC Decision 2011/251/EU.

In relation to the possible timelines for the deployment of L-DACS, ComReg notes that CEPT Report 42 states that “L-DACS is expected to be deployed [in Europe] in 2020 at the earliest” and that “L-DACS systems are planned to be deployed by 2025”.⁸

Given these timelines and the global and regional basis upon which systems such as L-DACS are planned, ComReg notes that further harmonisation activities may be carried out in the future by organisations such as the ITU-R, the EC and CEPT. ComReg is not in a position to predict the harmonisation activities or approaches that may be adopted by these organisations. Interested Parties should form their own view on these matters in the context of the MBSA process.

2.11 Question and Answer 9

Question: Can ComReg detail the precise steps (procedural and legal/legislative) that would be required to secure an extension of the duration of the GSM Interim Licences currently held by Vodafone and Telefonica O2 in the event that such an extension was objectively justified and necessary (for example where extensive re-tuning by one or more Existing Licensees would be required in the 900 MHz band following completion of the Spectrum Award Process and these could not be feasibly completed by 31st January 2013)?

Can ComReg indicate the approximate timeframes (in terms of number of working days) within which each of these steps could be achieved?

⁷ Multi-band Spectrum Release, Release of the 800MHz, 900MHz and 1800MHz Radio Spectrum Bands, Document 12/25

⁸ See CEPT Report 42, Conclusion, Chapter 5,

Answer: Section 6.5 of Document 12/50 sets out ComReg's consideration of, and position on, the issue of potential extensions to existing Interim GSM Rights of Use in the 900 MHz band. ComReg would draw particular attention to paragraphs 6.63 and 6.65 of this section.

As ComReg stated in paragraph 6.63, if it becomes clear after due consideration that extensions are necessary, then it will conduct appropriate consultation with interested parties.

Such consultation would be conducted in accordance with, and having regard to, amongst other things, relevant provisions of the Communications Regulation Act 2002-2011, the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011, the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011, the Wireless Telegraphy Act, 1926, ComReg's Consultation Procedures (Document 11/34) and ComReg's Guidelines for the treatment of confidential information (Document 05/24).

It is not possible for ComReg to indicate the approximate timeframes for such a process given that a number of substantive and procedural factors are unknown at this stage and/or outside of ComReg's control, including:

- the circumstances in which any extensions might be required;
- the approximate duration of any extensions that might be required; and
- the volume and nature of submissions received from interested parties.

2.12 Question and Answer 10

Question: Can ComReg detail the precise steps (procedural and legal/legislative) that would be required to grant a GSM Interim Licence for spectrum rights of use in the 1800 MHz band to one or more Existing Licensees in the event that such an extension was objectively justified and necessary (for example where extensive re-tuning by one or more Existing Licensees would be required in the 1800 MHz band following completion of the Spectrum Award Process and this could not be feasibly, completed by 31st December 2014 - in the case of Vodafone and/or Telefónica O2)?

Can ComReg indicate the approximate timeframes (in terms of number of working days) within which each of these steps could be achieved?

Answer: ComReg's consideration of, and position on, the issue of potential Interim GSM Rights of Use in the 1800 MHz band is set out in section 4.6 of Document 12/25, which was restated recently by ComReg in section 6.4 of Document 12/50. ComReg would draw particular attention to paragraph 4.186 of section 4.6 of Document 12/25.

As ComReg stated in paragraph 4.186, ComReg considers that the most appropriate, objectively justified and proportionate approach in the circumstances is to:

- commit to considering whether to grant interim GSM 1800 MHz rights of use (of approximately six and a half month duration) following the proposed auction but significantly prior to licence expiry; and
- commit to grant such GSM 1800 MHz interim rights only where it is justified, reasonable and proportionate to do so, having regard to the salient facts at that time and ComReg's statutory functions, objectives and duties.

Such consideration would be conducted in accordance with, and having regard to, amongst other things, relevant provisions of the Communications Regulation Act 2002-2011, the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011, the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011, the Wireless Telegraphy Act, 1926, ComReg's Consultation Procedures (Document 11/34) and ComReg's Guidelines for the treatment of confidential information (Document 05/24).

It is not possible for ComReg to indicate the approximate timeframes for such a process given that a number of substantive and procedural factors are unknown at this stage and/or outside of ComReg's control, including:

- the circumstances in which any extensions might be required; and
- the volume and nature of submissions received from interested parties.

2.13 Question and Answer 11

Question: Concerning access to the auction platform:

- Q11.a) Can ComReg provide details of the fully qualified domain name, URL, and IP address at which the platform will be available? This information may be needed for configuring firewall rules and detecting spoof or counterfeit sites.
- Q11.b) Will the platform have a fixed IP address?
- Q11.c) Are there several IP addresses (for redundancy)?
- Q11.d) Are there alternative domain names or URLs for redundancy?
- Q11.e) Can ComReg confirm that the site will be reachable internationally as well as from within Ireland?
- Q11.f) Can ComReg configure their server to only allow client access from certain IP addresses or address ranges so as to minimize the risk of Bidder spoofing?
- Q11.g) Will a Bidder be able to see a log of access attempts using its bidding credentials to detect possible spoof or fraudulent access?

Answer: Full details of how to access the EAS will be included in the User Manual, part of the Bidder Materials, which will be provided to Applicants only, in line with the process steps summarised in Table 9 of the Information Memorandum (Document 12/52).

The EAS site will be provided at a primary fixed IP (and associated URL) that will be notified to Applicants only as part of the Bidder Materials. A secondary backup system, if required, will in the first instance be made available at the same fixed IP and URL if it is required.

In the event of any technical failures or other problems that do not permit use of this primary IP address (and associated URL), the EAS site will be made available at an alternative secondary fixed IP address and URL. This alternative IP address and URL will only be notified to Applicants if it is necessary to switch to it, and at the time at which any such decision is made.

ComReg reserves the right to move the EAS to other IP addresses or URLs not previously notified to Bidders in the Bidder Materials if the need arises (even while the auction is in progress).

The EAS site will be only be available at one IP address and URL at a time. Bidders will be notified if the EAS site is transferred to the alternative secondary IP address/URL or any other IP address/URL.

The EAS site will be made available on the public Internet and should be reachable from any IP address. ComReg maintains the ability to restrict access to the EAS to Bidders connecting from specific, notified IP addresses if the specific need arises. However, ComReg does not propose to impose such IP address-based access restrictions under normal circumstances as:

the primary means of access control is through digital certificates, without which no access to the EAS site is possible (the digital certificates are also used to allow users to verify that the web server they connect to is genuine);

source IP address restrictions may significantly impede the ability of Bidders to switch to backup bidding facilities;

in the event that Bidders needed to change source IP address restrictions in force in the course of the auction, this is potentially disruptive to the smooth running of the auction.

The EAS will allow Bidders to view a time-stamped login and logout history of all accesses made with the Bidder's credentials. This will include details of the client IP address and browser characteristics.

2.14 Question and Answer 12

Question: Concerning dispute resolution:

Q12.a) What server access records will ComReg keep in case there is disputed access or a disputed bid?

Q12.b) What information does ComReg advise that Bidders keep to assist with resolving such disputes (screenshots, print-out of bids, downloaded files etc.)?

Answer: ComReg will maintain a full set of server access records for each and every access to the EAS and other logs concerning the operation of the EAS to provide an audit trail.

It is for Bidders to determine what record keeping they consider appropriate in order to satisfy their requirements.

2.15 Question and Answer 13

Question: In relation to the negotiation phase of the assignment stage, please clarify how negotiations should be initiated and conducted?

Answer: At the end of the Assignment Round ComReg will provide the information set out in paragraph 3.139 of the Information Memorandum (Document 12/52) to each Winning Bidder.

ComReg will in due course, if it considers it appropriate, issue guidance to those parties participating in the Negotiation Phase.

2.16 Question and Answer 14

Question: In relation to paragraph 2.67 of the Information Memorandum, can ComReg please explain the reference to the "Interim GSM 900MHz Licence Regulations"?

Answer: In citing the "Interim GSM 900MHz Licence Regulations" (Statutory Instrument No. 189 of 2011) in paragraph 2.67 of Document 12/52, ComReg was noting that, in certain defined circumstances, it may be appropriate to refund some or all of the licence fees associated with an Interim GSM 900MHz Licence to an Interim GSM 900MHz Licensee. These defined circumstances are provided for under Regulation 9(5) of the Interim GSM 900MHz Licence Regulations, which states that:

"(5) If a Licence is amended under Regulation 7(2) or Regulation 7(4), the appropriate fee specified in paragraph (1) of this Regulation in relation to such channel(s) shall be paid by the Licensee, or refunded to the Licensee, on a pro-rata basis, based on the proportion of the unexpired period of the Licence on the date of the amendment."

In addition, ComReg notes that paragraph 2.67 of Document 12/52 contained an editorial error. The paragraph should have read:

"2.67 Where a Winning Bidder or a Liberalised Use Licensee previously held or continues to hold an Existing GSM Licence, it may be entitled to a rebate against its Liberalised Use Licence fees in a number of defined circumstances as set out in Annex 4 of this document, or as permitted under the Interim GSM 900MHz Licence Regulations."

2.17 Question and Answer 15

Question: In relation to section 2.2.6 of the Information Memorandum (Refund or adjustment of Licence Fees), can ComReg please confirm that a winning Bidder will have the choice of a refund or adjustment?

Answer: In relation to the section 2.2.6 of the Information Memorandum (Refund of adjustment of Licence Fees), ComReg confirms that where both a refund and an adjustment option are available to a Winning Bidder, that Winning Bidder will be able to choose its preferred option. This provision is set out in paragraph 2.77 of Document 12/52, which states:

“2.77 Refunds to the Winning Bidder will be paid by ComReg within 5 Working Days of its notification of delayed commencement, or if desired by the Winning Bidder these refunds can be offset against the following year’s SUF (or multiple years’ SUF).”

In addition, it should be noted that there may be circumstances where the option of a refund is not available. For example, where the Upfront Fee has not been paid by the Winning Bidder and therefore an offset is not available against same. Paragraph 3.149 of Document 12/52 notes such circumstances and provides that:

*“3.149 If the amount of a Winning Bidder’s Upfront Fee less any applicable Rebates is more than the amount of its Deposit, then the net amount of funds due must be received by ComReg in the relevant bank account as cleared funds no later than **23.59** on the date of the **Payment Deadline**. If the amount of a Winning Bidder’s Upfront Fee, less any applicable Rebates is less than the amount of its Deposit, the relevant amount of its Deposit will be returned to this Winning Bidder by ComReg by the same date as the Payment Deadline (less any Deposit forfeiture imposed in accordance with the Auction Rules).”*

2.18 Question and Answer 16

Question: In relation to paragraph 3.32 of the Information Memorandum ("*Applicants must also submit an Ownership Structure Document as part of their respective Applications. This document must provide details of the Applicant's ownership structure, including certification that this ownership structure is compliant with the ownership rules set out in subsection 3.3.4 and is correct to the best knowledge of the Applicant, and listing the Applicant's Insiders*"), can ComReg please

clarify/confirm that it is the Authorised Agent of the Applicant who should certify that the ownership structure is compliant with the ownership rules and is correct to the best knowledge of the Applicant?

Answer: The object of this certification is to ensure that the Applicant is bound by a representation that the ownership structure document is correct.

Accordingly, an Authorised Agent may certify the ownership structure document, once he has been duly authorised, as required by paragraph 3.29 of the Information Memorandum, prior to certifying the ownership structure.

2.19 Question and Answer 17

Question: In relation to paragraph 3.164 of the Information Memorandum, can ComReg please explain the following sentence: '*A similar Transition Project Plan and process may be adopted by ComReg for Time Slice 2 should it be possible that delays may be caused to be commence date of Lots in Time Slice 2, but to the Transition activities of Existing GSM Licensees or Winning Bidders of Lots in Time Slice 1*'?

Answer: ComReg notes that paragraph 3.164 of Document 12/52 contained an editorial error. The paragraph should have read as follows:

“3.164 A similar Transition Project Plan and process may be adopted by ComReg for Time Slice 2 ~~should~~ where it appears ~~be~~ possible that delays may be caused to ~~be~~ the commencement date of Lots in Time Slice 2, ~~but to~~ by the Transition activities of Existing GSM Licensees or Winning Bidders of Lots in Time Slice 1.”

2.20 Question and Answer 18

Question: In relation to the "*certified copy of Certificate of Registration along with Articles of Association and Memorandum of Association or equivalent together with a certified translation thereof into English or Irish, where the original is not in English or Irish*" required for the purposes of an application, can ComReg please confirm that a certified certificate of registration and a certified memorandum and articles of association is sufficient for this purpose and that an Applicant does not need to separately certify the memorandum and articles of association?

Answer: Where the documents are stapled or bound together into a single document prior to being certified, a single certification is adequate. If separate documents are provided each would require individual certification.

2.21 Question and Answer 19

Question: In relation to paragraph 5 of the Applicant declaration (at page 217 of the Information Memorandum), can ComReg please confirm that "*... from the time at which this Application is submitted to the date of the issue of the Liberalised Licences*" means "*from the time at which this Application is submitted to the date of the issue of a Preparatory Licence*" or "*from the time at which this Application is submitted to the end of the Auction in accordance with section 4.6 of the Information Memorandum*"?

The latter interpretation would appear to be consistent with paragraph 3.67 of the Information Memorandum that provides: "*The rules regarding Confidential Information set out in this section shall apply from the date of first Application or the Application Date, whichever is the earlier, to the end of the Award Process. While Winning Bidders may wish to negotiate with other Winning Bidders during the Negotiation Phase of the Assignment Stage, confidentiality regarding the outcome of the Award Process must be maintained until ComReg makes a public announcement at the end of the Award Process as detailed in subsection 4.6*".

If not either interpretation, can ComReg please explain the rationale for this restriction and its duration?

It is critical that ComReg answers this Question by close of business on Thursday 21 June 2012 in advance of the statutory appeal deadline in respect of the Information Memorandum

Answer: In relation to paragraph 5 of the Applicant Declaration (at page 217 of Document 12/52), ComReg can confirm that the statement "*... from the time at which this Application is submitted to the date of the issue of the Liberalised Licences*" was included in error and the text for this paragraph should have stated "*... from the time at which this Application is submitted to the date that the results of the Auction have been notified to all Bidders and in tandem made public (in accordance with section 4.6 of the Information Memorandum)*".

