



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Spectrum Lease Notification

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

Information Notice

Reference: ComReg 21/27

Date: 26/03/2021

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

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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 RSPB³ 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 13 October 2020, ComReg formed the view that the lease of spectrum rights in the 3.6 GHz band to Imagine Communications Ireland Limited (“Imagine”)⁷ from each of Meteor Mobile Communications Limited (“Meteor”)⁸, Three Ireland (Hutchison) Limited (trading as “3”) (“3IRL”)⁹ and Vodafone Ireland Limited (trading as “Vodafone”) (“Vodafone”)¹⁰ would not distort competition and determined that the leases 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.¹¹

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 RSPB 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 “RSPB 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 Meteor Mobile Communications Limited provides mobile ECS.

⁹ Three Ireland (Hutchison) Limited provides mobile ECS.

¹⁰ Vodafone Ireland Limited provides fixed and mobile ECS.

¹¹ ComReg Document 20/97 – Proposed leases of spectrum rights in the 3.6 GHz band from each of Meteor Mobile Communications Limited, Three Ireland (Hutchinson) Limited, and Vodafone Ireland Limited to Imagine Communications Ireland Limited – published 13 October 2020.

4. Those leases expire on 12 April 2021 and, on 25 March 2021, Imagine submitted to ComReg a separate further notification (the "Lease Notification") to lease spectrum rights in the 3.6 GHz band from Meteor ("the "Proposed Lease").
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 Meteor's 3.6 GHz band spectrum rights at six locations.
7. In addition, the Proposed Lease is for three calendar months, with the option for a further period of three calendar months subject to the prior agreement by the relevant parties.
8. ComReg notes that the Lease Notification does not entail any amendments to the conditions of Meteor'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 **9 April 2021**.
11. Submissions must be provided in written form (e-mail) to marketframeworkconsult@comreg.ie, clearly marked — Submissions to ComReg Document 21/27.
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 made¹²; 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

