



Commission for
Communications Regulation

26 GHz Change of use

Request from Telefónica Ireland for change of use of its 26 GHz National Point-to-Multipoint block licences.

Response to Consultation and Decision D09/12

Reference: ComReg 12/89

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland
Telephone +353 1 804 9600 Fax +353 1 804 9680 Email info@comreg.ie Web www.comreg.ie

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1 Introduction

- 1 In June this year ComReg published its Consultation and draft Decision¹ on its proposal to amend the Point-to-Multipoint (PMP) 26 GHz National Block Licence of Telefónica Ireland Limited to enable Point-to-Point (P2P) use in the frequency block 24.857 – 24.913 GHz paired with 25.865-25.921 GHz. This, essentially, would result in the existing guard band separating P2P deployments from PMP deployments being shifted from its current frequency assignment of 24.885-24.913 GHz/25.893-25.921 GHz to 24.829-24.857 GHz/25.837-25.865 GHz as shown in the bandplan in Figure 1.

Revised 26 GHz Band Plan

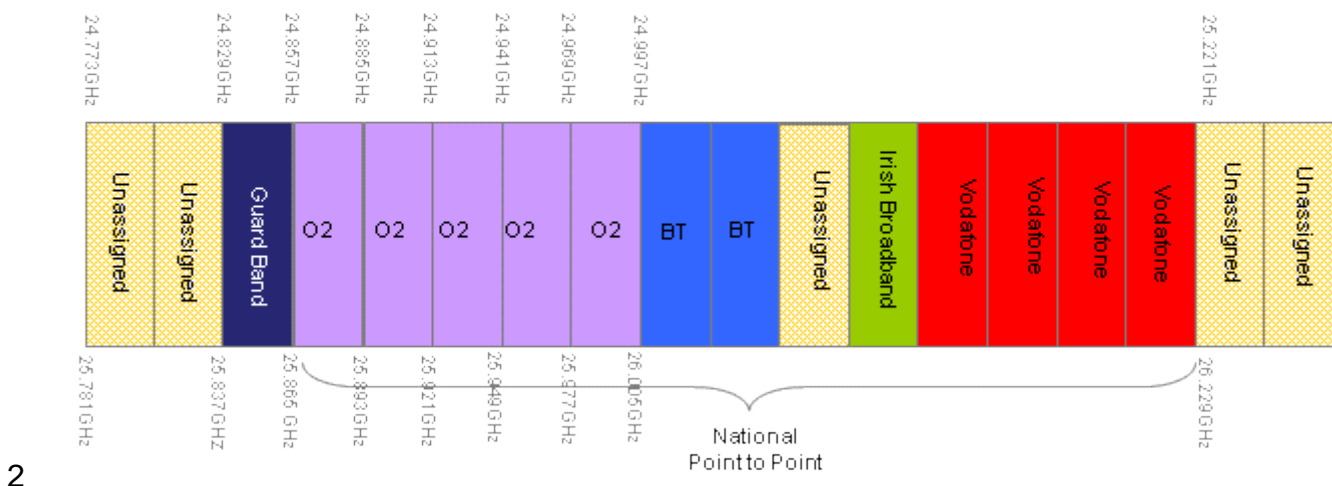


Figure 1. Revised 26 GHz bandplan

- 3 ComReg received two responses to this Consultation from Aviat Networks and Eircom Group.

¹ ComReg document 12/64 - 26 GHz Change of use

2 Discussion

- 4 As set out in Consultation 12/64 in May 2011 Telefónica Ireland submitted a formal request to ComReg seeking to convert the two channels assigned as PMP lots to P2P lots. Telefónica Ireland have not deployed any PMP links in these two lots designated for PMP.
- 5 In its Information Memorandum “The award of National Block Point to Point and Point to Multipoint Assignments in the 26 GHz band” (ComReg document 07/93R, section 3.1.4) ComReg took into account the possible future requirement of operators to change the use of its spectrum assignments as follows:

“ComReg appreciates that the demand profile of bidders may change during the licence period, leading them to require more or less P2P and PMP spectrum. In this case, licensees have the options to return underused spectrum to ComReg and/or request ComReg to allow a change of use (subject to protecting the rights of other users).”