ComReg notes that a similar error occurred in respect of paragraphs 4, 6, 9 and 10 of the Applicant Declaration. In particular:

- in relation to paragraphs 4, 6 and 9, the text *“until the Licences have been issued”* should have stated *“until the date that the results of the Auction have been notified to all Bidders and in tandem made public (in accordance with section 4.6 of the Information Memorandum)”*; and
- in relation to paragraph 10, the text *“shall also comply with the Auction Rules from the date of publication of the Information Memorandum until the commencement of the Licences awarded in Time Slice 1”* should have stated *“shall also comply with the Auction Rules as contained in the Information Memorandum.”*

ComReg notes that, notwithstanding the ending of any restrictions imposed by paragraphs 4, 6, 9 and 10 of the Applicant Declaration, Applicants will continue to be required to comply with their own statutory obligations including competition law obligations.

As noted in Question 7, in tandem with the publication of this document, ComReg has issued a revised version of the Application Form in PDF editable format with the above corrections. This revised Application Form is labelled Document 12/52aR and replaces the Application Form in Document 12/52a and Annex 5 of Document 12/52.

Applicants **must** use this revised Application Form (Document 12/52aR) when submitting an Application.

2.22 Question and Answer 20

Question: In light of the following statement by DotEcon: *“... it should be noted that ComReg intends to have a third party verify the results of the auction. This would ensure that all the information provided to Bidders at the end of the auction would be correct, based on the Bids placed by all Bidders during the Auction”* (See page 69 of ComReg Document 12/51), can ComReg please confirm that it intends to have a third party verify the results of the auction, clarify who this third party is and clarify the exact scope of their role?

Answer: ComReg confirms that it is securing independent, expert advice to:

- verify that each of the EAS and WPD software operate as expected and comply with the Auction Rules as set out in Document 12/52; and
- verify that the final auction results comply with the WDP rules and other auction rules as detailed in Document 12/52.

Given the critical importance of the providers of these advices to be free of actual and potential conflict of interest and, further, that these persons would be receiving confidential information, ComReg does not intend to reveal the identities of these persons to preserve their independence and to ensure the security of the confidential information that they would receive save to say that these experts have been involved in several successful spectrum auctions internationally.

2.23 Question and Answer 21

Question: Can ComReg please confirm that existing GSM licensees that do not bid or are unsuccessful in the proposed auction are not entitled to express a preference in the assignment round?

Answer: Existing GSM licensees that do not bid or are unsuccessful in the MBSA process are entitled to express a preference by bidding in the Assignment Round.

As stated in paragraphs 4.194 and 4.196 of subsection 4.5.1 of Document 12/52:

“4.194 The purpose of the Assignment Stage is to determine the specific frequencies to be assigned to Winning Bidders in the Award Process⁹ and any Existing GSM Licensees retaining their unliberalised GSM Licences in the 900 MHz and 1800 MHz bands in Time Slice 1.” ; and

“4.196 During the Assignment Round, each Winning Bidder (and Existing GSM Licensee if applicable) may submit Bids for assignment options in each of the bands in which it has been allocated Lots (or, in respect of Time Slice 1, has an Existing GSM Licence which has not been liberalised within the Award Process) and which is included in the Assignment Round.”

For the avoidance of doubt, ComReg re-emphasises that an Existing GSM Licensee will be assigned a single contiguous block of spectrum within a band for Time Slice 1, the size of which will correspond to the total of (i) relevant Party-Specific Lots won by that Bidder in the Main Stage and (ii) relevant retained existing GSM rights of use. This applies equally to an Existing GSM Licensee who:

- fails to win any Party-Specific Lots or

⁹ Given the outcome of the Main Stage (or the Qualification Stage where the Award Process progresses directly from the Qualification Stage to the Assignment Stage).

- wins an insufficient number of Party-Specific Lots to allow liberalisation of its entire holding of existing spectrum within that band (i.e. partial liberalisation as described in paragraph 4.173 of Document 12/52); or
- does not participate in the Main Stage of the MBSA award.

Paragraphs 3.130, 3.132, 4.198, 4.209, 4.210 and 4.214 of Document 12/52 should be read on this basis.

2.24 Question and Answer 22

Question: In paragraphs 4.121 to 4.124 of the Information Memorandum, ComReg sets out the process for the making of Deposit Calls during the Primary Bid Rounds and in paragraph 4.121 states that "*ComReg will specify a deadline not less than three Working Days from giving notice by which time the required funds must have been received as cleared funds in the bank account specified by ComReg during the Award Process (details of which are provided in Annex 5)*"

The querist is extremely concerned that a deadline at the minimum level of three Working Days to comply with a Deposit Call, as set out in the Information Memorandum, would be very likely to pose serious practical difficulties for Bidders in terms of being able to obtain authorisation and transferring the necessary funds at such short notice.

Indeed the querist believes there is a serious risk that one or more Bidders to whom ComReg could make a Deposit Call would, for logistical reasons, be unable to increase their Deposit as required within 3 Working Days. It would be contrary to the stated objectives of the award process if a logistical issue around insufficient notice to approve and process funds transfer to comply with a Deposit Call were to materially affect the course and outcome of the Multi-Band Spectrum Award Process, particularly given its potential to undermine the efficiency and fairness of the outcome.

The querist considers that, in practice, a deadline of at least 5 Working Days from ComReg giving notice for receipt of cleared funds would be the minimum necessary to ensure that Bidders making all reasonable endeavours to process and transfer the required funds would not face the risk of restrictions on their Bids and/or participation in the Multi-Band Spectrum Award Process from failing to meet a Deposit Call on time.

The querist notes that ComReg has retained its discretion in the Information Memorandum to allow a notice period of more than 3 Working Days for a Bidder to meet a Deposit Call and would urge ComReg, in the event that a Deposit Call is made, to allow a notice period of at least 5 Working Days to meet this requirement. As the 3 Working Day notice period to transfer cleared funds set out in the Information Memorandum is a minimum, can ComReg indicate how much notice in practice it will provide to Bidders in the event that they are required to comply with a Deposit Call by transferring the required additional cleared funds?

Answer: This is an issue that will be determined if and when a deposit call is made and will depend upon the factors associated with the deposit call, such as the top-up amount required.

As noted by the querist, a minimum period of 3 Working Days will be provided, and ComReg retains the discretion to set a longer time period should that be deemed appropriate at that time.

Additionally, ComReg notes that this issue was discussed in Document 12/50, and at paragraph 4.132 ComReg quoted DotEcon's view of this issue:

"This grace period for deposit top-up is not intended to provide a window for discussions with shareholders, but rather to provide sufficient time for cleared funds to be transferred to ComReg's bank account. As all Bids are binding, bidders need to ensure that they have appropriate authorisations in place prior to placing a bid and before deposit calls occurring. Accordingly, the only effect of a deposit call is to bring forward by a short period of time the transfer of funds that the bidder has committed to paying. We do not envisage this as presenting insurmountable corporate governance issues."

Further at paragraph 4.142 ComReg stated:

"ComReg agrees with DotEcon's observations [as set out in Document 12/51] that 'the grace period for deposit top-up is not intended to provide a window for discussions with shareholders' and that 'bidders [sic] need to ensure that they have appropriate authorisations in place prior to placing a bid and before deposit calls occur'."

2.25 Question and Answer 23

Question: A number of ComReg's responses to the Questions submitted to date by Interested Parties in this Q & A process which have been published on the ComReg

website include corrections and amendments to the text of the current Information Memorandum (ComReg document 12/52).

This appears to indicate that the present Information Memorandum is not definitive. Can ComReg confirm if it is its intention to publish a Final Information Memorandum incorporating all corrections and amendments identified as being necessary on foot of Questions raised by respondents?

If it is not its intention to do so, can ComReg provide its reasoning for this decision?

If it is ComReg's intention to publish a Final Information Memorandum incorporating necessary corrections and amendments arising from their response to queries from Interested Parties, can ComReg indicate when it envisages that this final version of the Information Memorandum will be published?

Answer: ComReg notes that:

1. at paragraph 3.26 of the Information Memorandum, ComReg stated that it would publish all Questions, together with their associated answers on its website;
2. notwithstanding the volume of Questions received:
 - a. the number of minor textual amendments to the Information Memorandum is relatively small;
 - b. no complex textual corrections have been made to the Information Memorandum; and
3. ComReg is in any event publishing a revised Application Form – see answer to Question 7.

Accordingly, ComReg does not propose to publish a consolidated Information Memorandum but has provided a concise list of textual changes to the Information Memorandum in Table 1 of this document.

2.26 Question and Answer 24

Question: In paragraph 1.10 of the Information Memorandum, ComReg states that it has engaged a reputable consultancy organisation to ensure that its confidentiality and security processes are appropriate for this award process. Can ComReg

confirm the identity of the consultancy organisation in Question, to allow Interested Parties to make their own assessment of its fitness for this purpose?

If not, can ComReg explain its reasoning for not providing this information, and confirm whether or not the consultancy organisation engaged is independent from the other consultancy organisations (e.g. DotEcon) that ComReg has engaged on other aspects of the Multi-Band Spectrum Release consultation process and the Spectrum Award Process?

Answer: ComReg can confirm that it has retained Pricewaterhouse Coopers Ireland (“PwC”) to provide advice on Information Security during the MBSA process.

PwC has confirmed to ComReg that it is independent of the other consultancy organisations used in the MBSA process to date.

2.27 Question and Answer 25

Question: Can ComReg provide details of the fax number that can be used by Bidders to contact ComReg in the event that technical difficulties or failure during the Auction prevent Bidders from entering their bids via the EAS?

In the event that use of the emergency fax number may be required, can ComReg confirm whether there is a requirement for faxes to be encrypted?

If there is a requirement for encryption, how will Bidders obtain the encryption code that will need to be used?

Answer: The Bidder Materials that will be provided to Applicants/Qualified Bidders will set out details for accessing and using the EAS and will include details on the back-up arrangements including the appropriate back up fax number.

As noted in Table 9 of Document 12/52, ComReg envisages that the Bidder Materials will be circulated to Applicants in the week beginning 23 July 2012, approximately 1 week prior to the Mock Auction for each Applicant.

ComReg confirms that the fax containing Bids does not need to be encrypted. However the source fax number must match the fax number submitted by the Bidder concerned at Part 1 of its Application Form.

2.28 Question and Answer 26

Question: Can ComReg provide some sample screenshots of what the EAS/bidding system will look like when making relaxed primary round bids (indicating how the Bidder learn that a relaxed bid is possible, or which relaxed bids are possible; how does the Bidder learn of corresponding chain bids)?

Answer: Screenshots of the EAS, including screens illustrating the bidding process where a Bidder has the option to submit a relaxed primary bid, will be provided within the EAS manual provided with the Bidder Materials, which will be circulated to applicants in advance of the mock auctions.

2.29 Question and Answer 27

Question: Can ComReg provide some sample screenshots of what the EAS/bidding system will look like when bidding on multiple packages in the supplementary round (indicating how information on relative caps and final round caps is displayed; how the Bidder identifies which bids to raise in conjunction if there are chains or cycles of caps; are there mechanisms for uploading a whole file of bids simultaneously)?

Answer: Screenshots of the EAS, including screens illustrating the supplementary bids editor (displaying the above information dynamically during the primary bid rounds) and the supplementary bids round (displaying the above information once the primary bid rounds have finished), will be provided within the EAS manual provided with the Bidder Materials, which will be circulated to applicants in advance of the mock auctions.

2.30 Question and Answer 28

Question: Can ComReg provide some sample screenshots of bidding on multiple assignment options during the assignment round (as there may be a very large number of assignment options; can it be indicated in these screenshots how information on these options and what bid is needed for each will be displayed; are there mechanisms for uploading a whole file of bids simultaneously)?

Answer: Screenshots of the EAS, including screens illustrating the assignment round, the assignment options available and the bids file upload facility, will be

provided within the EAS manual provided with the Bidder Materials, which will be circulated to applicants in advance of the mock auctions.

2.31 Question and Answer 29

Question: Can ComReg provide samples of any accompanying files associated with the screenshots (such as sample import and export files)?

Answer: These files will be described and illustrated in the EAS manual provided with the Bidder Materials, which will be circulated to applicants in advance of the mock auctions.

2.32 Question and Answer 30

Question: If a Bidder has to use back-up bidding methods (because they can not access the EAS platform due to technical failure), will the platform still contain a record (history) of their bids made through such alternative methods?

Answer: Yes.

2.33 Question and Answer 31

Question: Please confirm whether ComReg will accept a deposit in the form of a letter of credit, a bank guarantee or funds on deposit in an escrow account.

In the event that the answer to this is negative please provide reasons.

Answer: ComReg has already consulted on this matter and does not propose to revisit matters already decided upon in a way that would re-open such matters.

In that regard, ComReg would remind Interested Parties that:

- Deposits are defined in Annex 1 of Document 12/52 as: *“A monetary amount submitted by an Applicant as part of its Application to be allocated Lots in the Award Process. For an Application to be valid, the amount of an Applicant’s Deposit must be equal to the sum of the Reserve Prices of Lots specified by the Applicant in its Lot Application Form.”*

- Paragraph 3.38 requires that: “*The Applicant’s Deposit must be transferred to the bank account nominated by ComReg as specified in Annex 5, and is to be received as cleared funds in ComReg’s account,* ¹⁰ *before 23:59 (11.59 PM) on the final day that Applications are permitted, namely 20 July 2012.” [emphasis added]*

Therefore, only cleared funds received by the stipulated deadline will be accepted.

2.34 Question and Answer 32

Question: Please advise whether, in the event of any significant delay to the start of the auction beyond early September (e.g. in the event of a legal challenge), ComReg will return any cash held on deposit to applicants until a firm date for the auction is set.

In the event that the answer to this is negative please provide reasons, given the potential significant cashflow and balance sheet implications for applicants of ComReg holding very large funds for a significant period without receiving an asset in return, in the form of the purchase of a spectrum licence.

Answer: In the event of a significant delay to the start of the auction ComReg will review the situation and decide on the appropriate action to take at that time, taking into account all relevant circumstances.

Attention is also drawn to paragraph 3.40 of Document 12/52 which states that, “*Interest will be paid by ComReg on funds held by it during the Award Process and Applicants will receive all interest accrued in this [NTMA¹¹ Exchequer] account.”*

2.35 Question and Answer 33

Question: ComReg indicates that “*it has engaged a reputable consultancy organisation to ensure that its confidentiality and security processes before, during and after the Auction are appropriate for this Award Process*”. (Document 12/52 paragraph 1.10)

¹⁰ Bidders are cautioned to ensure that the cleared funds received by ComReg are required to be the amount of the Deposit specified in euro. Bidders should ensure that the amount of funds received by ComReg is not diminished by bank charges, exchange rate fluctuations or similar matters.

