



Commission for
Communications Regulation

Response to Consultation

New Licensing Scheme for Provision of Business Radio Services to Third Parties

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1 Foreword

This document is the Commission's response to the recent consultation on a new licensing scheme for Third Party Business Radio (TPBR). TPBR is a new, flexible type of licence that enables licensees to provide a wide range of business radio services anywhere in the country. In addition to using the licence to deliver radio services, licensees may also permit other parties to use the licensed frequency on the condition that the original licensee remains responsible for compliance with the licence. Licences may also be transferred to other parties on a commercial basis, enabling licensees to recoup some, or all, of the licence fee if a frequency is no longer required.

Having received broadly favourable responses to the consultation and a number of expressions of interest in applying for TPBR licence, we now intend to proceed with the introduction of the scheme as outlined in the consultation and will be sending application forms to those who expressed interest as soon as the Regulations have been passed into law. The number of frequencies to be licensed at this stage will be limited to two per applicant in each of the three available frequency bands, as proposed in the consultation. This reflects the limited availability of spectrum for this scheme.

The new scheme provides the business radio community with new opportunities for business expansion and diversification, leading to more effective use of radio spectrum resources. The initiative is part of the Commission's ongoing objective to ensure optimal use of spectrum resources, by introducing greater flexibility where possible whilst maintaining efficient licence administration and an effective approach to interference prevention.

2 Introduction

This document is ComReg's response to the consultation and request for expressions of interest in a proposed new licensing scheme for provision of Business Radio Services to Third Parties (document 05/45). The proposed scheme is intended to provide licensees with the flexibility to provide a wide range of business radio services to third parties anywhere in the country, subject to compliance with the licence conditions. The Commission is grateful for the responses received to the consultation, which were broadly supportive of the proposed new scheme. The Commission intends to proceed with the introduction of the scheme as soon as the Regulations are passed into law.

3 List of Respondents

In response to this consultation, ComReg received four submissions to the consultation and seven Expressions of Interest. The list of respondents is as follows:

Respondent

Ansacom

BP Multipage Ltd

Cellcom Ireland Ltd

ESB

Kestrel Communications Ltd

Mobile Radio Links Ltd

Mongey Communications

Radio and Security Products Ltd

Vodafone

The details of the submissions can be found in Document ComReg 05/74s. The details of the Expressions of Interest have not been published.

4 Consultation Issues

4.1 Procedure for Granting Third Party Business Radio (TPBR) licences

4.1.1 Views of Respondents

Three of the four respondents were supportive of the proposed procedure, two describing the approach as fair and the other as a generally positive development. One of the applicants suggested that it may be appropriate to require applicants to prove their tax clearance status, in view of the potential under the scheme to acquire a licence that could potentially be traded at a profit.

One respondent expressed a number of concerns about the implications of the scheme for existing business radio licensees. In particular, there was a concern that ComReg should ensure that sufficient channels remain available for allocation under existing regulations and that current users of business radio spectrum should not be compelled to replace existing licences with TPBR licences. This respondent sought confirmation that the proposed TPBR channels are based on 12.5 kHz spacing and that duplex pairings would be consistent with existing channel plans.

4.1.2 Commission's Position

The Commission welcomes the broad support expressed for the new scheme and intends to proceed with the licensing process. In relation to the tax clearance certificates, the onus is on the licensee to ensure that he complies with all legal obligations. The concerns about existing business radio licensees are noted and the Commission confirms that there are no plans to change the status of existing licences or to mandate any transition to the new scheme. The commission can also confirm that the proposed channels are based on 12.5 kHz spacing and that duplex pairings would be consistent with existing channel plans.

4.2 Proposal to limit the number of TPBR licences to between 10 and 30

4.2.1 Views of Respondents

There were no objections to this proposal and although one respondent commented that ideally no limit was preferred, this respondent acknowledged that this was impractical and agreed with the proposal. Another respondent commented that the scheme should be limited to established two-way radio dealers rather than larger utilities or retail outlets in order to achieve optimal use of channels

4.2.2 Commission's Position

In general, the Commission's preference is not to place limits on the number of licences that can be issued unless this is necessary for spectrum management reasons. In this case, only a limited number of channels are available for national use and it is therefore necessary to apply the limit as proposed in the consultation. In relation to who can apply for a licence under this scheme, the scheme is open to all those who would like to provide business radio services to third parties.

4.3 Proposal to limit the number of channels directly licensed under the scheme to six per licensee (two per frequency band)

4.3.1 Views of Respondents

Some concerns were expressed about the proposed limitation on the number of channels. One respondent was concerned that existing Community Repeater licensees with more than two channels per band would still have to renew old licenses under the old method, which would remove the benefit from the new scheme. Typically such users may require more than two channels in one band but less than two in the others.

Another respondent sought assurances that frequencies licensed under the scheme would be preserved for the provision of narrow band services if the proposed limit was exceeded as a result of trading. A third respondent said they understood the reasoning behind the proposed limit and band allocation.

