



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Spectrum Lease Notification

Proposed lease of spectrum rights in the 3.6 GHz band from Dense Air Limited to Imagine Communications Ireland Limited

Information Notice

Reference: ComReg 21/25

Date: 25/03/2021

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

1 Lárcheantar na nDugaí, Sráid na nGildeanna, BÁC 1, Éire, D01 E4X0.
One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0.
Teil | Tel +353 1 804 9600 Suíomh | Web www.comreg.ie

Additional Information

Document No:	21/25
Date:	25 March 2021

Content

Section	Page
1: Introduction.....	5
2: Key elements of the Lease Notification.....	7
3: Submitting comments and next steps	8
3.1 Submitting Comments.....	8
3.2 Next steps	9

Annex

Section	Page
Annex 1: Imagine/Dense Air proposed lease.....	11
Annex 2: Non-confidential version of Imagine/Dense Air proposed lease agreement	13

1: Introduction

1. In October 2017, the Commission for Communications Regulation (“ComReg”) published its response (“Document 17/82”)¹ to the public consultation (“Document 17/47”)² on its draft framework for spectrum leases in Ireland (“Spectrum Lease Framework”). ComReg also updated its spectrum transfer procedures to reflect its decisions on the Spectrum Lease Framework in the RSPP³ and 700 MHz⁴ bands (“Document 14/11R”⁵).
2. While the draft Wireless Telegraphy (Transfer of Spectrum Rights of Use) (Amendment) Regulations have yet to be made, there is no impediment to leasing applications being submitted in advance of the completion of that process.⁶
3. On 22 September 2020, ComReg formed the opinion that the lease of spectrum rights in the 3.6 GHz band to Imagine Communications Ireland Limited (“Imagine”)⁷ from Dense Air Ireland Limited (“Dense Air”) would not distort competition and determined that the lease may be put into effect for three months initially, followed by a further three-month period subject to the prior agreement by the relevant parties, and approval by ComReg.⁸
4. That lease expired on the 21 March 2021 and, on 18 March 2021, Imagine submitted to ComReg a separate further notification (the “Lease Notification”) to lease spectrum rights in the 3.6 GHz band from Dense Air (“the “Proposed Lease”).

¹ ComReg Document 17/82 – Spectrum leases in Ireland: Response to Consultation on the framework for spectrum leases in Ireland – published 12 October 2017. <https://www.comreg.ie/publication-download/spectrum-leases-ireland-response-consultation-framework-spectrum-leases-ireland>

² ComReg Document 17/47 – Consultation on Spectrum leasing in Ireland: Consultation on Spectrum leasing in Ireland – published 1 June 2017. <https://www.comreg.ie/publication-download/consultation-spectrum-leasing-ireland>

³ The EU RSPP Decision (Decision No 243/2012/EU) requires EU Member States to allow the transfer or leasing of spectrum rights of use in the 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2.6 GHz and 3.6 GHz bands (the “RSPP Bands”).

⁴ Decision (EU) 2017/899 of 17 May 2017 on the use of the 470-790 MHz frequency band in the Union requires EU Member States to allow the transfer or leasing of spectrum rights of use in the 700 MHz (694-790 MHz) band.

⁵ ComReg Document 14/11R – Spectrum Transfer and Lease Framework in Ireland: Procedures and Guidelines, and Notification Form(s) – published 12 October 2017. <https://www.comreg.ie/publication-download/framework-for-spectrum-transfers-and-spectrum-transfer-notification-form>

⁶ See, for example, the Wireless Telegraphy (3.6 GHz Band Licences) Regulations 2016 (S.I. No. 532 of 2016) at <http://www.irishstatutebook.ie/eli/2016/si/532/made/en/print#>

⁷ Imagine Communications Ireland Limited provides fixed wireless electronic communication services.

⁸ ComReg Document 20/87 – Spectrum Lease Determination: Lease of spectrum rights in the 3.6 GHz band from Dense Air Ireland Limited to Imagine Communications Ireland Limited – published 22 September 2020.

5. Having considered the Lease Notification, and in accordance with the procedures set out in Document 14/11R (and paragraphs 15-17 of same in particular), this Information Notice sets out:
 - the key elements of the Proposed Lease; and
 - the process by which interested parties may make submissions on the Proposed Lease and next steps.