¹¹ National Treasury Management Agency

Please provide details of all reported or possible data security breaches that have arisen within ComReg since the commencement of the Consultation in 2008 (not solely those related to the spectrum consultation process, nor those only of the type forming the subject matter of recent correspondence between ComReg and operators).

Please identify the reputable consultancy organisation that has been contracted in relation to this matter.

Answer: The querist requests details of all reported or possible data security breaches that have arisen within ComReg since the commencement of the Consultation in 2008. ComReg notes that it has already considered and responded to similar requests in recent correspondence which is to be published shortly on its website in accordance with its established procedures on transparency and confidentiality. In addition, ComReg does not consider such a request to be appropriate in the context of its Questions and Answers procedure. ComReg would note that this procedure is aimed at facilitating clarity and understanding of the Award Process and Auction Rules. Given the enhanced and ring fenced security measures which ComReg has adopted for the Award Process referred to in the Response to Consultation (Document 12/50) and recent published correspondence, it would not be relevant or appropriate for ComReg to set out the requested details. ComReg, therefore, refers Interested Parties to the relevant correspondence once published and section 6.9 of Document 12/50.

The reputable consultancy organisation that has been contracted in relation to this matter is PwC.

2.36 Question and Answer 34

Question: ComReg notes that "*it has engaged a reputable consultancy organisation to ensure that its confidentiality and security processes before, during and after the Auction are appropriate for this Award Process*". (Document 12/52 paragraph 1.10)

Please provide details of the steps that ComReg has taken or plans to take to ensure the confidentiality and security of operator confidential information that ComReg currently holds, and that it will receive during the remainder of the assignment process.

In particular, please provide details of the arrangements that are in place regarding separate servers and email addresses for ComReg spectrum personnel, and the

measures that are generally adopted to ensure integrity and security of information within ComReg.

Answer: ComReg notes that it has already published certain information regarding the security measures being put in place in the Response to Consultation (Section 6.9 of Document 12/50), in its answers in this Information Notice (e.g. Questions 24 and 33) and in its published correspondence.

ComReg acknowledges that Interested Parties are entitled to expect that their confidential data will be properly handled and protected. However ComReg is of the view that the information sought in the second part of this Question, if published in a public forum, might prejudice or impair the security of the very data that Interested Parties wish to be protected.

2.37 Question and Answer 35

Question: ComReg notes that *"it has engaged a reputable consultancy organisation to ensure that its confidentiality and security processes before, during and after the Auction are appropriate for this Award Process"*. (Document 12/52 paragraph 1.10)

Please confirm whether information provided by any operator to ComReg for purposes other than the assignment of spectrum has been shared with any member of the ComReg spectrum team or its advisers.

(Please note that what is requested is a specific confirmation, not a general statement that ComReg "has not shared information inappropriately", as this does not answer the Question).

If the response is that such information has been shared, please provide details of the information and when it was shared.

Please also provide details of the measures in place to ensure that information provided for other purposes to ComReg is not provided to members of the spectrum team or advisers.

Answer: ComReg does not consider such a request to be appropriate in the context of its Questions and Answers procedure. ComReg would note that this procedure is aimed at facilitating clarity and understanding of the Award Process and Auction Rules, whereas this request for a confirmation from ComReg does not appear to seek any such clarity or understanding.

2.38 Question and Answer 36

Question: ComReg states the following in relation to information that will be provided to Bidders at the conclusion of the Primary Rounds (from Doc 12/52):

"4.128 At the end of the last Primary Bid Round and before the start of the Supplementary Bids Round, ComReg will provide information about the demand for Party-Specific Lots Categories 7 to 10 to all Bidders.

For the avoidance of doubt, this information will not be released at the end of any Primary Bid Round other than the final Primary Bid Round.

4.129 No information will be released about the level of activity or content of individual Bids submitted by other Bidders during the Primary Bid Rounds.

4.130 The EAS includes a 'History' function that will allow Bidders to view and download information about aggregate demand by Lot Category, Round Prices, and their own Bids in previous rounds."

Can ComReg confirm that it is willing to provide information regarding aggregate demand for Party-Specific Lots as it stood in each round, albeit that the information will not be provided on a round by round basis, but will be supplied on one occasion only, after the closing of the Primary Rounds?

This would enable participants to more accurately calculate the true level of a knockout bid. (Note it is acknowledged that it is not possible to make bids in Category 7 (Meteor 900 MHz) anonymous; however this should not act as a barrier to releasing such information to avoid Meteor having an unfair competitive advantage. Note also that this is separate to the issue of the impact of Bidder exclusion on any knockout bid calculation).

By way of example, if no party specific Lots are included in the Final Primary Round, then in the absence of further information, a new entrant would need to assume that all 11 Lots were subject to bids up to the penultimate Primary Round, and would need to calculate its knockout bid on this basis.

Answer: ComReg does not consider that the premise of the Question – that round-by-round information would allow “participants to more accurately calculate the true level of a knockout bid” - is correct. Therefore, ComReg directs the querist to the statement of the implications of the activity rules made in Annex 9 of the Document 12/52.

ComReg notes that the Question of how round-by-round information affects “knock-out bids” is one which has not been raised previously, despite the possibility of this issue being raised in response to Document 11/75 (the Draft Information Memorandum). ComReg notes that detailed proposals were made in the Document 11/75 with regard to:

- a final price cap applying to supplementary bids for all packages other than the final primary package; and
- the information policy in regard to Party-specific Lots categories (i.e. categories 7 to 10), where demand will be revealed prior to the supplementary bid round only in respect of the final primary bid round and not at the end of every primary bid round (see paragraph 4.117 and following paragraphs in Document 11/75).

These are the only aspects of the rules that are directly relevant for the issue of “knock-out bids”, as Annex 9 of Document 12/52 demonstrates. ComReg notes that these two aspects of the rules have remained entirely unchanged between Document 11/75 and Document 12/52.

ComReg has already set out its rationale for restricting transparency in regard to demand in the Party-specific Lot categories. In particular, by the very fact that these categories are open to only one Bidder, no situation of excess demand can arise in respect of these categories that would require continuation of the primary bid rounds, quite unlike the generic Lot categories. Releasing information about demand in these categories is therefore unnecessary and runs the risk that it could be used as a signalling device to facilitate coordinated bidding (even if that coordination is tacit). Releasing demand information for these categories is incompatible with the general principle that the information made available at the end of each primary round should be aggregated across Bidders and not provide visibility of individual bid decisions.

The release of information about demand in the Party-specific Lot categories in the final Primary Bid Round is a limited exception from these principles intended to permit a more refined calculation of “knock-out bids” as Final Primary Packages affect the final price cap. Demand for Party-specific Lot categories in rounds prior to the final round do not affect the final price cap, so are not subject to the same rationale.

As Annex 9 of Document 12/52 explains, “knock-out bids” emerge from the certain features of the activity rules (specifically the final price cap). By definition, a “knock-out bid” is a bid that can be made for a Bidder’s final primary package that will be a winning bid regardless of the supplementary bids made by rivals. However, the final

price cap constrains the bid amounts for supplementary bids relative to the highest bid made for a Bidder's final primary package. Therefore, a "knock-out bid" for a Bidder arises specifically because its rivals are limited in the additional amount that they can bid for packages other than their final primary packages. Therefore, it is the position at the end of the final primary round that is determinative of the level of the "knock-out bid", not bids from earlier rounds.

Therefore, the provision of the additional information requested by the querist does not in fact assist in the calculation of a "knock-out bid" in the manner than the querist supposes. It is the position at the end of the final primary rounds that creates the relevant constraint on the supplementary bid amounts of rivals (through the final price cap).

Moreover, releasing demand for Party-Specific Lots in all primary bid rounds would greatly increase the possibilities for Bidders to signal to each other and facilitate co-ordination bidding behaviour in the supplementary bids round. Under the information policy described in Document 12/52, this risk is much more limited, as only demand for Party-Specific Lots in the final primary bid round is revealed and Bidders will not know in advance which round will be the final primary bid round.

At the end of the primary rounds, demand in each and every Party-specific Lot category is revealed. In particular, demand is not aggregated (e.g. across 1800MHz Party-Specific Lots) specifically to ensure that similar information is revealed in respect of each and every Bidder able to bid for Party-specific Lots.

ComReg would re-emphasise that "knock-out bids" are an emergent, mathematical feature of the auction that arise from the activity rules, not an explicit rule that has been added to guarantee particular outcomes for Bidders. In the interests of ensuring that all Bidders understand the logical consequences of the rules, ComReg included a discussion of this feature in Annex 9 of the Document 12/52, including appropriate caveats. In certain cases, "knock-out bids" may allow a Bidder to win its final primary package with a bid less than its valuation and at minimal risk. However, the level of such a "knock-out bid" will be determined by the situation in force at the end of the supplementary bids round. Where a knock-out bid is less than a Bidder's valuation, Bidders will need to consider the risks arising from the potential of rival Bidders being excluded between the end of the primary bid rounds and the determination of winners (e.g. due to deposit default if there were a deposit call after the supplementary bids round).

2.39 Question and Answer 37

Question: ComReg indicates that "*It reserves the right to issue a Deposit Call of up to 100% of a Bidder's highest Bid at this point*" (Doc 12/52 paragraph 4.189).

Please confirm that ComReg will only begin calculating the winner and price determination, after the requested deposits have been received?

If this is not the case, please provide reasons.

Answer: ComReg will not announce winners and Base Prices for the Main Stage of the auction until all outstanding deposit calls have reached resolution, in that either (i) all Bidders have met their deposit requirements or (ii) the final deadline for deposit top-ups expires with one or more Bidders failing to fulfil their deposit requirements.

In the case of (ii) above, ComReg's discretion when dealing with an excluded Bidder and its previous bids is described in the answer to Question 38 below.

2.40 Question and Answer 38

Question: ComReg indicates that in the event that a Bidder is excluded from the auction "*it reserves the right to make such alterations to the Auction as it considers appropriate at its discretion*" (In Document 12/52 paragraph 3.88).

Please confirm that in the event of any such exclusion, ComReg will immediately and before any further bidding takes place notify all remaining Bidders of the exclusion and ComReg's proposed course of action?

Please also confirm that ComReg will provide transparency to remaining Bidders on the impact of such disqualification, and in particular will enable them to quantify the demand caused by the now disqualified bids by providing a full history of all disqualified bids for each round?

Answer: The procedures for Bidder exclusion are clearly set out in the Document 12/52 (see paragraph 3.88 in particular). Specifically, if a Bidder is excluded from the auction, then it will be prevented from making any further bids and some or all of its bids made so far may be removed for the purposes of determining prices and winners. Typically, ComReg would expect to remove all the bids of an excluded Bidder from the determination of winners and prices.

Nevertheless, ComReg may take a different approach depending on the reasons for exclusion of a Bidder, with some or all of the excluded Bidder's bids being considered for winner determination and pricing. This approach is necessary to ensure that incentives for strategic default by Bidders are not created through providing a guarantee that exclusion automatically results in cancellation of all prior commitments. Even where a Bidder is excluded and prevented from making any further bids, ComReg maintains an option to hold a Bidder to any of the bids that it had made up to that point.

Notice that in the event that any primary bids already made by an excluded Bidder were considered in determining winners and prices, then the amounts of these bids must necessarily satisfy a final price cap (as for a Bidder able to make supplementary bids). Therefore, exclusion of a Bidder in the course of primary bid rounds has no implications for the calculation of "knock-out bids" using the process described in Annex 9 of Document 12/52. Note that the impact of excluding the Bidder would be visible in the aggregate demand reported in subsequent primary bid rounds.

For the avoidance of doubt, ComReg may exclude a Bidder subsequent to the final primary bid round or subsequent to the supplementary bids round but prior to declaring winners of the Main Stage:

- In the event that a Bidder were excluded subsequent to the final primary bid round, but prior to commencement of the supplementary bids round, ComReg is under no obligation to provide any notification under the rules described in Document 12/52.
- In the event that a Bidder were excluded subsequent to supplementary bids round (e.g. because of failure to meet a deposit call), then no opportunity will be provided to re-run the supplementary bids round and revise bid amounts. Bidders need to consider this risk when using any "knock-out bid" strategy, as clearly stated in Annex 9 of the Document 12/52.

Document 12/52 makes clear that ComReg would typically not expect to re-run completed primary bid rounds in the event that a Bidder is excluded in the course of the primary bid rounds, though retains the right to do so. In many cases, it would be inappropriate to be re-running primary rounds following exclusion of a Bidder, as information would already have been released about the demands of the remaining Bidders; re-running rounds given this information could greatly facilitate tacitly

coordinated outcomes, such as remaining Bidders reducing demand relative to the original bids made and avoid competition for spectrum.

The querist proposes that where a Bidder is excluded, a full history of disqualified bids round-by-round is provided and that all remaining Bidders are notified of the exclusion. Document 12/52 does not provide for such notification and ComReg considers that this proposal is undesirable. ComReg notes that the querist's proposal could have been made in response to the Document 11/75, in that the treatment of excluded Bidders is unchanged between Document 11/75 and Document 12/52 (see in particular paragraph 3.73 of Document 11/75).

The auction maintains a tight information policy to ensure that the identities of Bidders and the number of participants is not revealed and that only aggregated information is provided to Bidders each round. Revealing detailed information about an excluded Bidder would dramatically undermine these restrictions.

2.41 Question and Answer 39

Question: In Document 10/105b ComReg's advisers Vilicom state that a minimum of 6 months transition post-auction is required to complete a simultaneous relocation in both the 900 MHz and 1800 MHz bands.

ComReg indicates in Document 12/52 footnote 63 that the auction will not begin earlier than 7 September 2012.

Assuming the shortest possible time for the various auction rounds of 1 day, the process according to ComReg's time-table published in Document 12/52 will take a minimum of 37 working days.

This means that the earliest the transition period can now begin is 30 October based on the time-lines in Document 12/52. This leaves a maximum of 3 months until 1 February 2013, half of the 6 month time period recommended by its own advisor Vilicom.

Please provide the reasons why ComReg is maintaining a proposed start date of 1 February 2013 when it does not allow for the 6 months recommended by Vilicom?

Answer: Before discussing the licence commencement date of 1 February 2013, ComReg notes that the querist appears to have made two incorrect assumptions in the phrasing of this Question. These implied assumptions are that:

1. October 2012 is the earliest possible date that the results of the Award Process will be known; and
2. the relocation timescales for the 900 MHz and 1800 MHz bands as discussed in joint technical reports¹² by Red-M Wireless Limited (Red-M) and Vilicom Limited (Vilicom) (Red-M/Vilicom) relate to post-auction activities only.

ComReg would not agree with either of these implied assumptions.

