



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Spectrum Transfer and Lease Framework

Draft Procedures including Guidelines and Notification Form

Draft Procedures, Guidelines and Notification Form

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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Chapter 1

1 Introduction

- 1.1 The Commission for Communications Regulation's ("ComReg") framework for the Transfer or Lease of Individual Rights of Use for radio spectrum for electronic communications networks (ECN) and services (ECS) in Ireland is established in the [Draft] Wireless Telegraphy (Transfer and Lease of individual rights of Use for radio spectrum for the provision of electronic communications networks and services) Regulations 2024¹ (Statutory Instrument No. ___ of 2024) (the "Regulations").
- 1.2 This document sets out:
- the procedures and guidelines that ComReg typically expects to follow in facilitating and considering a proposed Transfer or Lease of Individual Rights of Use ("Procedures") and ("Guidelines"); and
 - the Notification Form which must be submitted to ComReg as part of a Notification of a Transfer or Lease.
- 1.3 Together with the enabling provisions in the relevant Wireless Telegraphy Act licensing regulations, the Regulations, the European Union (Electronic Communication Code) Regulations 2022 ("EECC Regulations 2022") and these Procedures and Guidelines set out ComReg's Spectrum Transfer and Lease Framework ("Transfer and Lease Framework").
- 1.4 As set out in the Regulations,
- a "Transfer" means: "the assignment by a Licensee (the "Transferor") of some or all of the Individual Rights of Use for radio frequencies granted under a Licence to another party (the "Transferee") where the Transferor must divest itself of all rights of use transferred" (Regulation 2 of the Regulations); and
 - a "Lease" means: "the assignment by a Licensee (the "Lessor") of some or all of the Individual Rights of Use for radio frequencies granted under a Licence to another party (the "Lessee"), where the Lessor remains responsible for all the Licence Conditions including the payment of fees and the Lessee is responsible for the Technical Conditions" (Regulation 2 of the Regulations); where:

¹ All subsequent references to Regulations in this document refers to the draft Regulations contained in Annex 5 of Document 24/59.

- iii. “Technical Conditions” means “those Licence Conditions that are of a technical nature which relate to how a Licensee must keep, have possession of, install, maintain, work and use apparatus for wireless telegraphy” (Regulation 2 of the Regulations)
- 1.5 Unless the context otherwise specifies, defined terms have the meaning ascribed to them in the Regulations.
- 1.6 Chapter 2 of this document contains the Procedures specified by ComReg pursuant to Regulation 3(5) of the Regulations.
- 1.7 The Procedures describe how Undertakings are obliged to notify ComReg of their intention to Transfer or Lease, or both, Individual Rights of Use for radio frequencies, and then sets out the steps that ComReg will undertake to process the Notification.
- 1.8 Chapter 3 offers guidance on how ComReg would determine whether a Transfer or Lease, would be likely to distort competition. These Guidelines reflect ComReg’s current proposed approach to its analysis of whether there would be a likely distortion of competition and aims to provide an enhanced level of predictability and certainty to Notifying Parties, their advisers, the business community and the public. However, it will be appreciated that it is not possible for the Guidelines to predict every issue or circumstance that may arise in a review of a Notification.
- 1.9 In practice, individual Notifications involve a great variety of facts and situations, and the analysis of particular issues will need to reflect the specific circumstances or perhaps address very particular competition issues. Therefore, these Guidelines should be interpreted in a flexible manner, and ComReg reserves the right to deviate from the Guidelines if it would be appropriate to do so in light of the specific circumstances of any particular case.
- 1.10 In accordance with Regulation 3(5) of the Regulations, Annex 1 sets out the Notification Form which must be submitted to ComReg as part of a Notification of a proposed Transfer or Lease. ComReg will make an editable² pdf version available on its website to facilitate same.
- 1.11 ComReg may update the Procedures, Guidelines and Notification Form from time to time and, except in minor cases, following public consultation as appropriate.

² This is to allow the Notifying Parties to electronically input information of their proposed Transfer or Lease on the Notification Form.

- 1.12 The Transfer and Lease Framework shall not apply to any Transfer that forms part of a merger or acquisition which is notified or required to be notified to the Competition and Consumer Protection Commission (CCPC) or to the European Commission (EC). ComReg must be informed of any relevant merger or acquisition at the same time it is notified to the Competition and Consumer Protection Commission (CCPC) or the European Commission (EC), as appropriate.