2: Key elements of the Lease Notification

6. Details of the Lease Notification are set out in the **Annex** to this Information Notice but, at a high level, entail Imagine leasing 20 MHz of Dense Air's 3.6 GHz band spectrum rights at eight locations.
7. In addition, the Proposed Lease is for 6 calendar months, with the option for the lessor and/or lessee to terminate after 3 months with 20 business days' notice.
8. ComReg notes that the Lease Notification does not entail any amendments to the conditions of Dense Air's 3.6 GHz Band Liberalised Use Licence.

3: Submitting comments and next steps

3.1 Submitting Comments

9. In accordance with Document 14/11R, ComReg now invites submissions from interested parties on the Lease Notification and refers to the Chapter 3 of Document 14/11R for guidance on how ComReg will determine whether or not a proposed lease would distort competition.
10. ComReg requests that submissions be made by no later than **8 April 2021**.
11. Submissions must be provided in written form (e-mail) to marketframeworkconsult@comreg.ie, clearly marked — Submissions to ComReg Document 21/25.
12. Electronic submissions should be submitted in an unprotected format so that they may be readily included in the ComReg submissions document for electronic publication.
13. ComReg appreciates that respondents may wish to provide confidential information if their comments are to be meaningful. In order to promote openness and transparency, ComReg will publish all respondents' submissions to this notice, as well as all substantive correspondence on matters relating to this document, subject to the provisions of ComReg's guidelines on the treatment of confidential information (Document 05/24).
14. In this regard, respondents should submit views in accordance with the instructions set out below. When submitting a response to this notification that contains confidential information, respondents must choose one of the following options:
 - A. Submit both a non-confidential version and a confidential version of the response. The confidential version must have all confidential information clearly marked and highlighted in accordance with the instruction set out below. The separate non-confidential version must have actually redacted all items that were marked and highlighted in the confidential version.

OR

 - B. Submit only a confidential version and ComReg will perform the required redaction to create a non-confidential version for publication. With this option, respondents must ensure that confidential information has been marked and highlighted in accordance with the instructions set out below. Where confidential

information has not been marked as per our instructions below, then ComReg will not create the non-confidential redacted version and the respondent will have to provide the redacted non-confidential version in accordance with option A above.

15. For ComReg to perform the redactions under Option B above, respondents must mark and highlight all confidential information in their submission as follows:
 - a. Confidential information contained within a paragraph must be highlighted with a chosen particular colour,
 - b. Square brackets must be included around the confidential text (one at the start and one at the end of the relevant highlighted confidential information),
 - c. A Scissors symbol (Symbol code: Wingdings 2:38) must be included after the first square bracket.
16. For example, “Redtelecom has a market share of [~~25%~~].”

3.2 Next steps

17. ComReg will consider all submissions made in response to this notice within the specified deadline and:
 - may request further information from the notifying parties and from other sources to aid in its assessment of any submissions received;
 - may enter into discussions with the notifying parties with a view to identifying measures which would ameliorate any effects of the notified lease on competition;
 - if it forms the opinion that the proposed lease would not be likely to distort competition, will determine that the proposed lease may be put into effect and publish notice of its determination on its website on the same day as the determination is made⁹; and
 - if having considered the information provided and all submissions received, ComReg is unable on the basis of the information before it to form a view that the result of a lease will not be to distort competition, ComReg will make a

⁹ In particular, ComReg will, within 35 working days of the publication of this Information Notice, inform the notifying parties and any other undertakings or third parties who have made submissions that it has so determined. On the date of the determination, the Commission, in addition to informing the notifying parties, will publish notice of the making of the determination on its website. The Commission will publish a non-confidential version of the text of its determination on its website at the earliest possible date thereafter (and in any event, no later than two months from the date of the determination).

determination to carry out a full investigation of any such lease (i.e. to proceed to phase 2 as set out in Document 14/11R).