In relation to the first assumption, ComReg notes that paragraph 3.111 of Document 12/52 discusses the progress of the Award Process, and states that:

“3.111 Based on ComReg’s assessment of aggregate demand for each Lot Category as expressed in the Applications of Qualified Bidders, the Award Process will progress in one of the following ways:

a Main Stage and an Assignment Stage will be held, followed by a Notification & Grant Stage;

an Assignment Stage will be held, followed by a Notification & Grant Stage; or

in a small number of possible cases, the Award Process will progress directly to the Notification & Grant Stage.”

Given the timelines as stated in Table 9 of Document 12/52 and, in particular, the 24 August 2012 milestone¹³, ComReg notes that where the Award Process progresses directly to the Notification and Grant stage, the results of the Award Process could be known in August 2012, and, where the Award Process progresses directly to the Assignment Stage, in early September 2012. ComReg therefore disagrees with the first implied assumption that October 2012 is the earliest possible date that the results of the Award Process will be known.

In relation to the second implied assumption, ComReg notes that Red-M/Vilicom state that operators can commence the planning phase of their relocation projects in advance of the auction, and Document 12/22 stated that:

¹² Document 10/71c, Document 10/105b, Document 12/22.

¹³ As stated in Table 9 of Document 12/52, the Friday 24 August 2012 milestone states that:

- *“Each Applicant to be informed by ComReg about whether it has become a Bidder or not.*
- *Confirmation of the requirement for a Main Stage of the Auction and notification to Bidders of scheduled start date of the first Primary Bid Round; or*
- *Confirmation that there is no requirement for a Main Stage and notification to Winning Bidders of Winning Bids and start date for the Assignment Stage; or*
- *Confirmation that there is no requirement for a Main Stage or an Assignment Stage and notification to Winning Bidders of Winning Bids and progression to Notification & Grant Stage”*

“As stated in ComReg document 10/71c, the start date of the project shown in the figure below [namely Figure 3 of Document 12/22 High Level Project for Relocation and Retune activities 900MHz Spectrum Band] is relatively arbitrary, as operators can commence the planning phase in advance of the auction.”¹⁴

“We are of the view that planning activities that an existing GSM Licensee could initiate in advance of the auction include;

- Identifying parts of the data-fill that relate to the frequency of operation, which will need to be modified,*
- Identifying parts of the GSM900, GSM1800 and UMTS data-fill, which will need to be modified to ensure handover between the networks,*
- Identifying all radio equipment that cannot be modified, such as band selective repeaters and source replacement equipment, if required,*
- Ensuring correct landlord contact details for sites are available in case sites visits are required; and*
- Producing a staff and resource plan for Implementation and Verification phases.”¹⁵*

“As stated in ComReg document 10/105b, the start date of the project shown in the figure below [namely Figure 4 of Document 12/22: High Level Project for Relocation and Retune activities for 1800MHz Spectrum Band] is relatively arbitrary, as operators can commence the planning phase in advance of the auction. The planning activities that an existing GSM Licensee could initiate in advance of the auction for the 1800 MHz spectrum band are the same as those previously listed for the 900 MHz spectrum band.”¹⁶

ComReg therefore disagrees with the second implied assumption that the relocation timescales for the 900 MHz and 1800 MHz bands as discussed in joint technical reports from Red-M/Vilicom relate to post-auction activities only. Clearly, some planning activities incorporated into the relocation timescales estimated by Red-M/Vilicom may commence prior to the date the results of the Award Process are known and even prior to the commencement of the auction itself, and carrying out these activities should reduce the time required for relocation activities post-award.

¹⁴ See page 15 of Document 12/22

¹⁵ See page 15 and 16 of Document 12/22

¹⁶ See page 16 of Document 12/22

Now turning to the licence commencement date of 1 February 2013, ComReg notes that its rationale for setting this licence commencement date is set out in section 4.4 and chapter 6 of Document 12/25. ComReg believes that the rationale set out in Document 12/25 remains valid and in particular, ComReg notes that:

- the relocation timescales estimated by Red-M/Vilicom are based upon worst-case scenarios;
- the relocation timescales estimated by Red-M/Vilicom do not necessarily begin from the date the results of the Award Process are known and ComReg would expect operators to commence the planning phase of their transition projects in advance of the auction and thus reduce the time required for relocation activity post-award; and
- it remains possible that the end of the Award Process could be known in August 2012, five months in advance of 1 February 2013.

However, ComReg also acknowledges that as the Award Process progresses and further information becomes available, it may become clear that

- a) the transition activities of Existing GSM Licencees may not be completed in advance of 1 February 2013; and
- b) this may delay the licence commencement date of one or more Lots in the 900 MHz and/or 1800 MHz bands.

In relation to (a) above, ComReg notes the discretion it has reserved in relation to the required completion date for post-award transition activities in paragraph 3.159, and in particular footnote 83 of Document 12/52. Paragraph 3.159 discussed the end date of transition activities, and stated that:

“Unless otherwise indicated by ComReg¹⁷ all Transition activities for both bands are to be completed by the commencement date of Time Slice 1, and the Transition Project Proposal will ensure same”

In relation to (b) above, ComReg notes that the potential for delayed commencement for Liberalised Use licences is also addressed in the context of refunds or adjustments of Licence Fees in such circumstances (as discussed and addressed in section 2.2.2 and section 2.2.6 of Document 12/52).

¹⁷ Footnote 83 of Document 12/52 stated: “At the time that ComReg announces the results of the assignment round, it may review this deadline date.”

2.42 Question and Answer 40

Question: ComReg indicates that the start date of the Proposed Licences is "1 February 2013 or such other date as may be specified by ComReg" (In Doc 12/52 paragraph 2.22)

Please confirm whether ComReg believes 1 February 2013 is a feasible start date for all three of the existing GSM operators in light of the relocation that will need to be undertaken by them?

Please explain the technological basis for this view, in light of the recommendations from Vilicom in Document 10/105b page 33 around the minimum transition period required of 6 months?

Answer: Please see the answer to Question 39.

2.43 Question and Answer 41

Question: ComReg indicates that *"if it becomes clear after due consideration that such extensions are necessary, ComReg will conduct appropriate consultation with interested parties. However at this time ComReg cannot second guess or prejudice the outcome of the auction and must therefore wait until the outcome of the auction process is known before deciding on whether interim licences are required at all"* (Doc. 12/50 paragraph 6.63).

Please confirm whether this statement means that ComReg will not consult on the issue of licence extensions until after the auction outcome?

Answer: ComReg notes that section 6.5 of Document 12/50 already sets out ComReg's consideration of, and position on, the issue of potential extensions to existing Interim GSM Rights of Use in the 900 MHz band. ComReg would draw particular attention to paragraphs 6.63 and 6.65 of this section.

As noted by the querist, ComReg stated that:

"However at this time ComReg cannot second guess or prejudice the outcome of the auction and must therefore wait until the outcome of the auction process is known before deciding on whether interim licences are required at all".

ComReg also stated in the next bullet point of paragraph 6.63 that:

"It is noted, however, that the appropriate duration of any extensions of interim rights of use, were such extensions considered necessary, would only become ascertainable following the outcome of the Auction (and, particularly, the settlement of the relocation project plan)."

In accordance with its stated position in Document 12/50, and the reasons informing same (including those identified above), ComReg will not be in a position to complete any consultation process in relation to licence extensions until after the auction outcome is known.

2.44 Question and Answer 42

Question: ComReg appears to indicate that it is not certain whether an interim licence extension will be required *"ComReg must therefore wait until the outcome of the auction process is known before deciding on whether interim licences are required at all"* (Doc 12/50 paragraph 6.63)

ComReg also indicates that it *"will address any potential extension of interim GSM 900 MHz licences at a time when ComReg considers it necessary to do so, and in any event sufficiently in advance of expiration of existing interim 900 MHz licences"*

Please explain why the fact that there are at most 3 months for transition activities before 1 February 2013 does not make it certain already that interim licence extensions are required?

Answer: Please see the answer to Question 39.

2.45 Question and Answer 43

Question: In relation to holding a consultation on the issuance of interim licences - please advise why ComReg could not hold a consultation now on the principle of a licence extension with the final date for any extension to then be confirmed immediately after the auction?

Answer: Please see the answer to Question 41.

2.46 Question and Answer 44

Question: ComReg indicates that it “*may refund or adjust Licence Fees payable by Winning Bidders due to the delayed commencement of Lots ... The refund .. shall be calculated as follows .. a pro-rata portion of the Upfront Fees already paid by the Winning Bidder*” (Doc 12/52 paragraph 2.76).

ComReg then indicates that “*To calculate the Upfront Price associated with a Lot in a Liberalised Use Licence, ComReg will use the Round Prices in the Final Primary Bid Round and other relevant information*” (Footnote 50 Document 12/52).

This suggests that the refund will in fact be an estimate rather than an accurate refund of the actual price paid.

Please confirm that ComReg will accurately refund Winning Bidders in the event of delayed commencement and please set out the precise mechanism (including the categories of “*relevant information*” referred to in Footnote 50 Document 12/52) by which it will accurately calculate the refund due to ensure that ComReg is not retaining overpayments from Winning Bidders, such rebates not being obvious to Bidders in circumstances where there is no price per Lot?

Further, as the Final Price will have been calculated on the basis of a package of Lots that is indivisible, can ComReg confirm that failure to deliver part of the package on time shall constitute failure to deliver the package, and therefore ComReg must base its refund calculation on the price of the package without sub-division?

Answer: Where refunds become due as a consequence of delayed availability of spectrum in one or more bands, as stated in paragraph 2.76 of Document 12/52, these will be calculated as “*a pro-rata portion of the Upfront Fees already paid by the Winning Bidder*”. This pro-rata portion of the Upfront Fee will be the exact portion of the total licence duration (based on counting the number of affected days) that was foregone for a delayed Lot as a result of delayed commencement were this to occur.

Footnote 50 of Document 12/52 highlights the fact that a Bidder subject to delayed commencement will have won the Lots subject to delay as part of a package of Lots for a given price, and there will not be an explicit Lot price for Lots subject to delayed commencement from which to calculate a portion subject to refund in the event of such delayed commencement.

Footnote 50 states that round prices in the final Primary Bid round (or, more specifically, the relative Lot prices that these round prices reflect) will be used with other relevant information (that is, the duration of the delay for the Lot and the

duration of the underlying Licence) to calculate the value of the refund due for the Lots subject to delay.

Specifically, the Base Price of a winning package will be allocated pro rata to its constituent Lots according to the Round Prices of those Lots in the final Primary Bid Round. The relevant Additional Price will be allocated across Time Slices and constituent Lots pro rata according to the Round Prices of the relevant Lot categories in the final Primary Bid Round.

2.47 Question and Answer 45

Question: In relation to liquidated damages, ComReg's current proposal is that where a delay by one party to meet an interim milestone causes another party to be unable to achieve one or more of its milestones, then the party initially failing to meet its interim milestones shall be the party responsible for all liquidated damage which flows as a direct result of its delay.

Please provide clarity as to how it will be determined that one party "caused" another party's delay or that the loss incurred is as a "direct result" of such delay

Answer: These issues will be determined as a matter of fact.

2.48 Question and Answer 46

Question: In relation to staggered start dates arising from delayed commencement, ComReg appears to indicate that different Lots may be delayed differently beyond 1 February 2013.

Note that this query does not relate to Advanced Commencement, which provides for commencement before 1 February 2013, but instead relates to ComReg's proposed mechanism to deal with delayed availability of spectrum post- 1 February 2013.

Please confirm whether ComReg is proposing staggered start dates for different Lots after 1 February 2013 in the Transition Plan, depending on the nature of the delay affecting each different Lot under the Transition Plan?

Has ComReg considered the risk of distortion to competition in the market place that may result from staggered liberalisation start dates?

Answer: ComReg notes that section 2.2.2 (see in particular paragraphs 2.25 to 2.28) of Document 12/52 considered the possibility of staggered start dates. In that section ComReg notes that circumstances outside its reasonable control could lead to ComReg being unable to make any or all Lots in the 800 MHz, 900 MHz and/or 1800 MHz bands available for liberalised use by a winning Bidder by the commencement dates of Time Slice 1 and/or Time Slice 2 identified in that section. ComReg confirms that it is possible that the commencement date of Lots in the 800 MHz, 900 MHz and 1800 MHz bands in Time Slice 1 could differ. As noted previously, Bidders can take this information into account when participating in the Award Process.

In relation to the risk of distortion to competition, ComReg notes that section 7.5 of Document 12/25 already sets out its consideration of, and position on, this issue in the context of Advanced Commencement. Notwithstanding the different contexts in which these issues may arise, ComReg considers the principles set out in section 7.5 of Document 12/25 are relevant to the issue of staggered start dates.

2.49 Question and Answer 47

Question: In relation to the matter of “Opportunity Cost and Rebate” ComReg has already specified that Rebates will be provided to applicants who liberalise Party Specific Lots in the auction and a calculation is provided in Annex 4 of Document 12/52.

Bidders for Party Specific Lots know when placing their bids that they will receive such a rebate in the event of the bid being successful, and that their final price will be net of this rebate.

Within the winner and price determination, ComReg will determine the feasible scenarios, and calculate the opportunity cost based on the bids received.

The bid values will be used in determining the opportunity cost rather than the net bid minus the relevant rebate.

This has the effect to overstate the true opportunity cost, as the re-optimised calculation uses the bid value for Party Specific Lots, which would never have actually been paid.

Please confirm that ComReg will use only the bid price net of rebate when calculating the Opportunity Cost, or in the alternative, that this value will be retrospectively subtracted from all Base Prices where relevant.

Answer: A rebate will be applied after the determination of winning Bidders and base prices where it is relevant to a package won by the Bidder.

For the avoidance of doubt, the calculation of a rebate is not taken into account during the calculation of base prices. Therefore, Bidders should anticipate rebates when formulating their bids. For example, if a Bidder has a valuation X for a package, on which it can anticipate receiving a rebate R, it could bid up to X+R and enjoy some surplus. The base price could not exceed X+R, and so the amount payable after application of the rebate could not exceed X.

2.50 Question and Answer 48

Question: In Annex 1 to document 12/52 (Page 160), ComReg provides the following definition of the Relative Cap:

A cap applying to a Supplementary Bid, which limits the Bid Amount for a Package of Lots to:

- *the Price of the Package of Lots in the last Primary Bid Round in which the Bidder was eligible to Bid for the Package of Lots; plus*
- *the difference in value between that Package of Lots and the Package of Lots actually Bid for instead (the Constraining Package) at the Round Prices prevailing in the same Primary Bid Round (the Constraining Round).*

Please confirm that this definition is incorrect and provide a corrected one.