4.3.2 Commission's Position

The Commission acknowledges that some licensees may have a requirement over time for channels beyond the initial two per frequency band. The Commission believes that the provision for licensees to trade licences will enable licensees with interests in particular bands to acquire further frequencies from other licensees. In view of the limited number of channels available for national use, the Commission intends to retain these limits for the time being, but may review the level of demand for frequencies over the next twelve months, to see if there is scope for any relaxation of the limit. Regarding concerns about bandwidth, constraints imposed by the availability of national channels mean that few if any of the channels licensed under the scheme will be contiguous.

4.4 Proposed fees for the new scheme

4.4.1 Views of Respondents

Some concerns were expressed about the proposed fees. One respondent thought the fees were fair but that the requirement to pay the full five year fee up front could be difficult, given the declining market for Community Repeater services it may be necessary to explore a phased payment scheme. A phased payment scheme was therefore preferred. A second respondent shared these concerns and also felt the proposed level of the fee was high. This respondent suggested a similar approach to the existing Community Repeater fee, whereby this is reduced in the first year of operation, should be adopted.

One respondent requested clarification of whether the proposed licence fee of €5,000 (per frequency channel) is independent of the number of radio base station (i.e. transmitter) sites.

4.4.2 Commission's Position

The proposed requirement for advance payment of the first five years' licence fee reflects the tradable nature of the licence. This provides an opportunity to recoup some or all of the licence fee should a licensee no longer require a licence. The fee relates to national use of the licensed frequency and is independent of the number of base stations. This provides substantial opportunities for business expansion over

the duration of the licence for the same annual fee that applies to existing community repeater licences that relate to single base stations. The Commission considers that the requirement for advance payment is appropriate when these provisions are taken into account and therefore intends to proceed with the fee structure as proposed in the consultation.

4.5 Transfer of licences under the scheme

4.5.1 Views of Respondents

Two of the three respondents who expressed a view were strongly in favour of the proposal relating to licence transfer, although one cautioned that the benefits may be constrained if there are a limited number of participants in the scheme. A third respondent had expressed support for spectrum trading and liberalisation in other recent consultations but had concerns that the introduction of these facilities should be done in such a way as to avoid discriminatory treatment of spectrum users.

4.5.2 Commission's Position

The Commission welcomes the support for the transferability element of the scheme and intends to proceed with the scheme as described in the consultation. The Commission will be consulting more widely on spectrum liberalisation options in due course.

4.6 Proposal to allow third party use of TPBR spectrum

4.6.1 Views of Respondents

The two respondents who commented on this proposal were in favour, although one felt that interference problems might arise if a channel were to be used by two separate customers in the same region.

4.6.2 Commission's Position

As noted in the consultation document, where a licensed frequency is made available commercially to third parties, responsibility for compliance with the licence conditions remains entirely with the licensee. Hence the resolution of any interference issues, whether between the licensee and a third party user or between any other affected parties, would be the responsibility of the licensee in the same

way as for existing business radio licences. In view of the generally favourable responses received, the Commission intends to proceed with this proposal as outlined in section 5.1 of the consultation document.

4.7 Other Issues Raised

4.7.1 Issues raised

One respondent raised a number of concerns in relation to existing Business Radio Licences. The first concern related to the licence duration and the proposal under the new scheme that licences have tenure of 5 years. The concern was that existing licensees might be compelled to replace their licences in these bands with TPBR licences and in doing so to relinquish frequencies for trading purposes after the 5 year tenure had expired.

The second concern related to whether there would be any constraint over where transmitters could be located under the new scheme and the technical characteristics, in order to ensure compliance with licence conditions and avoid interference to existing systems.

4.7.2 Commission's Position

The proposed new scheme is intended to add to the diversity of licences available to the business radio community and is not intended to replace any existing licensing arrangement. The Commission has no intention to amend the conditions of existing business radio licences or to require any relinquishing of existing business radio licences as a consequence of the introduction of the new scheme. Whilst there will be no ex-ante constraint imposed by the Commission on the location of transmitters, except where dictated by international co-ordination issues, licensees will nevertheless be responsible for avoiding harmful interference to other licensees and will be subject to enforcement action in the event of such interference arising. In this respect, licensees under the scheme will be subject to the same requirements with regard to interference avoidance as other business radio licensees.

As noted in the consultation document, licensees will also be required to adhere to the guidelines in ETSI Technical Report ETR 053, "Radio Site Engineering for Radio Equipment and Systems in the Mobile Service", to minimise the risk of interference between co-sited radio systems.

5 Next Steps

Having considered the broadly favourable nature of the responses, ComReg now intends to proceed with the introduction of the National Third Party Business Radio scheme as described in the consultation document. Once the Legal Regulations are in place, an application form will be sent to all those who submitted expressions of interest, who will then have four weeks to submit their applications. Applications will be subject to the limits on the number of frequencies (six in total and two per frequency band) that were specified in the consultation document ComReg 05/45. These limits may be reviewed in the first twelve months of the scheme in light of the level of demand for frequencies. In the meantime, applicants are reminded that these limits do not apply to frequencies that are acquired as a result of licence transfers from other licensees. As proposed in the consultation, to ensure that frequencies are assigned on a transparent and equitable basis, individual channels in the initial phase will be assigned by drawing of lots within the bands requested in the applications.

After the initial licensing phase, the scheme will remain open for a period of one year for the licensing of any remaining channels, on a first come first served basis, subject to the limits specified in the consultation document ComReg 05/45, or as may be amended in the future.