Annex 1: Imagine/Dense Air proposed lease

Figure 1: Relevant service areas for the proposed Imagine/Dense Air lease

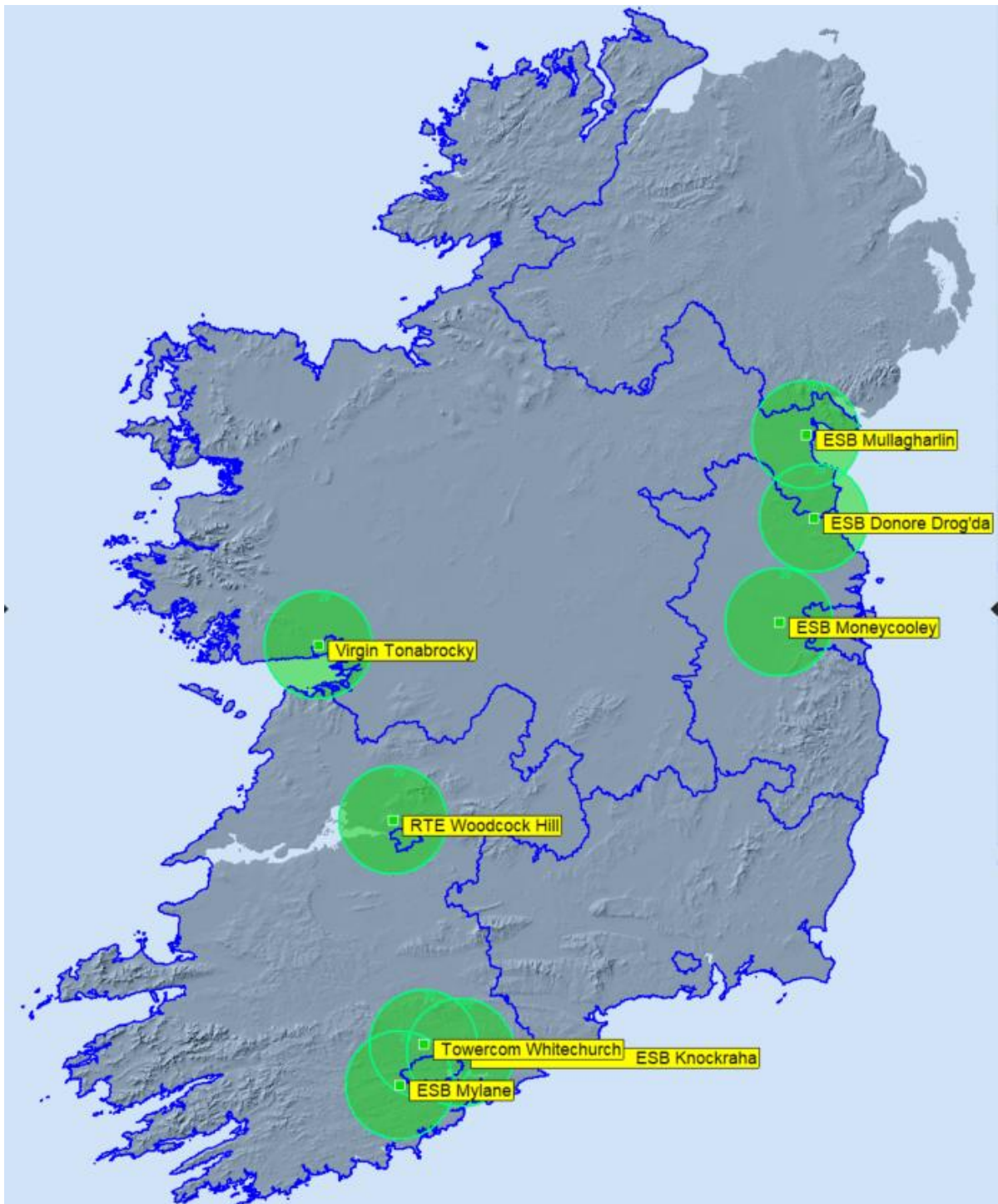


Table 1: Technical details of each service area for the proposed Imagine/Dense Air lease

Service area	Centre Point of service area		Radius (km)	Frequency Range (MHz)	Quantum of spectrum (MHz)	Maximum EIRP per Sector (dBm over 20MHz)
	Latitude	Longitude				
CE003 RTE Woodcock Hill	52.71987	-8.692214	20	3410 – 3430	20	37
GY016 Virgin Tonabrocky	53.291462	-9.111529	20	3410 – 3430	20	37
CK025 ESB Mylane	51.847624	-8.645447	20	3410 – 3430	20	37
CK048 ESB Knockraha 220kV	51.955259	-8.320372	20	3410 – 3430	20	37
CK049 Towercom Whitechurch	51.985	-8.516	20	3410 – 3430	20	37
KE014 ESB Moneycooley	53.364561	-6.579381	20	3410 – 3430	20	37
LH002 ESB Donore Drogheda	53.702137	-6.374676	20	3410 – 3430	20	37
LH003 ESB Mullagharlin	53.976287	-6.408738	20	3410 – 3430	20	37