Answer: ComReg can confirm that this definition is incorrect and should read:

A cap applying to a Supplementary Bid, which limits the Bid Amount for a Package of Lots to:

- *the Price of the Package of Lots bid for in the last Primary Bid Round in which the Bidder was eligible to Bid for the Package of Lots (the Constraining Package); plus*
- *the difference in value between that Package of Lots and the Package of Lots actually Bid for instead (the Constraining Package) at the Round Prices prevailing in the same Primary Bid Round (the Constraining Round).*

2.51 Question and Answer 49

Question: In relation to the Negotiation Stage ComReg states that *“As a result of the Negotiation Phase, the Additional Prices payable by Winning Bidders (and Existing GSM Licensees if applicable) will be those Additional Prices determined by the Assignment Round.”* (Doc 12/52, para 4.237)

Can ComReg confirm that the Negotiation Phase does not amend the Additional Prices that each Bidder must pay to ComReg, regardless of whether a swap is agreed?

Answer: ComReg confirms that the Negotiation Phase does not amend the Additional Prices that each Bidder must pay to ComReg as determined by the Assignment Round, regardless of whether a swap is agreed or not.

2.52 Question and Answer 50

Question: Is féidir iarratais a dhéanamh i nGaeilge?

Translation: Can Applications be made in Irish?

Answer: Ni feidir iarratais a dheanamh trí mheán na Gaeilge.

Translation: Applications cannot be submitted through Irish.

2.53 Question and Answer 51

Question: ComReg has placed a disclaimer on page 2 of the Document 12/52.

Having regard to Chapter 5 of Document 12/52 in particular, where ComReg purports to set legally binding terms and conditions, could ComReg please clarify the following:

Whether the IM is or not a binding legal document, including on the part of ComReg?

Which particular matters in the IM has ComReg not set out its final or definitive position?

When will ComReg set out its final or definitive position on these matters?

What may be considered to be inappropriate reliance on the contents of the IM in the context of the spectrum award process?

Answer: See Clarification 1 in Chapter 3 of this document.

2.54 Question and Answer 52

Question: Document 12/52 does not touch upon the future availability of other relevant spectrum bands that will inform Interested Parties' opinions on the desirability of the 800MHz, 900MHz, and 1800MHz.

Please clarify ComReg's current view on the future availability of WAPECS bands in Ireland. In particular the 700MHz band, the 2600MHz band, and the 3.4-3.6GHz bands.

Answer: Three of the WAPECS bands (800 MHz, 900 MHz and 1800 MHz) are being addressed in this licence award process. The remaining bands referred to above do not form part of this Award Process and so were not relevant to the Information Memorandum (Document 12/52). ComReg does not consider a discussion on the future availability of these bands to be appropriate in the context of this Questions and Answers procedure. Instead, detailed information concerning its proposals for those bands can be found on ComReg's website (www.comreg.ie), in ComReg's current spectrum strategy statement (Document 11/89¹⁸) and other relevant ComReg documents.

Interested Parties should form their own view on these matters in the context of the MBSA process.

2.55 Question and Answer 53

Question: We note concerns raised in recent correspondence regarding the integrity of confidential data.

We further note ComReg's position at paragraph 1.10 of doc. 12/52 (replicating that at paragraph 3.22 of doc. 12/52) that a 'reputable consultant' has been engaged "to ensure that ComReg's confidentiality and security processes before, during and after the Auction are appropriate for this Award Process."

¹⁸ Strategy for Managing the Radio Spectrum: 2011 – 2013. 22 November 2011

It is imperative that potential participants have confidence in the data integrity of the process.

Please provide the identity of the 'reputable consultant' and the terms of their engagement.

Answer: The reputable consultancy organisation that has been contracted in relation to this matter is PwC.

In relation to the second part of this Question namely the request to publish the terms of their engagement, ComReg is of the view that it is not appropriate to publish this information, as the information sought, if published in a public forum, might prejudice or impair the security of the very data that Interested Parties wish to be protected.

2.56 Question and Answer 54

Question: In Document 12/52, paragraph 2.24 states that "*Significantly prior to the expiry of Liberalised Use Licences at the end of Time Slice 2, ComReg intends to consider the future use of the Bands, including identifying the appropriate process for dealing with the spectrum released due to the expiration of Liberalised Use Licences.*"

Please clarify what is meant by 'significantly prior'.

In particular, please indicate the year in which ComReg would intend to commence a review of the future use of the bands.

Answer: ComReg will keep this matter under review in preparing its regular radio spectrum strategy documents (or such other process as may appear appropriate if the publication of such documents ceases in the interim) in light of, amongst other things:

1. its statutory functions, objectives and duties, as same may be amended from time to time;
2. ministerial policy directions in force at the date of preparation of each radio spectrum strategy document or equivalent document;
3. the likely complexity of any transition from the Liberalised Use Licences to any new licences in respect of the 800 MHz Band, the 900 MHz Band and the 1800 MHz Band;

4. ComReg's then view as to the likely amount of time required to consult on any new assignment process and to complete same;
5. the impact of any spectrum trading arrangements which may have occurred; and
6. other relevant market developments.

ComReg is of the view that, at present, there are too many unknowns to indicate a definitive date. ComReg will be seeking views from interested parties and operators over the coming years as appropriate.

2.57 Question and Answer 55

Question: In Document 12/52, paragraph 2.26 ComReg notes that "*Interested Parties are hereby expressly put on notice of the potential for delayed access to any and all Lots in the 800 MHz, 900 MHz and 1800 MHz Bands in Time Slice 1 and/or 2 and, in submitting an Application, Applicants acknowledge and accept same.*"

In order to be able to accept the notice of potential delay in respect of Time Slice 2 commencement clarity is required as to what steps ComReg will take to ensure that any operator with spectrum in Time Slice 1 will have continued access to spectrum in the 900MHz and 1800MHz bands after 12th July 2015 in the event of such a delay arising?

For the purpose of this Question it may be assumed that the querist has acquired some quantity of Time Slice 2 spectrum.

Answer: If required, ComReg will consider this issue at the appropriate time having regard to the circumstances at that time in the context of its statutory functions, objectives and duties.

2.58 Question and Answer 56

Question: ComReg describes 'Advanced Commencement Method I' (Doc 12/52 para 2.30 and states that "*The advanced commencement date associated with these Lots will be notified to the Winning Bidders (and Existing GSM Licensees if applicable) before the commencement of the Assignment Stage and shall be 5 months from the date of the Assignment Round in the Award Process.*"

Can ComReg please confirm whether Method 1 is redundant should the Award Process require an auction to be held (no earlier than 7th September and less than five months from 1st February 2013).

If Advanced Commencement Method 1 is redundant in such circumstances, would it be possible to use Advanced Commencement Method 2 to achieve earlier commencement of Lot 900/1/A or Lot 900/1/B in a period shorter than 5 months?

Answer: Where the Assignment Round is held less than 5 months in advance of the expected commencement date of Liberalised Use Licences in Time Slice 1 (1 February 2013), then Advanced Commencement Method 1 will be redundant as the time period to the expected commencement date of licences will be less than the 5 month time period specified in paragraph 2.30 of Document 12/52.

Regarding Advanced Commencement Method 2, paragraph 2.31 of Document 12/52 states that

“once the outcome of the Assignment Stage is known, Winning Bidders can apply to ComReg to have the commencement date of their Liberalised Use Licence brought forward for specific Lots in the 800 MHz, 900 MHz and/or 1800 MHz bands in Time Slice 1.”

In line with paragraph 2.31 of Document 12/52, ComReg confirms that Advanced Commencement Method 2 can be requested for Lot 900/1/A and Lot 900/1/B, as well as other Lots in the 800 MHz, 900 MHz and/or 1800 MHz bands in Time Slice 1.

2.59 Question and Answer 57

Question:

- A. For the purpose of determining which persons are "Connected Persons" (paragraph 3.44 of Document 12/52), please explain how and when an "indirect" 10% interest may arise and the relevance of the definition of "Controlling Person".
- B. Please confirm that in the case of a 10% direct shareholder of the Bidder, the Connected Persons in relation to that shareholder only include the persons Controlled by it and the persons Controlling it, including in particular any shareholder with at least a 30% interest (but no shareholder with an interest of less than 30%, unless it is Controlling the direct shareholder some other way).

Answer:

- A. In this context 'indirect' has the plain meaning of the word. Without prejudice to the generality of the foregoing and by way of example only, indirect interests may arise, for instance where shares are held through one or more nominees, intermediate companies, or trustees.

ComReg notes that the definition of "Interest" in paragraph 3.48 captures both parties to stock lending or repo transactions and that such parties have direct rather than indirect interests (unless held through intermediaries).

- B. Confirmed. ComReg notes that the Question has been directed specifically at a 10% direct shareholder. Furthermore, a sub 30% shareholder in the 10% direct shareholder may for example still be a concert party of the Bidder even if it is not a Connected Person.

Taking this Question step by step:

- a. The 10 % direct shareholder "S" in the Bidder is a Connected Person of the Bidder (by virtue of paragraph 3.45 b) of the Information Memorandum).
- b. "T", a shareholder in S holding with an interest of 30 % or more (in accordance with paragraph 3.45 a) of the Information Memorandum), is a Controlling Person of S.
- c. S is therefore a Controlled Person in relation to T.
- d. Accordingly S, a Controlled Person of T, holds an interest in 10 % of more of the shares in the Bidder and therefore T is a Connected Person of the Bidder.
- e. However "U" a 29% shareholder in S is not a Controlling Person of S, based solely on shareholding or voting rights in T.
- f. Therefore U is not a Connected Person of the Bidder.

ComReg notes that Associated Bidder rules should also be checked in such circumstances.

In the interests of assisting Bidders in interpreting the ownership rules set out in the Information Memorandum, ComReg notes that these rules are, in large part, based on concepts implemented in the Irish Takeover Rules 2007.

Bidders should also note that in determining whether a person should be deemed to control another person, regard should be had to all the circumstances of the matter and not solely to the legal effect of any instrument (paragraph 3.46 (e) of Document 12/52).

2.60 Question and Answer 58

Question: ComReg states that "*Persons wishing to Bid in consortium as a Bidding Group will be viewed as a single entity for the purposes of applying ownership rules (as detailed in subsection 3.3.4), rules on confidentiality and collusion (see subsection 3.3.5) and the Auction Rules within the Award Process.*" (Document 12/52 Para 3.61).

- A. Please confirm that in the case of an Application by a consortium, it is sufficient to provide an Ownership Structure Document for each member of the consortium.

In the alternative, please explain what additional documents are required.

- B. Please confirm that ComReg's statements at paragraph 2.90 of doc 12/52, concerning spectrum sharing do not concern joint bidding in the auction by two existing mobile network operators and that no specific criteria need to be met for an application by joint Bidders to be approved (additional to those listed for all applications).

In the alternative, please confirm that prospective joint Bidders may approach ComReg for the purpose of determining that their association will not lead to their application being rejected and of safeguarding accordingly the possibility of making separate applications, as the case may be.

Answer:

- A. Provided that the ownership of the consortium is also set out and any cross-linkages between the Ownership Structure Documents are clear, and are highlighted this would be acceptable.
- B. To the extent that a joint bidding proposal by two existing mobile operators would lead to collaboration or pooling between wireless operators, i.e. "*co-ordinated use of assigned spectrum by several operators on a shared basis*" (see section 3.5 of Document 11/88 and section 4.4 of Document 11/89), then paragraph 2.90 of Document 12/52 would be relevant. In any case,

prospective members of a consortium would need to satisfy themselves that any proposed arrangement is compatible with their obligations under their existing licences, electronic communications law and competition law. ComReg, otherwise, confirms that no specific criteria need to be met for an application by joint Bidders to be approved (additional to those listed in the Information Memorandum).

In relation to approaching ComReg to discuss any proposed arrangements, ComReg would bring the querist's attention to the following paragraph taken from page 17 of Document 11/89: "*[I]nterested parties will be aware that ComReg's examination of a collaboration proposal will, of course, occur within the context of its statutory functions, objectives and duties and, given this, interested parties should be in a position to identify for themselves the types of potential issues and concerns that could be raised by collaboration.*" Therefore, subject to the provisions of the Information Memorandum, ComReg does not anticipate discussing proposed arrangements with applicants or issuing a 'prior' determination on any proposed association. Interested parties must ensure that they take full cognisance of their and ComReg's statutory obligations when entering into any such arrangements.

2.61 Question and Answer 59

Question:

- A. Given that parties may bid jointly as a consortium, in the case that the consortium becomes a Winning Bidder, please clarify that all members of the consortium will be issued with a licence such that they will all be entitled to have possession and control of wireless telegraphy apparatus, or, in the alternative, that one licence will be issued to all of the members of the consortium such that, again, they will all be entitled to have possession and control of wireless telegraphy apparatus.
- B. Please clarify also that in this case, responsibility for any interference issues arising between the members of the consortium, in the case where they operate different physical and/or logical networks, would be a matter for the members of the consortium as licensees within the assigned frequencies to resolve.
- C. Please also confirm that where two or more members of the consortium are Existing GSM Licensees and they accordingly each have certain Party-

Specific Lots, there are no restrictions that will apply on the consortium when bidding for the Party-Specific Lots of its members, subject only to ensuring that the consortium satisfies the spectrum cap rules.

Answer:

- A. Where multiple parties bid as a consortium, the consortium as a whole will be a Bidder. The consortium, if it becomes a winning Bidder will obtain one Liberalised Use Licence. If the consortium members used a jointly owned company to bid, this company will be the Licence holder. If the consortium is an unincorporated partnership then a single licence will be issued to the partnership.

Accordingly, the consortium company or partnership would be the entity licensed to have possession and control of wireless telegraphy apparatus.

- B. Not only would the consortium be liable for managing interference between its members, but ComReg notes that the partnership or company that represents the consortium would be liable for any breach of its licence conditions.
- C. As stated in the Auction Rules, there is only one party entitled to bid on each Party-Specific Lot, namely the current GSM licensee to which that Party-Specific Lot relates. Consequently, a consortium vehicle cannot bid on a Party-Specific Lot save in the event of a prior assignment by an Existing GSM Licensee of its Existing GSM Licence to the consortium vehicle, which would require ComReg's prior consent. ComReg notes that such prior consent would be required under the terms of Existing GSM Licences irrespective of the provisions of the auction rules.

2.62 Question and Answer 60

Question: In Document 12/52, paragraph 3.29 ComReg sets out 'appropriate evidence' required in respect of Authorised Agents in four bullet points.

Please confirm that any one form of evidence, of the four options listed is sufficient and that more than one form of evidence is unnecessary.

Answer: ComReg confirms that this is the case.