Chapter 2

2 Spectrum Transfer and Lease Procedures

2.1 ComReg’s Spectrum Transfer and Lease Procedures are set out in this chapter which is structured using the following five sections:

- Initial queries and Notifications (Section 2.1)
- Preliminary checks to determine whether a Phase 1 Assessment can commence (Section 2.2)
- Phase 1 Assessment (Section 2.3)
- Phase 2 Assessment / Full investigation (Section 2.4)
- Phase 2 Final Determination (Section 2.5)

2.2 An overview of the whole process from initial queries to Phase 2 final determination is illustrated in Figure 1 below.

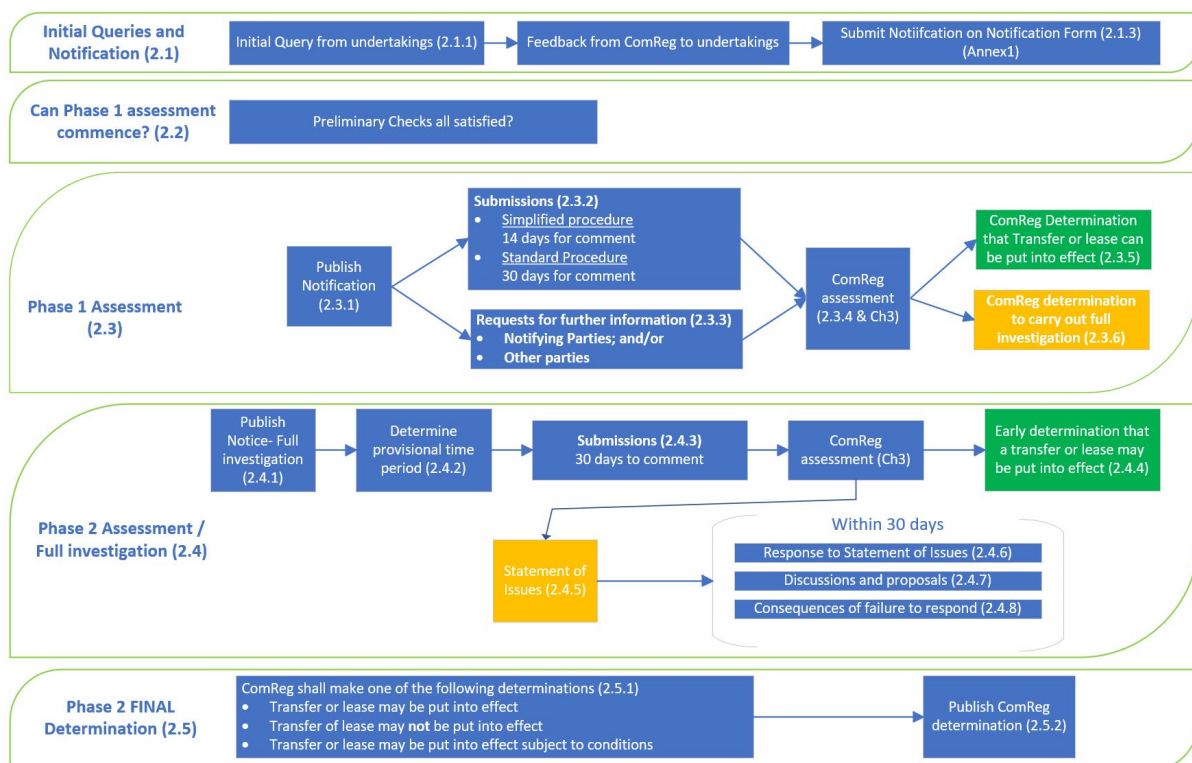


Figure 1: Overview of the Transfer and Lease Procedures

2.1 Initial queries and Notifications

2.1.1 Initial queries

- 2.3 Prior to making any Notification of a proposed Transfer or Lease, the parties thereto are strongly encouraged to contact ComReg setting out informally the nature of the proposed Transfer or Lease prior to submitting the formal Notification.
- 2.4 This would enable, among other things:
- an initial check to consider whether the proposed Transfer or Lease is one to which the Regulations apply;
 - clarification on any relevant licensing considerations that would apply to the proposed Transfer or Lease;
 - initial feedback on the procedures that would likely apply (simplified or standard procedure see Section 2.1.3); and
 - guidance on any additional material that should be provided as part of the Notification.
- 2.5 Where ComReg considers that the proposal is not one to which the Regulations apply, it will so inform the interested parties as part of the initial query.
- 2.6 ComReg aims to consider any initial queries promptly. To facilitate a more efficient Notification (if necessary) parties should await feedback from ComReg on initial queries before submitting a Notification.