Annex 2: Non-confidential version of Imagine/Dense Air proposed lease agreement

Lease Agreement for Short Term Use by Imagine of Part of Dense Air Ireland's 3.6GHz Band Spectrum

18th March, 2021

1	BACKGROUND AND PURPOSE	3
2	SCOPE OF AGREEMENT	3
2.1	SPECTRUM LEASE DEFINITION	3
2.2	DETAILS OF SPECTRUM TO BE LEASED	3
2.2.1	<i>The names of the notifying parties (and trading names);</i>	4
2.2.2	<i>The business activities of the undertakings involved in the transfer or lease notification.</i>	4
2.2.3	<i>Technical details of the transfer or lease notification</i>	4
3	LICENCE CONDITIONS	4
4	COMMERCIAL AGREEMENT	4
5	SIGNATURE	5

1 Background and Purpose

Further to the 3.6 GHz Band Spectrum Award (“the Award”) conducted by the Commission for Communications Regulation (“ComReg”) and the Transition by Imagine to its new 3.6 GHz Band spectrum on foot of the Award as well as measures introduced by the Irish Government in response to the declaration on 11 March 2020 by the World Health Organisation (“WHO”) that the novel coronavirus (COVID-19) could be characterised as a pandemic resulting in significant changes to the normal traffic levels and patterns of the electronic communications networks (“ECNs”) in Ireland Imagine has identified a requirement for the short term lease of part of Dense Air’s¹ 3.6GHz Band Spectrum.

The purpose of this document is to set out the terms under which the agreed part of Dense Air’s 3.6GHz Band Spectrum will be leased by Imagine.

2 Scope of Agreement

The Lessee (Imagine) and Lessor (Dense Air) are proposing that Lessee would use 3.6 GHz Band spectrum rights assigned to Lessor² for a short and defined period of time in the locations and area as identified in **Annex 1**.

2.1 Spectrum Lease Definition

The Proposed Arrangement entails the short-term use by Lessee of Lots already commenced under Lessor’s 3.6 GHz Band Liberalised Use Licence, the Proposed Arrangement is considered to be a proposed spectrum lease that is subject to the (relevant aspects) of the Spectrum Transfer and Lease Framework in Ireland (ComReg Document 14/11R) (“the Framework”), including:

1. confirmation that all requisite information and administrative fee has been provided³;
2. publication by ComReg of a notice on its web-site containing certain information⁴;
3. consideration of any responses received from third parties; and
4. a determination by ComReg.

2.2 Details of Spectrum to be Leased

To comply with the Spectrum Transfer and Lease Framework in Ireland (ComReg Document 14/11R) (“the Framework”), the following details are provided for the ComReg notice:

¹ Dense Air Ltd

² 3.6 GHz Band spectrum assigned to Lessor under its 3.6 GHz Band Liberalised Use Licence, which it has no immediate plans to use.

³ Administrative fee to be waived by ComReg (to be confirmed)

⁴ See paragraph 15 of Document 14/11R.

2.2.1 The names of the notifying parties (and trading names);

(1) **Dense Air Ireland** having its registered office at Pavilion House, 31 Fitzwilliam Square, Dublin 2; and

(2) **Imagine Communications Ireland Limited** having its registered office at Unit 5/6 Sandyford Business Centre, Blackthorn Road, Sandyford Industrial Estate, Dublin 18 ('Imagine')

2.2.2 The business activities of the undertakings involved in the transfer or lease notification.

Provision of Telecommunications services to the retail and wholesale market.

2.2.3 Technical details of the transfer or lease notification

- a. the service area, frequency range and dates set out in **Annex 1** to this document;
- b. the apparatus locations set out in **Annex 2** to this document;
- c. the service area as defined in **Annex 3** to this document;
- d. Services to be provided;
The provision of FWA services to Imagine's existing customers only within the service area identified in Annex 1 to this document; and
- e. apparatus to be used in the proposed service area;
Apparatus will be as currently licensed and operated by Imagine in its liberalised licence and TPL licences.

3 Licence Conditions

The lessor is and will continue to comply with all the licence conditions attaching to the rights of use to spectrum to be transferred following a partial transfer.

The Lessee will comply with all licence conditions attaching to the original rights of use of radio frequencies that are to be transferred.