2.63 Question and Answer 61

Question: In relation to Document 12/52 paragraph 3.43 ComReg states that the ownerships rules "*are not however limited to the Auction; they represent rules imposed for a clearly defined portion of the Award Process*".

There is some uncertainty as to what is the defined portion and the querist would be grateful if the relevant period could be explicitly stated.

Answer: This period is set out in paragraph 5 of the Applicant Declaration. Please see the answer to Question 19 for further information on the Application Form.

2.64 Question and Answer 62

Question: ComReg stated that "*It is ComReg's intention to publish details of Liberalised Use Licences, including information contained in Part 2 and Part 3, on its website.*" (Document 12/52 paragraph 2.48)

This appears to be a shift from current practice which recognises the sensitive nature of some of the information relating to Apparatus, and Apparatus Location and Details.

These issues have not been explored during the spectrum award consultation process. Will ComReg undertake a mini-consultation before making any final decision in respect of publishing Part 2 and Part 3 of the licences?

Answer: ComReg will publish such details in Part 2 and Part 3 in accordance with ComReg's Guidelines on the treatment of confidential information (Document 05/24). In this regard, ComReg will publish material within Part 2 and Part 3 which is not considered confidential.

2.65 Question and Answer 63

Question: ComReg states that no Questions will be accepted after 4pm on 22 June 2012 (Document 12/52, paragraph 3.99).

It is possible that future events may give rise to further requests for clarification. For example ComReg's answers to Questions (to be completed by 6th July) or a

ComReg decision to revise / amend an element of the Information Memorandum / auction rules may give rise to a need for further clarification.

We would be grateful if ComReg could set out how interested parties may achieve the clarity of understanding required.

Answer: Paragraph 3.99 states that after 16.00 on 22 June 2012, no Questions will be accepted by ComReg unless specific circumstances described in that paragraph arise. Paragraph 3.21 also notes that Questions seeking clarity or understanding of the Award Process should be submitted prior to this time and date. Paragraph 5.25 is intended to deal with errors which are identified in the Information Memorandum and anticipates that errors, omissions and clarity issues must be immediately notified to ComReg and ComReg shall deal with such issues as it considers appropriate.

Given the requirement for immediate notifications to ComReg under Paragraph 5.25, ComReg would expect that Interested Parties, having had access to the Information Memorandum since 25 May 2012, would have alerted ComReg to any such issues in this respect prior to 22 June 2012. In the unlikely event that a party, at some point after 22 June 2012 identifies an error, omission or lack of clarity in the Information Memorandum which they had not previously identified, then ComReg, pursuant to paragraph 5.25 will decide, as appropriate, how to respond to each particular issue raised with ComReg on this basis.

For the avoidance of doubt, ComReg expects that any clarifications to the Information Memorandum / Auction Rules published and notified to interested parties and/or Bidders would be minor in nature and would not materially change the structure of the proposed Award Process which has been set out in the Information Memorandum.

2.66 Question and Answer 64

Question: ComReg states that *"As part of this Negotiation Phase, ComReg will permit two or more Winning Bidders (or Existing GSM Licensees if applicable) to agree to exchange equivalent assignments which they would otherwise have been allocated pursuant to the Assignment Round, providing that this is done without affecting others"* (Document 12/52, paragraph 3.119)

This is repeated at paragraph 3.144.

Paragraph 4.236 states *"Further as part of this Negotiation Phase, ComReg will allow two or more Winning Bidders (and Existing GSM Licensees if applicable) to*

'swap' equivalent assignments which they would otherwise have been allocated pursuant to the Assignment Round, providing that this agreed among these parties and does not affect the other parties. This would require only the consent of those parties swapping frequencies, which might not be all parties. Unaffected Winning Bidders (and Existing GSM Licensees if applicable) from the Assignment Round would have no power to block this negotiation outcome.

The drafting of these paragraphs creates a potential contradiction.

It is the querist's belief that if two, or more, parties reach agreement to 'swap' during the negotiation phase then any other party does not have the right to veto that 'swap'. This is reflected in the drafting of paragraph 4.236. However paragraphs 4.236, 3.119 and 3.144 all introduce a proviso that the 'swap' is done without affecting others.

Please clarify:

- Does any party have the right to veto an agreed 'swap'?
- If relevant, what factors will be taken into consideration to determine whether an agreed 'swap' is likely to affect other parties?

Answer: The requirement that the 'swap' in frequency assignments is done without affecting others is to ensure that every care is taken by the parties involved in the swap to ensure that third parties are not affected by it. No party will have the right to veto a swap.

2.67 Question and Answer 65

Question: Paragraph 3.164 states "*A similar Transition Project Plan and process may be adopted by ComReg for Time Slice 2 should it be possible that delays may be caused to be commence date of Lots in Time Slice 2, but to the Transition activities of Existing GSM Licensees or Winning Bidders of Lots in Time Slice 1.*" (Document 12/52 para 3.164)

The meaning of this sentence is not clear.

This may be as a result of typos.

Please clarify.

Answer: Please see the answer to Question 17.

2.68 Question and Answer 66

Question: ComReg states the following: "*Interested Parties should note that ComReg reserves the right to make amendments to the Auction Rules after the finalisation of this Information Memorandum to correct any errors therein, or to further clarify matters, whether identified by ComReg, its consultants or Interested Parties, where such amendments are necessary or appropriate to ensure that the Auction Rules and the EAS operate in the manner intended by ComReg, as set out in the Information Memorandum. ComReg will promptly bring any such amendments to the attention of interested parties. Interested Parties are reminded that they are obliged to bring any errors to ComReg's attention promptly.*" (Document 12/52 footnote 91)

It is important that Interested Parties are able to approach each stage of the award process with confidence and an understanding of the rules.

Please advise when ComReg anticipates that the Information memorandum will be finalised?

Please advise when ComReg anticipates that the Auction Rules will be finalised?

Answer: ComReg does not intend to issue a new Information Memorandum or a revised Information Memorandum but has provided a concise list of textual changes to the Information Memorandum in Table 1 of this document. The Information Memorandum of 25 May 2012, as amended by (i) the responses issued by ComReg pursuant to this Question and answer process and (ii) any other amendments communicated by ComReg to Interested Parties and/or Bidders after the publication of this document, should be relied upon by Interested Parties in preparing their Applications and by Bidders in preparing for the Award Process.

ComReg expects that any amendments to the Auction Rules published and notified to interested parties and/or Bidders after 6 July 2012 would be minor in nature and would not materially change the structure of the proposed Award Process which has been set out in the Information Memorandum. However, clearly ComReg may need to respond to errors, omissions or clarifications raised at any point.

2.69 Question and Answer 67

Question: Paragraph 5.30 of Document 12/52 provides that ComReg reserves the right to amend or modify the Information Memorandum or Award Process and that ComReg will inform Interested Parties of any such amendments or modifications, if appropriate.

Please confirm that Interested Parties will be informed of any amendments or modifications to the Information Memorandum or Award Process without delay.

Please advise the minimum period that will apply between finalisation of the Auction Rules and Auction commencement date?

Assuming that ComReg will announce to Interested Parties when it considers the Auction Rules to be set, the querist believes that there should be at least a four week period between the finalisation of the Auction Rules and the commencement of the Main Stage.

Answer: ComReg confirms that Interested Parties and or Qualified Bidders will be duly informed of any amendments or modifications to the Information Memorandum or Award Process. In this regard, ComReg notes that:

- it has, through the publication of this document, published all Questions received in due time, together with their associated answers, on its website and has provided a concise list of textual amendments to the Information Memorandum in Table 1 of this document; and
- a revised Application Form has been published in tandem with the publication of this document.

ComReg also notes that, notwithstanding the volume of Questions received:

- a) the number of textual amendments to the Information Memorandum is relatively small and these are mostly minor in nature; and
- b) no complex textual corrections have been made to the Information Memorandum.

As noted in the answer to Question 67 ComReg may need to respond to errors, omissions or clarifications raised at any point and ComReg will continue to inform Interested Parties of any clarifications to the Information Memorandum or Award Process without delay.

2.70 Question and Answer 68

Question: ComReg states that "All Primary Bid Rounds will be scheduled to run between 10.00 and 16.00 Irish time on Working Days assuming that no extensions are triggered." (Document 12/52, paragraph 4.60)

This is a period of six hours. Paragraph 4.59 states "*ComReg does not anticipate setting Primary Bid Round Schedules with an round duration of less than 30 minutes*" and paragraph 4.62 states "*There will be a minimum duration of 30 minutes between Primary Bid Rounds.*"

This confirms that the minimum time from the start of one round to the commencement of the next round will be at least one hour. We believe a minimum period of one hour to be appropriate.

In paragraph 4.61 it is stated "*There is no upper bound on the number of Primary Bid Rounds that may be run in a day, (save those imposed by available time), although ComReg does not anticipate running more than eight Primary Bid Rounds in a single day.*"

It does not appear possible to us that eight Primary Bid Rounds could take place per day.

Please clarify what is intended by paragraph 4.61 given that:

- Rounds will take place during a six hour window (paragraph 4.60); and
- The time between the commencement of one round and the next will be a minimum of one hour (paragraphs 4.59 and 4.62).

Please also advise if a break will be scheduled in the middle of the day for lunch.

Answer: There is an error in paragraph 4.60 of the Information Memorandum. This should read "All Primary Bid Rounds will be scheduled to run between 10.00 and 18.00 Irish time on Working Days assuming that no extensions are triggered", as in the draft Information Memorandum.

No break will be scheduled in the middle of the day for lunch.

2.71 Question and Answer 69

Question: Paragraph 4.133 of Document 12/52 sets out in broad terms the circumstances when ComReg may terminate the Primary Bid Rounds when there is still excess demand.

Should such an event occur, will ComReg inform Bidders as to the reason why it elected to terminate the Primary Bid Rounds early?

Answer: No.

2.72 Question and Answer 70

Question: In document 12/52, paragraph 4.218 ComReg states that "*For each Winning Bidder (and Existing GSM Licensee if applicable), for assignment options for which no Bid is submitted, that Winning Bidder (and Existing GSM Licensee if applicable) will be deemed to have submitted a Bid of zero for all of such assignment options.*"

Footnote 98 further states "*It is recommended (but not obligatory) that Bidders submit a Bid of zero euros for their least favoured option(s) in every band and Time Slice where they are eligible to make a Bid.*"

Please clarify why it is recommended that Bidders submit a zero Bid when the absence of a Bid is deemed to be a Bid of zero in any event?

Answer: If a Bidder does not submit any bid for assignment options, then its bids will be deemed to be zero, indicating that the Bidder has no preference over assignment options. However, if a Bidder does make bids for assignment options, its preference is expressed by the *relative* bids it makes for different options, as the Bidder is guaranteed that precisely one option will always win. For instance, if a Bidder increased all its bids for assignment options by some fixed amount X, this would not affect the determination of the winning assignment options or Additional Prices. The recommendation in Footnote 98 of Document 12/52 is intended to underscore that a Bidder's bids for assignment options are relative to one another.

2.73 Question and Answer 71

Question: In paragraph 4.232 of Document 12/52 ComReg sets out the information that will be released to Bidders prior to the commencement of the Negotiation Phase.

This information includes *"Each Winning Bidder (and Existing GSM Licensee if applicable) in each band will be told the Additional Price that would apply to its own winning Assignment Round Bid and the winning Assignment Round Bid of all other Winning Bidders (and Existing GSM Licensees if applicable) in that band were the outcome of the Assignment Round to hold."*

Paragraph 4.238 sets out the information that will be released to Bidders at the end of the Assignment Stage following conclusion of the Negotiation Phase. In respect of the Additional Prices *"Each Winning Bidder (and Existing GSM Licensees if applicable) in each band will be informed about the Additional Price that will apply to its own winning Assignment Round Bid in that band. This information will not be released to other Bidders at this point in the process."*

It would appear that the information to be released at this point is more restricted relative to the information released prior to the Negotiation Phase. Why is this the case?

Answer: Paragraph 4.238 contained an error. At the end of the Assignment Stage, the information given to Winning Bidders (and Existing GSM Licensees if applicable) should also include information regarding the Additional Prices of all other Winning Bidders (and Existing GSM Licensees if applicable).

2.74 Question and Answer 72

Question: Paragraph 4.240 of Document 12/52 sets out the information that will be released to Bidders at the end of the auction.

The querist notes previous requests made by a respondent for details of all bids to be released at the end of the auction and further notes Dotecon's response to this request, specifically paragraph 4.72 of document 12/50. *"DotEcon considers that if H3GI's concern is simply with verification of the results, it should be noted that ComReg intends to have a third party verify the results of the auction. This would ensure that all the information provided to Bidders at the end of the auction would be correct, based on the Bids placed by all Bidders during the Auction. Dotecon*

believes that on this basis, for auditing purposes, it would not be necessary for full bid information to be published."

The info memo is silent on third party verification of the results. Indeed the only reference to a third party audit role is in respect of the opening of Applications.

Please confirm:

- A. what are the required qualifications of the third party?
- B. what process will be followed to select the third party?
- C. what is the terms of reference in respect of the role of the third party.
- D. What checks /controls will the third party undertake?
- E. Will the third party undertake checks to ensure that strategic bidding did not take place?
- F. If strategic bidding is detected what action will be taken by ComReg?
- G. At paragraph 4.73 of document 12/50 *"DotEcon submits that one or more Bidders may have operations in a number of different countries, and given that there are a number of awards proposed throughout Europe auctioning spectrum in the same or similar bands, revelation of bid strategy and spectrum valuations in one auction may reasonably be opposed by any of the Bidders in the auction, to the extent that it could provide indication of bid strategy or spectrum valuations in other jurisdictions, as such bid data could be deemed to be commercially sensitive and/or confidential."*

DotEcon sets out its recommendation in paragraph 4.74 *"that ComReg should not reveal information regarding bids submitted during the auction. Further, it notes that this approach has been adopted in a number of other auctions, such as the Danish 2.6GHz auction and the recent Swiss multi-band auction."*

ComReg accepts DotEcon's recommendation in the subsequent paragraphs of Document 12/50.

The querist does not consider that ComReg or DotEcon have advanced sufficient evidence to justify the withholding of details of all bids. The claim that publication of the details may in some way disadvantage a Bidder participating in an auction in another country is tenuous at best.

The market circumstances in each country are unique and as such any inferences, for example in respect of valuation that may be attempted from the Irish data will be extremely weak.

It is noted that concerns regarding the risk of strategic bidding have previously been raised but ComReg dismissed these concerns and advised that the soon to be published Info Memo would give Interested Parties further clarification and detail in relation to auction rules and processes.