¹² 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/Meteor proposed lease

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

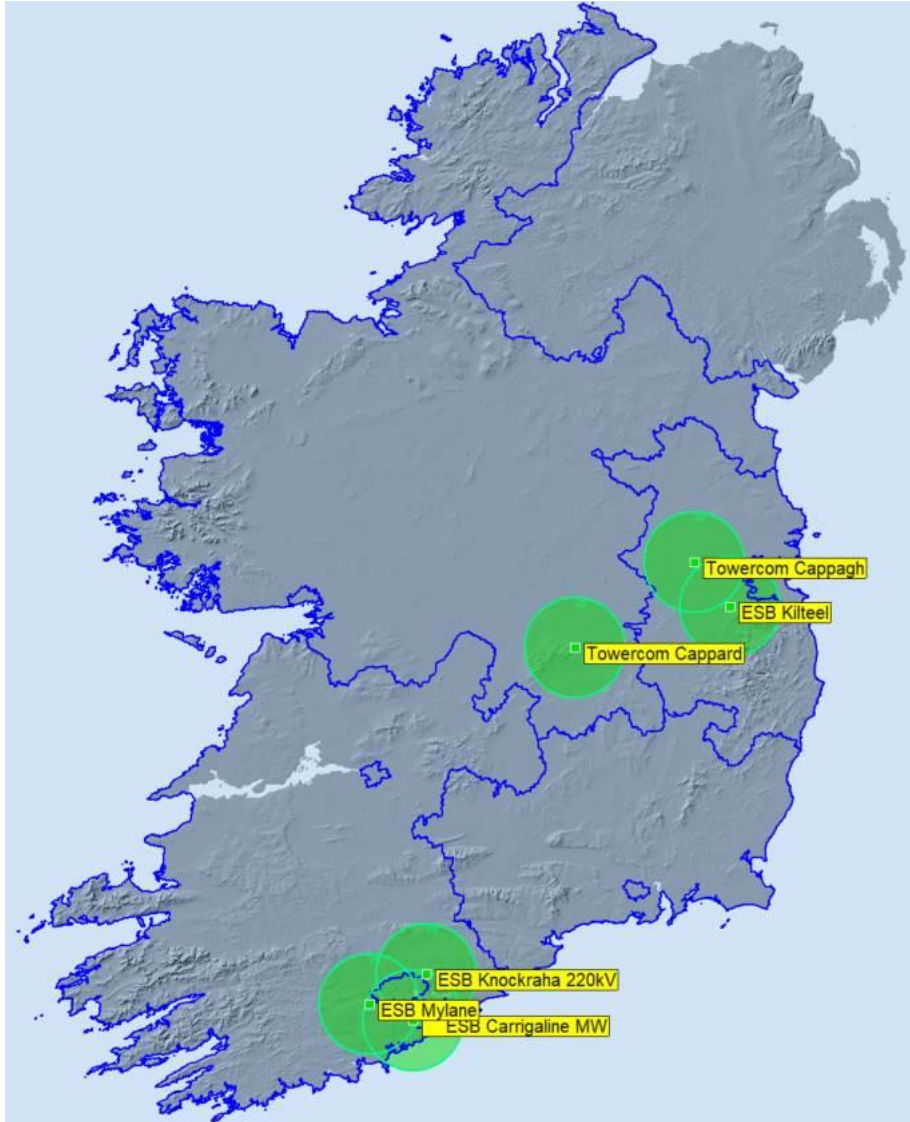


Table 1: Technical details of each service area for the proposed Imagine/Meteor lease

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				
CK024 ESB Carrigaline MW	51.79121	-8.39674	20	3620 – 3640	20	37
CK025 ESB Mylane	51.84762	-8.64545	20	3620 – 3640	20	37
CK048 ESB Knockraha 220kV	51.95526	-8.32037	20	3620 – 3640	20	37
KE008 ESB Kilteel	53.24611	-6.53918	20	3620 – 3640	20	37
LS010 Towercom Cappard	53.11053	-7.45388	20	3620 – 3640	20	37
KE022 Towercom Cappagh	53.40512	-6.74583	20	3620 – 3640	20	37

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

Dated 25th March 2021

(1) METEOR MOBILE COMMUNICATIONS LIMITED

AND

(2) IMAGINE COMMUNICATIONS IRELAND LIMITED

3.6GHz SPECTRUM SUBLICENCE

THIS LICENCE is made the 25th day of March 2021 (the **Licence Agreement**)

BETWEEN

(1) Meteor Mobile Communications Limited having its registered office at 2022 Bianconi Avenue, Citywest Business Campus, Dublin 24 D24 HX03 ('eir' which expression shall where the context so admits include its successors and assigns); 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')

1 Background and Purpose

The Commission for Communication Regulation (**ComReg**), in exercise of its powers granted to eir a licence to use 3.6GHz Band Spectrum (**eir's 3.6GHz Band Licence**).

eir does not currently use all of the spectrum allocated to it under eir's 3.6GHz Band Spectrum and further to the 3.6 GHz Band Spectrum Award (the **Award**) conducted by ComReg in 2017. In light of 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, eir and Imagine have agreed a short term sub licence of some of the unused part of eir's 3.6GHz Band Spectrum to Imagine.

2 Scope of this Licence Agreement

The purpose of this Licence Agreement is to set out the terms under which the agreed part of eir's 3.6GHz Band Spectrum will be sub licensed to Imagine for a short and defined period of time in the frequencies, locations and area as identified in Annex 1 to this Licence Agreement (**Annex 1**).

In consideration of the agreement by Imagine to comply with the terms and conditions of this Licence Agreement hereinafter contained eir **HEREBY GRANTS** to Imagine a right for the period of three (3) calendar months from the 25th March 2021 (the **Licence Period**) **TO USE** that part of eir's 3.6 GHz Band Spectrum in the service areas and at the frequency ranges identified in Annex 1 hereto and the Apparatus Locations set out in Annex 2 (the **Licensed Spectrum**) **AND** Imagine hereby agrees to be bound by and observe the terms and conditions of this Licence Agreement hereinafter contained. The parties acknowledge that the grant of Licence is conditional on ComReg granting its consent to such Licence under the Spectrum Transfer and Lease Framework in Ireland (ComReg Document 14/11R) the '**Framework**').

