



Office of the Director of
**Telecommunications
Regulation**

INFORMATION NOTICE

Proposed Amendment of FWPMA (Broadband) Licences Operating in the 24.5-26.5 GHz Frequency Band

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Introduction

The Director of Telecommunications Regulation proposes to amend Part 5 of the General Telecommunications Licences (the FWPMA licences) currently held by *eircom* ltd, Esat BT and Chorus Communication Limited. Details of the proposed amendments are set out in the Annex below and are being published in Iris Oifigiúil. Interested parties have 21 days to make representations in relation to the proposals - contact details are given at the end of this note. The Director will make a final decision following a review of the comments received. This note gives details in respect of the broadband licences: a further note will be issued shortly on the narrowband licences.

Background

In mid 2000, *eircom* ltd (*eircom*), Chorus Communication Limited (Chorus) and Esat BT (Esat) were awarded national Fixed Wireless Point to Multipoint (FWPMA) Broadband licences to provide broadband (typically up to 8 Mb/s) services in the 24.5 – 26.5 GHz frequency band, following a licence competition held by the ODTR.

In 2001, the Director initiated what became an extended review of these FWPMA licences and of the conditions attached to these licences. Following this review it became apparent that some of the conditions in the licences were not being complied with for various reasons.

The licensees were requested to inform the Office as to the reasons why certain conditions of their licences were not being complied with.

The reasons identified included:

- technological developments in the intervening period had lead to some of the conditions in the licence becoming obsolete;
- difficulties in obtaining sites/wayleaves including delays, refusal and high charges, having regard to the technology involved;
- difficulties with operational and availability of equipment issues in respect of which no alternative solutions were offered.

Having considered the situation in detail in respect of all licensees, the guiding principles in deciding to propose changes have been determined in a proportional manner within the framework of the individual FWPMA licences and in accordance with the ODTR's strategy of ensuring the most competitive and technically viable service for the consumer. In light of the above the Director now proposes:

1. to allow for changes arising in respect of obsolescence where it is apparent that technological changes have taken place;
2. to allow for swapping of named sites and/or counties for others providing that the overall numbers of sites and/or counties covered remains the same;

3. Where non-compliance with the licence obligations occurred and the operator was unable or unwilling to supply the office with timely information on appropriate alternatives within the framework of the licence, specific sanctions are proposed as indicated.

In developing these proposals, the Director has taken into account the limited take-up to date of FWA services internationally, relative to other broadband platforms. Greater flexibility in the rollout of FWA services will enable the technology to complement more effectively alternative platforms such as DSL and cable modems, especially in areas where the latter are not available.

The intention is to provide flexibility on these niche technology licences which would not change any element which was material to the tender criteria or bid received without sanction.

1. *eircom* Ltd. (FWPMA Broadband Licence)

The Director is proposing to make the following amendments to the Second Schedule of the *eircom* General Telecommunications Licence:

- Amend Part 1 “Required Services” to remove the obligation on *eircom* to provide a Centrex service using FWPMA technology;
- Amend Condition 3, Part III “Coverage and Roll-Out Targets” to remove the obligation on *eircom* to rollout a specified number of antenna sites/sectors per year.

The Centrex service is a service whereby the PABX function is provided by the telecommunications operator at its switch. Technological developments have overtaken this service and it is no longer provided by *eircom*.

***eircom* has indicated that its coverage and service rollout commitments can be achieved by using fewer antenna sites/sectors than originally proposed. The ODTR accepts this finding and considers that an obligation on *eircom* to provide unnecessary antenna sites is unreasonable.**

2. Esat BT (FWPMA Broadband Licence)

The Director is proposing to make the following amendments to the Second Schedule of the Esat BT General Telecommunications Licence

- Amend Table 1, Condition 1, Part III “Coverage and Roll-Out Targets” to remove Tullamore, Mullingar, Naas and Ennis, and instead, include an obligation to roll-out 4 base stations in other locations in at least 3 counties.

Under the terms of the FWPMA Broadband Licences (Part III) the Director, where appropriate, may modify certain licence obligations. In this regard, Esat BT requested a modification of its licence to relocate its base stations at Mullingar, Tullamore, Naas, and also Ennis to alternative sites because of difficulties in negotiating wayleave rights, and site acquisition in Ennis. Bearing in mind that Esat BT had met the total of 23 base

stations as required in its licence, the Director now proposes that the base stations in question can be relocated to 4 other locations in at least 3 counties in line with the overall number of sites and counties in the licence. The Director is of the view that the proposed changes do not constitute a material change to the aim of the licence or of the FWPMA Broadband Licences generally.*

3. Chorus Communication Limited (FWPMA Broadband Licence)

The Director is proposing to make the following amendments to the Chorus General Telecommunications Licence in respect of FWPMA Broadband services as follows:

- to amend the General Telecommunications Licence held by Chorus by the revocation of the rights and obligations under Part 5 of that licence relating to Broadband FWPMA services

This proposal is made as a result of substantial non compliance with the obligations set out in the licence.

The current FWPMA modules of the General Telecommunications Licences are being published on the ODTR website in the licences section.

FWA Services: Future Plans

The Director is currently completing the text of regulations for a licensing regime to allow for local area FWA licensing on a first-come first-served basis. This scheme was discussed in the ODTR document 02/49 “Expanding Opportunities in the Radiocommunications Market: Response to Consultation”. This licensing regime will be open to all those who require spectrum for FWA on a first come, first served basis. This proposal was to provide for licences in the 10.5 GHz band initially. The ODTR now intends to extend this scheme to available spectrum in the 26 GHz frequency band.

This new scheme which will require the consent of the Minister for Communications, Marine and Natural Resources would be open to all operators requiring spectrum for wireless broadband services.

* *The Director has taken account of the difficulties encountered by Esat BT and the prevailing planning conditions in 2000/2001 in determining that Esat BT was not in breach of its performance targets, in accordance with the terms of the Esat BT FWPMA Licence (Second Schedule Part V) as she considers that they had taken all reasonable and timely steps to obtain all necessary approvals.*

The question of licence fees for broadband spectrum was also discussed in the consultation referred to above. Subsequently, the Director drafted regulations which have now, with the consent of the Minister for Communications, Marine and Natural Resources, amended S.I. 287 of 1999 “Wireless Telegraphy (Fixed Wireless Point to Multi-Point Access Licence) Regulations, 1999”. The amended regulations, S.I. 467 of 2002 “Wireless Telegraphy (Fixed Wireless Point To Multi-Point Access Licence)(Amendment) Regulations, 2002, will have the effect of significantly reducing the level of fees payable for spectrum use to provide FWPMA services under the current FWPMA Broadband licences.

These proposed licence amendments, together with the new regime for licensing fixed wireless access and the fee reductions, are important measures to deal with problems in the sector and provide a firm and attractive basis for moving the sector forward and providing for the delivery of broadband services on a more widespread basis.

Representations about the proposed amendments may be sent to:

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