The querist notes DotEcon's view that ComReg intends to have a third party verify the results and expects that the verification will include checking whether strategic bidding has taken place. If checking for strategic bidding will not be included in the third party verification can ComReg please confirm that it will release bid details to Bidders in order that they may undertake their own checks.

Answer:

- A. The third party that will verify the audit results will have:
 - a) a proven track record in providing services of this type; and
 - b) a proven ability to deal with complex mathematical material in a clear and comprehensible form.
- B. ComReg does not believe that this Question is relevant or appropriate to the Question and Answer process.
- C. While this third party will have additional roles in relation to the verification of the Winner Determination and Pricing Software, in relation to the live auction he or she will, amongst other things:
 - a) securely receive a capture of a live audit trail of all bids submitted;
 - b) independently and securely verify whether the final auction results comply with the WDP rules and other auction rules as detailed in the Information Memorandum; and
 - c) securely inform ComReg, of the outcome of the verification process so undertaken.
- D. See answer to C above;
- E. To the extent that this is possible, ComReg and its advisors will consider whether there is any evidence of strategic manipulation when conducting a post-auction evaluation.

- F. ComReg reserves its discretion in this regard, see paragraph 3.65 of the Information Memorandum.
- G. It is ComReg's understanding that, if checking for strategic bidding is not to be undertaken by a third party, the querist seeks the revelation of full bid details after the auction for the purposes of carrying out its own assessment.

As the querist is no doubt aware, ComReg has built significant safeguards into the design of the Award Process to reduce the incentives and likelihood of strategic bidding. As such, ComReg and DotEcon do not consider that such behaviour is likely or sustainable. In any case, ComReg intends to monitor Bidder behaviour carefully to assess whether behaviour contrary to the provisions of the Information Memorandum (see, for example, section 5.2.3) has taken place. Further as noted in E above, to the extent that this is possible, ComReg and its advisors will consider whether there is any evidence of strategic manipulation when conducting a post-auction evaluation.

Furthermore, and as noted in Document 12/50, ComReg considers that bid information could be deemed to be commercially sensitive and/or confidential, given the potential for participation by the same Bidders in other future planned auctions.

Accordingly, ComReg does not intend to release full details of bidding in the auction.

2.75 Question and Answer 73

Question: In paragraph 3.148 of document 12/52 ComReg states that the "*Upfront fee must be paid by specified date approximately two weeks from release of results of Assignment Stage to Bidders.*"

There are two occasions when the results of the Assignment Stage are published (per paragraphs 4.232 and 4.238).

Which of these publication events is relevant in the context of paragraph 3.148?

Answer: The "*release of results of [the] Assignment Stage to Bidders*" in paragraph 3.148 of Document 12/52 refers to the release of results as per paragraph 4.238 of Document 12/52, namely the results of the Assignment Stage.

For the purposes of clarity, and as discussed in Document 12/52, it should be noted that the Assignment Stage consists of an Assignment Round and a Negotiation Phase. Paragraph 4.232 of Document 12/52 refers to the release of results at the end of the Assignment Round and not the end of the Assignment Stage.

2.76 Question and Answer 74

Question: Can an Applicant submit a deposit with its Application that is higher than the sum of the reserve prices of all Lots included in the Application?

Answer: Yes

2.77 Question and Answer 75

Question: Will ComReg be releasing beta software in respect of the Relaxed Primary Bid feature?

This is a new feature in CCA design that has never before been used and Interested Parties should be afforded the opportunity to fully familiarise themselves with the feature.

Answer: DotEcon's WebBidder system will be made available to each Applicant for a mock auction. During this time, such parties will have the opportunity to familiarise themselves with all aspects of the system, including the Bidder interfaces that display information regarding relaxed primary bids (the bid form, which will alert the Bidder that there is the possibility of making a relaxed primary bid, the checked bid form, which will display any necessary chain bids associated with a relaxed primary bid prior to bid submission, the supplementary bids editor, which will maintain a list of caps and floors on bids including those subject to a relaxed primary bid in one or more rounds and the supplementary bids round).

2.78 Question and Answer 76

Question: In paragraphs 5.3 and 5.4 of Document 12/52 ComReg seeks to rely on broad exclusions to liability or responsibility "to the extent permitted by law".

Interested Parties and Bidders should be in the position to have at their disposal adequate, accurate and complete information in terms of the auction process and to rely on the software used to implement the Award Process' electronic auction system.

In this regard, the querist does not accept that ComReg can properly exclude its liability in relation to the matters listed at paragraph 5.3.

Please clarify what "to the extent permitted by law" actually means in the circumstances.

Please clarify further what is meant at paragraph 5.10 by "[the Information Memorandum] *does not purport to be comprehensive*" and "*Interested Parties should form their own views*" in the context where the Information Memorandum sets the terms for participation in the Award Process and purports to subject prospective Bidders strictly to its terms and conditions (e.g., paragraphs 5.1, 5.15, 5.20, 5.22 and 5.32).

Answer: Paragraphs 5.3 and 5.4 are intentionally prefaced with the words "to the extent permitted by law" to ensure that ComReg's proposed exclusions and limitations of liability are lawful. Should a dispute arise in relation to the extent ComReg can rely on these exclusions or limitations of liability, it would be for the relevant judge hearing the dispute to consider this language which is commonly used in legal drafting and to determine the issue based on all the circumstances of the specific dispute. Interested parties are welcome to engage with their own legal advisors to get further guidance as to how a judge might determine these liability issues as it is not appropriate for ComReg to provide legal advice to Interested Parties.

Paragraph 5.10 correctly notes that this Information Memorandum does not purport to be comprehensive. For example, Qualified Bidders can expect to receive copies of Bidder Materials which will provide further details in relation to the Auction and the EAS in particular. The Information Memorandum also needs to be read in conjunction with preceding documents issued by ComReg in relation to the Award Process such as ComReg Document 12/25 and Decision D04/12. Answers issued by ComReg pursuant to this Questions and Answers procedure also merit consideration in the context of the Information Memorandum. Once Interested Parties or Qualified Bidders have reviewed all the relevant documentation made available by ComReg in relation to this Award Process, they should decide, based on their own strategies and objectives, how they propose to proceed in relation to the Award Process.

2.79 Question and Answer 77

Question: In the context of relocation rebates Annex 4.7 of document 12/52 makes references to scenarios where Existing GSM Licensees either avail of the Early Liberalisation Option or do not avail of the Early Liberalisation Option.

How will scenarios where a GSM Licensee only partially liberalises its existing GSM Licence be treated?

Answer: In relation to relocation scenarios as discussed in paragraph A4.7 of Document 12/52, ComReg confirms if an Existing GSM Licensee only partially liberalises its existing GSM Licence, this Existing GSM Licensee will be deemed to have availed of the Early Liberalisation Option, and will be treated according to the text as set out in paragraph A4.7 of Document 12/52.

2.80 Question and Answer 78

Question: Concerning the declarations set out in Part 2 of the Application Form, declaration 5 requires that *"The Applicant will ensure that the Applicant and any Connected Persons and any Insiders - shall refrain from entering into agreements or negotiations with a view to entering into agreements with other interested parties or their Connected Persons in relation to matters concerning the Award Process, including without prejudice to the generality of the foregoing agreements relating to spectrum, network or infrastructure sharing, from the time at which this Application is submitted to the date of the issue of the Liberalised Licences."*

Please confirm that this only relates to the establishment of new network or infrastructure sharing initiatives and does not impact on already established initiatives.

Answer: ComReg confirms that this is the case.

This should be contrasted with paragraph 6 of Part 2 of the Application Form which requires an Applicant to confirm that certain types of agreement have been terminated.

However, the above answer should not be read as exempting 'already established initiatives' from the application of the other provisions of the Information Memorandum, or as relieving its participants of their obligations under electronic

communications or competition law. For example, any agreement which contains conditions, whether explicit or implied, that require a party to the agreement not to bid in the Award Process or limits a party's ability to participate in the Award Process may be in breach of the Applicant declaration and competition law.

2.81 Question and Answer 79

Question: Concerning the declarations set out in Part 2 of the Application Form, declaration 7 requires that "*The Applicant has ensured and will ensure that the Applicant - and, to the best knowledge of the Applicant, any Connected Persons and any Insider - does not enter into agreements or establish any understanding with a third party, either prior to or during the Award Process, for the access to or the use of the Applicant's network or networks using the frequencies dealt with in this Award Process, if the agreement or the understanding directs such third party not to participate or limits such third party's ability to participate in the Award Process.*"

ComReg will be aware that some operators currently rely on national roaming agreements. Please confirm that these are not prohibited by this declaration.

Answer: Such agreements are not, as such, prohibited by this declaration. However, any agreement, whether an existing national roaming agreement or otherwise, which contains conditions, whether explicit or implied, that require a party to the agreement not to bid in the Award Process or limits a party's ability to participate in the Award Process may be considered in breach of the declaration.

See paragraph 8 of the Applicant Declaration in this regard.

2.82 Question and Answer 80

Question: Concerning the declarations set out in Part 2 of the Application Form, declaration 9 requires that "*The Applicant has ensured and will ensure that the Applicant - and, to the best knowledge of the Applicant, any Connected Persons and any Insiders - both prior to and after the submission of an Application and until the licences have been issued, refrains from any action that could have an adverse effect on the Award Process.*"

Please clarify what may constitute an 'adverse effect' in this context.

Answer: It is not possible to clarify this definitively without limiting the usefulness of this provision. Actions would have to be assessed in their context on a case by case basis.

However, without prejudice to the foregoing, any deliberate behaviour which has the effect of disrupting or delaying the auction process or causing the EAS to malfunction would certainly constitute an action having an adverse effect on the Award Process.

2.83 Question and Answer 81

Question: *"In order to take part in the Award Process, Applicants must submit a completed Application Form on paper including an Ownership Structure Document and an electronic copy of same in an editable format on CDROM."*

Please advise if there are any restrictions on software packages that may be used.

Answer: ComReg does not wish to be unduly restrictive as to the software packages that Applicants may use. Rather, in the interests of compatibility, ComReg would request that documents be delivered in standard file formats. In order to ensure that the processing of applications operates as smoothly as possible ComReg would encourage Applicants to submit their applications in formats supported by Microsoft® Word including:

.doc format;

.docx format; or

.rtf

Where drawings are submitted ComReg would encourage the submission of drawings in formats that are compatible with Microsoft® Word including:

.vsd - Visio format;

.jpg - JPEG format;

.png – Portable network graphics; or

.gif.

If there is any doubt about the compatibility of a file format with standard Microsoft® tools, applicants are encouraged to also submit the files in unprotected .pdf format.

2.84 Question and Answer 82

Question: The description of the application procedure in paragraph 3.94 of Document 12/52 states that "*Applications will be opened in the presence of an independent auditor.*" Please clarify what are the required qualifications of the independent auditor, the process that will be followed to select the independent auditor and the checks/controls that the independent auditor will undertake.

Answer: The independent auditor, will, not, other than in an audit capacity, have had any involvement with the Award Process, whether acting for an Interested Party or ComReg.

The auditor will:

1. confirm that all copies of applications received appear to be identical;
2. retain one copy of each application for later audit in the case of dispute;
3. in the case of multiple applications from any party, confirm that only the last application is considered in the Award Process;
4. produce a list of applications received;
5. verify the receipt, or non-receipt of funds by ComReg by the deadline; and
6. carry out such other checks as the auditor deems appropriate.

2.85 Question and Answer 83

Question: The mathematical statement of the re-optimization problem in Paragraph A8.31 of document 12/52 appears to be incomplete. It is unclear which Bidders are subject to conditions two (scenario bid compatibility) and three (win-back positive release).

In other words, index i is missing the set to which it should belong.

Answer: The mathematical statement in Question is correct in its current form. It specifies a choice of package x_i for each remaining Bidder $i \in I \setminus E$ if some set of winners E is hypothetically excluded.

However, if this provides greater clarity, this can be more fully expressed as follows:

$$\max_{x_i} \sum_{i \in I \setminus E} \beta_i(x_i) \quad \text{s.t.} \quad \sum_{i \in I \setminus E} T(x_i) \leq X^- + T(s)$$

$$x_i \in C_i(s) \quad \forall i \in I \setminus E$$

$$x_i \neq 0 \quad \forall i \in I \setminus E \text{ such that } i = R_r \text{ for } s_r > 0$$

Here the first constraint is the number of Lots available for award in the relevant categories. The second constraint requires only compatible bids are considered for the remaining Bidders. The third constraint requires that any remaining Bidder notionally releasing Lots in the scenario s win those back.

Chapter 3

3 Clarifications

- 3.1 In line with the paragraph 5.25 of the Information Memorandum (Document 12/52), this chapter sets out ComReg's response to matters drawn to its attention, or which have otherwise come to its attention, in relation to an error or omission or lack of clarity in Document 12/52.
- 3.2 In total 12 matters are considered and ComReg's clarification on each matter is set out in numerical order below.

3.1 Clarification 1

Matter: Did ComReg intend to include the disclaimer on page 2 of Document 12/52 and, in particular, intend for this Document 12/52 to not:

- be a binding legal document; and/or
- set out ComReg's final or definitive position on any matter?

Clarification: The disclaimer included on page 2 of Document 12/52 (the final Information Memorandum), which is identical to the disclaimer included in Document 11/75 (the **draft** Information Memorandum), was included in the **final** Information Memorandum in error.

ComReg, therefore, confirms that Document 12/52 should be read minus the disclaimer on page 2 of that document.

3.2 Clarification 2

Matter: The word 'is' appears to be missing in footnote 29.

Clarification: ComReg confirms that the word 'is' was missing in footnote 29 of the Information Memorandum and the text should read

"For the avoidance of doubt the entitlement of a Licensee to cease the use of a terrestrial system is without prejudice to the contractual rights of parties who have entered into contracts with the Licensee."

3.3 Clarification 3

Matter: In paragraph 2.71 the phrase "without prejudice to ComReg's entitlement to recover the full amount due" is duplicated in a redundant manner.

Clarification: ComReg confirms that the phrase "without prejudice to ComReg's entitlement to recover the full amount due" has been duplicated in a redundant manner in paragraph 2.71.

Paragraph 2.71 should read

"2.71 As set out in section 3.7 of this document, where a Winning Bidder does not comply with the conditions relating to the payment of the Upfront Fee or the conditions attached to the payment of the SUF due on the first grant of a Licence, it will forfeit its Deposit, without prejudice to ComReg's entitlement to recover the full amount due in respect of all Lots associated ~~without prejudice to ComReg's entitlement to recover the full amount due in the Winning Bid as a simple contract debt.~~"

3.4 Clarification 4

Matter: Paragraph 2.111 appears to be a redundant duplication of paragraph 2.89.