Terms and Conditions

1. Imagine shall pay a licence fee of €100 plus VAT (the **Licence Fee**) to eir for the use of Licensed Spectrum. This Licence Fee is in line with the nominal fee proposed by ComReg for Temporary ECS Licences. Payment falls due upon execution of this agreement and shall be made to:

Account short name:

BIC:

IBAN:

2. If Imagine shall fail to pay any sum made payable herein within seven (7) days of the day herein prescribed for the payment of same such unpaid sum shall bear interest from the day or days on which the same shall become due to the date of actual payment (after as well as before any judgement) at a rate per centum per month which shall equal the monthly rate of interest for the time being chargeable

under Section 1080 of the Taxes Consolidation Act 1997 (or such other monthly rate of interest as may from time to time be chargeable upon arrears of tax).

3. Imagine shall discharge any liability which may arise under any legislation or otherwise in consequence of its use of the Licensed Spectrum.
4. Imagine shall be responsible for all damage or loss created by Imagine, in or about the use by them of the Licensed Spectrum or otherwise arising as a result of any act, neglect or default on the part of Imagine, and Imagine hereby indemnifies eir in respect of all such damage or loss.
5. Imagine covenants to ensure that eir's telecommunications business will be in no way interfered with or disrupted by Imagine or any of its employees, agents or contractors.
6. eir accepts no responsibility for any loss or damage caused to Imagine arising out of Imagine's use of the Licensed Spectrum.
7. Use of the Licensed Spectrum is entirely at Imagine's own risk, no claims for damages or losses will be entertained by eir.
8. Imagine shall on its own behalf and shall ensure that its agents and contractors effect and keep in force during the term of this Licence Agreement such public liability, employers liability and any other policies of insurance as maybe necessary to cover Imagine against any claim arising under this Licence Agreement.
9. Imagine shall observe and comply with (1) the rights of the radio frequency under eir's 3.6 GHz Band Spectrum licence granted by ComReg to eir (including all terms and conditions in that licence) which are to be sub licensed to Imagine by eir and (2) all rules and regulations from time to time made by ComReg for the proper and orderly use of the Licensed Spectrum. 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.
10. eir will comply with all licence conditions of eir's 3.6 GHz Band Spectrum.
11. Imagine hereby covenants with eir that upon expiration of the Licence Period, Imagine shall no longer use the Licensed Spectrum.
12. At the end of the Licence Period eir and Imagine may agree to extend the Licensed Period for a further period of three (3) months if eir's Temporary ECS Licence is extended by ComReg. At the end of the Licensed Period or the subsequent renewal of the Licensed Period eir and Imagine will recommence the previously agreed transition plan unless other arrangements are agreed taking into account the situation regarding COVID-19 Temporary spectrum management measures.
13. Either party to this Licence Agreement may terminate this Licence Agreement on giving not less than 1 months' notice in writing to the other party in the circumstances where eir's Temporary ECS Licence is extended by ComReg for a period less than 3 months.
14. If the Licence Fee is not paid by Imagine when it falls due or if any of the other terms and conditions herein contained are not observed or performed or if Imagine goes into liquidation or permits a receiver or examiner to be appointed over its assets then and in any of the said cases and at any time thereafter it shall be lawful for eir to forthwith terminate this Licence Agreement but without prejudice to any right of action or remedy of eir in respect of any antecedent breach by Imagine of any of the within terms and conditions.
15. eir by granting this licence does not undertake that the Licensed Spectrum is or will become or will remain fit for the purpose to which Imagine puts or intends to put it.
16. Imagine covenants with eir that it will pay on the signing of this Licence Agreement the Licence Fee.