4 Commercial Agreement

The fee to be paid by the lessee to the lessor will be agreed by the parties for the duration of the lease.

The duration of the lease will be for 6 calendar months, with the option to terminate after 3 months with 20 business days' notice.

At the end of the 6-month period the agreements will be reviewed in the context of any agreed Transition plan in place at that time and the situation regarding COVID-19 Temporary spectrum management measures.

5 Signature

	Lessor	Lessee
Signed		
Name	Graham Currier	Mike Stacey
Title	COO	Chief Technology & Innovation Officer
Company	Dense Air Ireland, Q House, Furze Road, Sandyford, Dublin 18	Imagine Communications Group Sandyford Business Centre, Dublin 18, Ireland
Date	18th March 2021	18th March 2021

ANNEX 1- Service Area, Frequency Range and Commencement/Expiry

Service Area	Frequency Range	Commencement Date	Expiry Date
Lat:52.71987 Long:-8.692214 Radius:3:320km	3410MHz - 3430MHz	22 March 2021	Commencement plus 6 months
Lat:53.29146291 Long:-9.111529648 Radius:3:320km	3410MHz - 3430MHz	22 March 2021	Commencement plus 6 months
Lat:51.847624 Long:-8.645447 Radius:3:320km	3410MHz - 3430MHz	22 March 2021	Commencement plus 6 months
Lat:51.95525918 Long:-8.320372392 Radius:3:320km	3410MHz - 3430MHz	22 March 2021	Commencement plus 6 months
Lat:51.985 Long:-8.516 Radius:3:320km	3410MHz - 3430MHz	22 March 2021	Commencement plus 6 months
Lat:53.364561 Long:-6.579381 Radius:3:320km	3410MHz - 3430MHz	22 March 2021	Commencement plus 6 months
Lat:53.70213738 Long:-6.374676522 Radius:3:320km	3410MHz - 3430MHz	22 March 2021	Commencement plus 6 months
Lat:53.976287 Long:-6.408738 Radius:3:320km	3410MHz - 3430MHz	22 March 2021	Commencement plus 6 months

Table 1: Service Area, Frequency Range and Commencement/Expiry Dates entailed by the Proposed Arrangement

ANNEX 2 – Details of Apparatus Location entailed by the Proposed Arrangement

Service Area	Site Identity	Latitude	Longitude	Maximum EIRP per Sector (dBm over 20MHz)
Lat:52.71987 Long:-8.692214 Radius:3:320km	CE003 RTE Woodcock Hill	52.71987	-8.69221	37dBm
Lat:53.29146291 Long:-9.111529648 Radius:3:320km	GY016 Virgin Tonabrocky	53.29146	-9.11153	37dBm
Lat:51.847624 Long:-8.645447 Radius:3:320km	CK025 ESB Mylane	51.84762	-8.64545	37dBm
Lat:51.95525918 Long:-8.320372392 Radius:3:320km	CK048 ESB Knockraha 220kV	51.95526	-8.32037	37dBm
Lat:51.985 Long:-8.516 Radius:3:320km	CK049 Towercom Whitechurch	51.985	-8.516	37dBm
Lat:53.364561 Long:-6.579381 Radius:3:320km	KE014 ESB Moneycooley	53.36456	-6.57938	37dBm
Lat:53.70213738 Long:-6.374676522 Radius:3:320km	LH002 ESB Donore Drogheda	53.70214	-6.37468	37dBm
Lat:53.976287 Long:-6.408738 Radius:3:320km	LH003 ESB Mullagharlin	53.97629	-6.40874	37dBm

Table 2: Details of Apparatus Location entailed by Proposed Arrangement

Centre Point	Easting	Northing	Radius (max 20 km)	Corresponding TSA(s)
CE003 RTE Woodcock Hill	-8.69221	52.71987	20km	N/A
GY016 Virgin Tonabrocky	-9.11153	53.29146	20km	N/A
CK025 ESB Mylane	-8.64545	51.84762	20km	N/A
CK048 ESB Knockraha 220kV	-8.32037	51.95526	20km	N/A
CK049 Towercom Whitechurch	-8.516	51.985	20km	N/A
KE014 ESB Moneycooley	-6.57938	53.36456	20km	N/A
LH002 ESB Donore Drogheda	-6.37468	53.70214	20km	N/A
LH003 ESB Mullagharlin	-6.40874	53.97629	20km	N/A

Table 3: Centre points of areas constituting the relevant service areas