Clarification: While the text of paragraph 2.111 and paragraph 2.89 of the Information Memorandum is identical, the text is not redundant as paragraph 2.89 relates to a Liberalised Use Licence and paragraph 2.111 relates to a Preparatory Licence.

3.5 Clarification 5

Matter: Paragraph 3.16 and footnote 64 refers to Table [3], should this not be Table 9?

Clarification: ComReg confirms that the text of Paragraph 3.16 and footnote 64 of the Information Memorandum should have referred to Table 9 instead of Table [3].

Paragraph 3.16 should state:

“As set out in Table 9 [3] above, this presentation is scheduled for Friday 8 June.”

Footnote 64 should state:

“Table 9 [3] sets out the timeline associated with this Award Process.”

3.6 Clarification 6

Matter: Please confirm if paragraph 3.60 is correctly worded - *“In any event, the Bidder must notify ComReg of any changes whatsoever in the conditions on which its Application is based prior to the Application Date.”* – should this not be worded *“.... after the Application date”*.

Clarification: ComReg confirms that paragraph 3.60 was intended to refer to changes after an Application is submitted. Paragraph 3.60 should therefore read:

“In any event, the Bidder must notify ComReg of any changes whatsoever in the conditions on which its Application is based ~~prior to the Application Date~~ after the date the Application is submitted.”

3.7 Clarification 7

Matter: Paragraph 3.113 appears to contain a typo when it refers to "part-Specific Lot".

Clarification: Paragraph 3.113 should have stated "Party-Specific Lot" instead of "Part-Specific Lot".

3.8 Clarification 8

Matter: The definition of "Interested Party" in Annex 1 refers respondents "to this draft Information Memorandum."

Clarification: ComReg confirms that the definition of "Interested Party" in Annex 1 of the Information Memorandum should read as follows:

Interested Party	<p>Includes, to the extent that the context requires or admits, any of the following:</p> <ul style="list-style-type: none"> • a respondent to this <u>the</u> draft Information Memorandum (<u>Document 11/75</u>); • a prospective Bidder; • an Applicant; • a Qualified Bidder; or • an agent of any of the foregoing.
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3.9 Clarification 9

Matter: In paragraph A 8.31, is it correct to assume that the word "included" in the fourth line should be replaced with the word "excluded".

Clarification: Correct – ‘included’ should be replaced by ‘excluded’ in this location.

3.10 Clarification 10

Matter: It has come to ComReg’s attention that there are errors in paragraph 4.212

Clarification: The reference to paragraph [4.193] in paragraph 4.212 of Document 12/52 should be to a reference to paragraph 4.197.

In addition, the following words in paragraph 4.212 "*only a single Winning Bidder in this spectrum band in both Time Slices*" are replaced by "*at most a single Winning Bidder (or GSM licensee retaining spectrum) in both Time Slices*"

3.11 Clarification 11

Matter: It has come to ComReg’s attention that there are errors in paragraph 3.93 (and the Application Form)

Clarification: Paragraph 3.93 (and the Application Form) should have requested:

- the submission of **four** completed **and identical** Application Forms on paper and **four identical** copies of an Ownership Structure Document on paper instead of one completed Application Form on paper and one completed Ownership Structure Document; and
- that the container(s) in which the Application Forms and Ownership Structure Documents and CD-ROM are submitted must not in any way disclose the identity of the Applicant.

3.12 Clarification 12

Matter: In relation to ComReg's provisional response to question 15, given on 22 June 2012, in which part of ComReg's answer states:

"In addition, it should be noted that there may be circumstances where the option of a refund is not available. For example, where the Upfront Fee has not been paid by the Winning Bidder. Paragraph 3.149 of Document 12/52 notes such circumstances and provides that:

*3.149 If the amount of a Winning Bidder's Upfront Fee less any applicable Rebates is more than the amount of its Deposit, then the net amount of funds due must be received by ComReg in the relevant bank account as cleared funds no later than **23.59** on the date of the **Payment Deadline**. If the amount of a Winning Bidder's Upfront Fee, less any applicable Rebates is less than the amount of its Deposit, the relevant amount of its Deposit will be returned to this Winning Bidder by ComReg by the same date as the Payment Deadline (less any Deposit forfeiture imposed in accordance with the Auction Rules)."*

According to the querist it is implicit in this statement that: (i) "If the amount of a Winning Bidder's Upfront Fee less any applicable Rebates is more than the amount of its Deposit", only the "net amount of funds" subsequently received by ComReg are potentially refundable (in the event of delay); and (ii) "If the amount of a Winning Bidder's Upfront Fee, less any applicable Rebates is less than the amount of its Deposit", none of the deposit is potentially refundable (in the event of delay).

The querist is of the view that this is inconsistent with section 2.2.6 of the Information Memorandum (Refund or adjustment of Licence Fees) and the definition of "Upfront Price/Upfront Fee" contained in Annex 1 of the Information Memorandum, namely,

"The sum of the Base Price and any Additional Prices to be paid by a Winning Bidder for the spectrum assigned to it within the Award Process".

The querist asks the following in relation to the above.

Can ComReg please clarify whether this interpretation is correct?

If correct, can ComReg please clarify the justification for treating the deposit, in whole or part and "net amount of funds" subsequently received by ComReg differently?

If not correct, can ComReg please further clarify?

It has come to ComReg's attention that there are errors in paragraph 3.93 (and the Application Form)

Clarification: In relation to this matter, ComReg can confirm that paragraph 3.149 of Document 12/52 is correct.

Chapter 4

4 Table of Answers and Clarifications

4.1 To assist readers in linking ComReg's answers and clarifications to the text of Document 12/52, for each Question and clarification, Table 1 below sets out information on:

- the MBSA topic generally discussed;
- the specific section or paragraph number discussed in Document 12/52; and
- whether ComReg's answer amends or clarifies the text in Document 12/52.

Table 1. Index of Questions/Clarifications and linkage to Document 12/52

Question/ Clarification Number	MBSA Topic	Specific Reference in Document 12/52 (if appropriate)	Answer provides clarifying textual change to Document 12/52? (if appropriate)
QA	Application Stage and Qualification Stage	Section 3.3.6 and Section 3.4	No
QB	Application Stage (Application Form)	Annex 5	Yes – Annex 5 of Document 12/52 and Document 12/52a are replaced by Document 12/52aR
Q1	Winner Determination and Pricing (WDP)		No
Q2	Main Stage	Paragraph 4.95	Yes – change to paragraph 4.95
Q3	WDP	Annex 8, paragraph A8.21 – A8.24	No
Q4	Implications of Final Price Cap	Annex 9, footnote 132 (which is linked to paragraph A9.1)	Yes – change to paragraph A9.19
Q5	General (Timetable)	Chapter 3	No

Question/ Clarification Number	MBSA Topic	Specific Reference in Document 12/52 (if appropriate)	Answer provides clarifying textual change to Document 12/52? (if appropriate)
Q6	Application Stage (Application Form)	Annex 5	Yes – see answer to Question B
Q7	Application Stage (Application Form)	Annex 5	Yes – Annex 5 of Document 12/52 and Document 12/52a are replaced by Document 12/52aR
Q8	General (Technical Co- existence)		No
Q9	General (Interim GSM 900MHz Licence)		No
Q10	General (Interim GSM 1800MHz Licence)		No
Q11	The Electronic Auction System (EAS)		No
Q12	General (Records)		No
Q13	Assignment Stage (Negotiation Phase)	Section 3.6 and Section 4.5	No
Q14	Liberalised Use Licence – Terms and Conditions	Paragraph 2.67	Yes – change to paragraph 2.67
Q15	Liberalised Use Licence – Terms and Conditions	Section 2.2.6	No
Q16	Application Stage	Paragraph 3.32 and paragraph 3.29	No
Q17	Transition Phase	Paragraph 3.164	Yes – change to paragraph 3.164
Q18	Application Stage	Section 3.3	No
Q19	Application Stage (Application Form)	Annex 5 and Document 12/52a	Yes – Annex 5 of Document 12/52 and Document 12/52a are replaced by Document 12/52aR

Question/ Clarification Number	MBSA Topic	Specific Reference in Document 12/52 (if appropriate)	Answer provides clarifying textual change to Document 12/52? (if appropriate)
Q20	General (Verification of results)		No
Q21	Assignment Stage	Section 3.6 and Section 4.5	No
Q22	Main Stage (Deposit Calls)	Paragraphs 4.121 to 4.124	No
Q23	General (Publication of a revised Information Memorandum)		No
Q24	General (Confidentiality and Security)	Paragraph 1.10	No
Q25	Main Stage		No
Q26	EAS		No
Q27	EAS		No
Q28	EAS		No
Q29	EAS		No
Q30	EAS		No
Q31	Application Stage (Deposits)	Section 3.3.3	No
Q32	General (Deposits)		No
Q33	General (Confidentiality and Security)	Paragraph 1.10	No
Q34	General (Confidentiality and Security)	Paragraph 1.10	No
Q35	General (Confidentiality and Security)	Paragraph 1.10	No
Q36	Main Stage (Bidder Information)	Paragraph 4.128 to 4.130	No
Q37	Main Stage (Deposit)	Paragraph 4.189	No
Q38	Main Stage (Bidder	Paragraph 3.88	No

Question/ Clarification Number	MBSA Topic	Specific Reference in Document 12/52 (if appropriate)	Answer provides clarifying textual change to Document 12/52? (if appropriate)
	Exclusion)		
Q39	Liberalised Use Licence – Terms and Conditions Transition Phase	Section 2.2.2 Section 3.8	No
Q40	Liberalised Use Licence – Terms and Conditions Transition Phase	Section 2.2.2 Section 3.8	No
Q41	General (Interim GSM 900MHz Licence)		No
Q42	General (Interim GSM 900MHz Licence)		No
Q43	General (Interim GSM 900MHz Licence)		No
Q44	Liberalised Use Licence – Terms and Conditions	Paragraph 2.76 and footnote 50 (which is linked paragraph 2.76)	No
Q45	Transition Phase (Liquidated Damages)	Section 3.8	No
Q46	Liberalised Use Licence – Terms and Conditions	Section 2.2.2	No
Q47	WDP	Annex 8	No
Q48	General (Definition)	Annex 1	Yes – change to definition on “Relative Cap” in Annex 1
Q49	Assignment Stage	Section 3.6 and Section 4.5	No
Q50	General (Irish Language)		No
Q51	General (Disclaimer)		Yes – see Clarification 1
Q52	General (Other spectrum Bands)		No
Q53	General (Confidentiality and Security)	Paragraph 1.10	No

Question/ Clarification Number	MBSA Topic	Specific Reference in Document 12/52 (if appropriate)	Answer provides clarifying textual change to Document 12/52? (if appropriate)
Q54	Liberalised Use Licence – Terms and Conditions	Section 2.2.2, Paragraph 2.24	No
Q55	General (Extension of Liberalised Use Licence in Time Slice 1) General (Extension of GSM Licence in Time Slice 1)		No
Q56	Liberalised Use Licence – Terms and Conditions	Section 2.2.2, Paragraph 2.30	No
Q57	Application Stage	Section 3.3, Paragraph 3.44	No
Q58	Application Stage Liberalised Use Licence - Terms and Conditions	Paragraph 3.61 Paragraph 2.90	No
Q59	Application Stage Notification and Grant Stage	Section 3.3 Section 3.7	No
Q60	Application Stage	Paragraph 3.29	No
Q61	Application Stage	Paragraph 3.43	No
Q62	Liberalised Use Licence – Terms and Conditions	Paragraph 2.48	No
Q63	General (Process for obtaining clarity after the Q&A process is over)	Paragraph 3.99 Paragraph 5.25	No
Q64	Assignment Stage	Paragraph 3.119, 3.144, 4.236	No
Q65	Transition Phase	Paragraph 3.164	Yes – see answer to Question 17
Q66	General (Finalisation of the Information Memorandum and Auction Rules)	Footnote 91 (which is linked to paragraph 4.57)	No

Question/ Clarification Number	MBSA Topic	Specific Reference in Document 12/52 (if appropriate)	Answer provides clarifying textual change to Document 12/52? (if appropriate)
Q67	General (Timelines)	Paragraph 5.30	No
Q68	Main Stage	Section 4.41	Yes – change to paragraph 4.60
Q69	Main Stage	Paragraph 4.133	No
Q70	Assignment Round	Paragraph 4.218 and footnote 98 (which is linked to paragraph 4.217)	No
Q71	Assignment Stage	Paragraph 4.232	Yes – change to paragraph 4.238
Q72	General (Verification of Results)		No
Q73	Notification and Grant Stage	Paragraph 3.148	No
Q74	Application Stage (Deposit)		No
Q75	EAS and WDP software		No
Q76	General (Legal Terms and Conditions)	Chapter 5	No
Q77	Rebate Methodology	Paragraph A4.7	No
Q78	Application Stage (Application Form)	Annex 5 and Document 12/52a	No
Q79	Application Stage (Application Form)	Annex 5 and Document 12/52a	No
Q80	Application Stage (Application Form)	Annex 5 and Document 12/52a	No
Q81	Application Stage	Section 3.3.6, paragraph 3.93	No
Q82	Application Stage	Section 3.3.6, paragraph 3.94	No
Q83	WDP	Paragraph A8.31	No
C1	General (Disclaimer)		Yes – Disclaimer removed

Question/ Clarification Number	MBSA Topic	Specific Reference in Document 12/52 (if appropriate)	Answer provides clarifying textual change to Document 12/52? (if appropriate)
			from Document 12/52
C2	Liberalised Use Licence – Terms and Conditions	Footnote 29, which is paragraph 2.41	Yes – change to footnote 29
C3	Liberalised Use Licence – Terms and Conditions	Paragraph 2.71	Yes – change to paragraph 2.71
C4	Liberalised Use Licence – Terms and Conditions Preparatory Licence – Terms and Conditions	Paragraph 2.89 Paragraph 2.111	No
C5	General (Timelines)	Paragraph 3.16 and footnote 64 (which is linked to paragraph 3.15)	Yes – changes to paragraph 3.16 and footnote 64.
C6	Application Stage	Paragraph 3.60	Yes – change to paragraph 3.60
C7	Main stage	Paragraph 3.113	Yes – change to paragraph 3.113
C8	General (Definition)	Annex 1	Yes – change to definition of “Interested Party” in Annex 1.
C9	WDP	Paragraph A8.31	Yes – change to paragraph A8.31
C10	Assignment Stage	Paragraph 4.212	Yes – change to paragraph 4.212
C11	Application Form	Paragraph 3.93	Yes – change to paragraph 4.212 and Application Form
C12	Liberalised Use Licence – Terms and Conditions	Paragraph 3.149	No