- 6 ComReg asked the following two questions in Consultation 12/64

- Q. 1 Do you agree with ComReg's proposal to amend Telefónica Ireland 's licence for PMP spectrum blocks to provide for a change in the nature of service in the frequency block 24.913 – 24.997 GHz paired with 25.921-26.005 GHz from PMP to P2P?
- Q. 2 Are there any additional economic, legal technical or other considerations ComReg should take into account when making its decision in relation to the proposal detailed in Q1?

Note: The frequency blocks quoted in Question 1 and in the draft Decision Instrument of Consultation 12/64 were incorrect. These frequencies are in fact Telefónica Ireland's existing P2P allocation. The correct frequency range, 24.857 – 24.913 GHz paired with 25.865 – 25.921 GHz was correctly quoted in paragraph 7 of document 12/64. ComReg has corrected this error in the final Decision Instrument in Chapter 3 of this paper. It should be noted that there was no impact, either actual or potential, in respect of other users of the 26 GHz band as the only frequency assignments affected in either case were those of Telefónica Ireland.

2.1 Respondents views

- 7 Both Aviat and eircom Group supported ComReg's proposal to permit Telefónica Ireland's change of use as proposed in Consultation 12/64.

- 8 While Aviat did not provide answers to the two questions asked, eircom Group, in response to question 1 was of the view that the proposal was pragmatic and consistent with ComReg's objective to promote the efficient use of the radio spectrum.

2.2 ComReg's view

- 9 Noting the support of the two respondents, and, as set out in ComReg document 12/64 ComReg has decided to permit the change of use as requested by Telefónica Ireland. This Decision is based on the following
- this change of use will have no affect on any future assignment of 26 GHz blocks.
 - the change of use should result in a more efficient use of the spectrum blocks in question. It is clear that since the auction in 2007 the use of PMP is no longer Telefónica Ireland's preferred option in the 26 GHz band. ComReg has a statutory objective to "*ensure that radio frequencies are efficiently and effectively used.*"²
 - it is in line with a technology neutral stance. ComReg is obliged to "*take the utmost account of the desirability of technological neutrality.*"³ .
 - As shown in Figure 1 above no other licensee's spectrum will be affected by Telefónica Ireland changing its PMP spectrum blocks to P2P.
 - The licence fee for PMP and P2P spectrum blocks is the same and therefore it will have no impact on the annual licence fee payable by Telefónica Ireland.
- 10 Chapter 3 sets out the final Decision Instrument (D09/12) on this matter.

² Regulation 9(11) of the European Communities (Electronic Communications Networks and Services (Authorisation) Regulations 2011. See also s.12(1)(b) of the Communications Regulation Acts 2002 to 2011 and Regulation 17(1) of the European Communities (Electronic Communications Networks and Services)(Framework) Regulations 2011

³ Pursuant to Regulation 16(1) of the European Communities (Electronic Communications Networks and Services)(Framework) Regulations 2011

3 Final Decision Instrument D09/12

1 Statutory and Legal Powers

1.1 This decision is made by the Commission for Communications Regulation ("ComReg"):

- Pursuant to Regulation 10 of the Wireless Telegraphy (National Point-to-Point and Point-to-Multipoint Block Licences) Regulations 2007⁴; and
- Pursuant to Regulation 15 of the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2011⁵; and
- Pursuant to the functions and objectives of ComReg as set out in sections 10 and 12 respectively of the Communications Regulation Acts 2002 to 2011 and Regulation 16 of the European Communities (Electronic Networks and Services) (Framework) Regulations 2011⁶; and
- Having had regard to ComReg document 07/93R; and
- Having had regard to ComReg's obligations under Regulation 9 of the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2011; and
- Having, where appropriate, complied with policy directions made by the Minister for Communications, Marine and Natural Resources under Section 13 of the Communications Regulation Act 2002⁷; and
- Having, where appropriate, complied with its obligations under Regulation 17 of the European Communities (Electronic Networks and Services)(Framework) Regulations 2011; and
- Having regard to sections 5 and 6 of the Wireless Telegraphy Acts 1926 to 2009; and
- Having by way of public consultation given all interested parties the opportunity to make representations on the proposed amendment⁸ and having taken into account the view of interested parties who responded;

⁴ S.I. No.762 of 2007

⁵ S.I. No. 335 of 2011

⁶ S.I. No. 333 of 2011

⁷ Dated 21 February 2003 and 26 March 2004.