17. Imagine shall pay stamp duty (if any) on this Licence Agreement.
18. Imagine shall pay all VAT that may be exigible on any payments made or to be made by Imagine to eir under the terms of or arising out of this Licence Agreement and any VAT (if any) that may be exigible in relation to the entry in to of this Licence Agreement.
19. The address of Imagine and eir for the service of all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or post by registered post to the following addresses:

Imagine: The Secretary
Imagine Communications Ireland Limited
Unit 5/6 Sandyford Business Centre, Blackthorn Road,
Sandyford Industrial Estate,
Dublin 18

eir : The Company Secretary
Meteor Mobile Communications Limited
2022 Bianconi Avenue, Citywest Business Campus, Dublin 24 D24 HX03

20. Imagine shall be a licensee only and accordingly this Licence Agreement is not intended nor shall it operate or be deemed to operate either at law or in equity as a demise of any property the subject matter of this Licence Agreement.
21. The Licence Agreement is subject to the (relevant aspects) of the Spectrum Transfer and Lease Framework in Ireland (ComReg Document 14/11R) the **Framework**), including:
 - (a) confirmation by ComReg that all requisite information and administrative fee has been provided;
 - (b) publication by ComReg of a notice on its web-site containing certain information ;
 - (c) consideration of any responses received from third parties; and
 - (d) a determination by ComReg.

Imagine shall be responsible for the provision of all necessary information required by ComReg for the purposes of it reaching a determination under the Framework. eir shall co-operate with Imagine in providing eir related information reasonably required by Imagine for the application to ComReg.

The parties acknowledge that this Licence is conditional on ComReg granting its consent in accordance with the Framework, and that eir shall have no liability to Imagine in the event that ComReg does not approve this Licence under the Framework for any reason.

22. To comply with the Framework, the following details are required for the ComReg notice:
 - (a) The names of the notifying parties (and trading names);
 - (b) The business activities of the undertakings involved in the transfer or lease notification.
 - (c) Technical details of the transfer or lease notification;
 - (d) the service area, frequency range and dates set out in Annex 1;
 - (e) the apparatus locations set out in Annex 2 to this Licence Agreement;
 - (f) the service area as defined in Annex 3 to this Licence Agreement;

(g) Services to be provided;

The provision of FWA services to Imagine's existing customers only within the service area identified in Annex 1; and

(h) 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.

23. For the avoidance of doubt this Licence Agreement hereby granted shall be personal to Imagine and shall not be assignable.
24. Save in respect of its own acts or omissions eir shall not be liable for the death of any person or injury to or for damage to any property of or for any losses or claims or demands or actions or proceedings or damages or costs or expenses or other liability incurred by Imagine or any person whatsoever in the exercise or the purported exercise of the rights granted by this Licence Agreement.
25. Save in respect of eir's acts or omissions Imagine acknowledges that use of the Licensed Spectrum is at Imagine's sole and own risk as regards injuries to person and/or loss or damage to property and that eir and any of its agents or servants shall not have any liability to Imagine in this regard.
26. All sums payable by Imagine under this Licence Agreement shall be paid without any deduction or set-off or counterclaim.
27. eir shall not be liable to Imagine for any failure to perform any of its obligations under this Licence Agreement (including making the Licensed Spectrum available for use by Imagine during the Licence Period where such failure is as a result of causes or circumstances beyond the control of eir including but not limited to acts of God and/or actions or inactions of any governmental or statutory authority and/or fires and/or floods and/or civil unrest or wars.
28. Each party shall be responsible for its own legal costs and expenses in or about the negotiation and preparation of this Licence Agreement.
29. If any provision of this Licence Agreement is prohibited or unenforceable in any jurisdiction then such prohibition or unenforceability shall not invalidate the remaining provisions hereof or affect the validity or enforceability of such provisions in any other jurisdiction.
30. Except as provided at law or equity or elsewhere in this Licence Agreement none of the provisions of this Licence Agreement shall be varied or waived or discharged or released except with the prior written consent of the parties.
31. This Licence Agreement constitutes the whole agreement and entire understanding between the parties and supersedes and replaces any previous agreements or arrangements or understandings between the parties relating to its subject matter.
32. No waiver by any party of any of the requirements of this Licence Agreement shall have effect unless given in writing and signed by or on behalf of the party giving the waiver and no delay by any party in exercising any of its rights under this Licence Agreement shall impair the same.
33. This Licence Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Licence Agreement.
34. Neither party shall be liable to the other for any delay or failure to perform its obligations hereunder as a result of force majeure. For the avoidance of any doubt, no claim of force majeure shall entitle Imagine to continue use of the Licensed Spectrum beyond the Licensed Period agreed with eir.