⁸ Pursuant to its obligations under Regulation 12 of the European Communities (Electronic Communications Networks and Services)(Framework) Regulations 2011 and Regulation 15 of the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2011

2 Decision

2.1 ComReg hereby decides:

- To amend Telefónica Ireland Limited's licence for Point to Multi Point spectrum blocks (Wireless Telegraphy National Point-To-Multipoint Block Licence in the 26GHz Band, valid from 6 June 2006 to 5 June 2018) to provide for a change in the nature of service in the frequency block 24.857 – 24.913 GHz paired with 25.865-25.921 GHz from Point to Multi Point to Point to Point.
- In this decision, references to Point to Multi Point mean a radiocommunication system that establishes a connection between a single station located at a specified fixed point and a number of stations located at specified fixed points in the same geographical area.
- In this decision, references to Point to Point mean a radiocommunication system that establishes a connection between two end points only. These systems may be cascaded geographically, including in the form of a ring

3 Statutory powers not affected

- 3.1 If any section, clause or provision (or portion thereof) contained in this decision instrument is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, that section, clause or provision (or portion thereof) shall, to the extent required be severed from this decision instrument and rendered ineffective as far as possible without modifying the remaining section(s), clauses(s) or provision(s) (or portion thereof) of this decision instrument, and shall not in any way affect the validity or enforcement of this decision instrument.
- 3.2 Nothing in this decision shall operate to limit ComReg in the exercise of discretions or powers, or the performance of functions or duties, or the attainment of objectives under any primary or secondary legislation applicable to ComReg from time to time.

4 Effective date

- 4.1 This Decision instrument will be effective from 8th August 2012

Kevin O'Brien

COMMISSIONER

THE COMMISSION FOR COMMUNICATIONS REGULATION

4 Next Steps

- 11 ComReg will proceed to issue an amended 26 GHz national block licence to Telefónica Ireland reflecting the change of use as set out above.

Annex: 1 Consultation Responses



AVIAT NETWORKS

4 Bell Drive

Hamilton International
Technology Park

Blantyre

Glasgow

G72 0FB

Phone: +44 7740 671232

WWW.AVIATNETWORKS.COM

Reference: Submission re ComReg 12/64

Dear Ms. Sinead Devey,

Aviat Networks welcomes the opportunity to be able to contribute to the "26 GHz Change of use; Request from Telefónica Ireland for change of use of its 26 GHz National Point-to-Multipoint block licences" consultation recently issued by ComReg.

Aviat Networks is in favour of the change of use in the Telefonica Ireland allocation as described in ComReg 12/64.

Yours faithfully

A handwritten signature in black ink that reads "I.C. Marshall".

Ian Marshall
Regulatory Manager
Aviat Networks

eircom Group

Response to ComReg Consultation Paper:

26GHz Change of use

ComReg Document 12/64

13 July 2012

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The comments submitted to this consultation are those of Meteor Mobile Communications Ltd. (MMC) and eircom Ltd (eircom) collectively referred to as eircom Group.

Response to Consultation

eircom Group welcomes the opportunity to comment on ComReg's proposals.

Q. 1 Do you agree with ComReg's proposal to amend Telefónica Ireland 's licence for PMP spectrum blocks to provide for a change in the nature of service in the frequency block 24913 - 24997 paired with 25921-26005 from PMP to P2P?

ComReg's proposal is a pragmatic response consistent with its objectives to promote efficient use of the radio spectrum. As such we have no objection to the proposed course of action.

Q. 2 Are there any additional economic, legal technical or other considerations ComReg should take into account when making its decision in relation to the proposal detailed in Q1?

We do not believe so.