35. This Licence Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Ireland.

IN WITNESS whereof the parties have entered into this Licence Agreement on the date specified above.

Signed		
Name	William McCoubrey	Mike Stacey
Title	Head of Regulatory Strategy	Chief Technology & Innovation Officer
Company	Meteor Mobile Communications Limited	Imagine Communications Group Sandyford Business Centre, Dublin 18, Ireland
Date	25/03/21	25/03/21

ANNEX 1- Service Area, Frequency Range and Commencement/Expiry Dates entailed by the Licence Agreement

Service Area	Frequency Range	Commencement Date	Expiry Date
Lat: 51.79121 Long: -8.39674 Radius: 20km	3620MHz - 3640MHz	13/04/2021	Subject to Clause 12 to 14, Commencement plus 3 months
Lat: 51.847624 Long: -8.645447 Radius: 20km	3620MHz - 3640MHz	13/04/2021	Subject to Clause 12 to 14, Commencement plus 3 months
Lat: 51.95525918 Long: -8.320372392 Radius: 20km	3620MHz - 3640MHz	13/04/2021	Subject to Clause 12 to 14, Commencement plus 3 months
Lat: 53.246111 Long: -6.539177 Radius: 20km	3620MHz - 3640MHz	13/04/2021	Subject to Clause 12 to 14, Commencement plus 3 months
Lat: 53.11052944 Long: -7.453881535 Radius: 20km	3620MHz - 3640MHz	13/04/2021	Subject to Clause 12 to 14, Commencement plus 3 months
Lat: 53.40511697 Long: -6.745834838 Radius: 20km	3620MHz - 3640MHz	13/04/2021	Subject to Clause 12 to 14, Commencement plus 3 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 Licence Agreement

Service Area	Site Identity	Latitude	Longitude	Maximum EIRP per Sector (dBm over 20MHz)
Lat: 51.79121 Long: -8.39674 Radius: 20km	CK024 ESB Carrigaline MW	51.79121	-8.39674	37dBm
Lat: 51.847624 Long: -8.645447 Radius: 20km	CK025 ESB Mylane	51.84762	-8.64545	37dBm
Lat: 51.95525918 Long: -8.320372392 Radius: 20km	CK048 ESB Knockraha 220kV	51.95526	-8.32037	37dBm
Lat: 53.246111 Long: -6.539177 Radius: 20km	KE008 ESB Killeel	53.24611	-6.53918	37dBm
Lat: 53.11052944 Long: -7.453881535 Radius: 20km	LS010 Towercom Cappard	53.11053	-7.45388	37dBm
Lat: 53.40511697 Long: -6.745834838 Radius: 20km	KE022 Towercom Cappagh	53.40512	-6.74583	37dBm

Table 2: Details of Apparatus Location entailed by Licence Agreement

ANNEX 3 – Details of Service Areas entailed by Licence Agreement

Centre Point	Easting	Northing	Radius (max 20 km)	Corresponding TSA(s)
CK024 ESB Carrigaline MW	-8.39674	51.79121	20km	N/A
CK025 ESB Mylane	-8.64545	51.84762	20km	N/A
CK048 ESB Knockraha 220kV	-8.32037	51.95526	20km	N/A
KE008 ESB Killeel	-6.53918	53.24611	20km	N/A
LS010 Towercom Cappard	-7.45388	53.11053	20km	N/A
KE022 Towercom Cappagh	-6.74583	53.40512	20km	N/A

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