2.1.2 Contact details for submitting queries and for notifying ComReg

- 2.7 All Notifications and queries relating to any proposed Transfer or Lease of Individual Rights of Use must be submitted by e-mail to ComReg as detailed below:

Reference: Proposed Spectrum Transfer / Lease

email: licensing@comreg.ie

2.1.3 Notification

- 2.8 In accordance with Regulation 4 of the Regulations, Notifying Parties intending to Transfer or Lease Individual Rights of Use must submit a Notification to ComReg. All Notifications must be submitted using the Notification Form in Annex 1. To facilitate same, an editable version of the Notification Form will be made available on ComReg's website in pdf format.

- 2.9 Part 1 of the Notification Form is to be completed for all Notifications, while Part 2 of the Notification Form is only required to be completed in cases where the Notification is to be assessed using the Standard Procedure.
- 2.10 There are two procedures that ComReg will use depending on the particulars of the proposed Transfer or Lease:
- **Standard Procedure:** this is expected to be used for licence types where the risk of a distortion of competition would likely not be considered low; and,
 - **Simplified Procedure:** this is expected to be used for licence types where the risk of a distortion of competition would likely be considered low.
- 2.11 For the current ECN/ECS licence types, Table 1 below identifies the licence types where ComReg would expect the Standard Procedure or the Simplified Procedure to apply, and for completeness, also identifies the ECN/ECS licence types to which the Transfer and Lease Framework does not apply at all.³
- 2.12 Depending on the details of any proposed Transfer or Lease, ComReg may, at its discretion, prior to publishing the relevant details of a Notification on its website, form the view that the Standard Procedure will apply to this Notification. Should this be the case ComReg will inform the Notifying Parties of same at the earliest opportunity.

³ Going forward, and as ComReg sets out new ECN/ECS licensing frameworks ComReg aims to set out in those frameworks whether the Transfer and Lease Framework applies.

Table 1: Current ECN/ECS licence types where the Simplified or Standard Procedure would be expected to apply

Simplified Procedure	Standard Procedure	Licence types to which the Transfer and Lease Framework does <u>not</u> apply
1. 3.6 GHz Band Transition Protected 2. 400 MHz Band 3. Air Traffic Services 4. Emergency Service Digital Radio (ESDR) 5. Fixed Radio Link & Temporary Fixed Radio Link 6. Fixed Wireless Access Local Area (FWALA) 7. GSM for Railway (GSM-R) 8. Maritime Services 9. MBSA2 2.3 GHz Band Transition 10. Mobile Radio Systems (Trunked Radio)) 11. Mobile Satellite Service and Complementary Ground component (MSS with CGC) 12. Radiolocation, 13. Radionavigation 14. Satellite Earth Station (SES) 15. Telemetry (National) 16. Telemetry Regional (On-Site, Local Area and Wide Area) 17. Third Party Business Radio	18. 26 GHz Band National Point-to-Point 19. 3G Licence & 2.1 GHz Band Liberalised Use 20. 3.6 GHz Band Liberalised Use 21. 3.6 GHz Band Spectrum Lease 22. MBSA1 Liberalised Use 23. MBSA2 Liberalised Use 24. MBSA2 Spectrum Lease	25. Aircraft Station 26. Amateur Station 27. Automatic Identification System (AIS) 28. Business Radio 29. Coimisiún na Meán, 30. Community Repeater 31. RTÉ Analogue Sound Broadcasting Services, 32. RTÉ Digital Sound Broadcasting Multiplex, and 33. RTÉ Digital Terrestrial Television Broadcasting Services 34. Temporary Business Radio (including PMSE), 35. Test (Research and Development) 36. Trial (Third Party Trial) 37. Wireless Public Address System (WPAS)

2.2 Preliminary Checks: Can the Phase 1 Assessment commence?

2.13 Following receipt by ComReg, a Notification will be checked as soon as practicable to determine whether it can progress to the next stage of the process. In particular ComReg will:

- i. check that all the required information has been furnished⁴;
- ii. check to ensure that all Notifying Parties hold a General Authorisation and are Undertakings⁵;
- iii. check that it is a Transfer or Lease, or both, to which the Regulations apply. This may include considering whether the proposed Transfer or Lease has been notified to the CCPC or the EC and is subject to merger control and should be notified to the CCPC or the EC;
- iv. check that the proposed use complies with the purpose/services allowed in a particular licensing regime;
- v. check that all licence fees in respect of the particular rights of use have been paid and are up to date;
- vi. check that ComReg has not served a notice(s) in relation to the revocation or suspension of the licence(s) subject to the proposed Transfer or Lease (Regulation 15 of the EECC Regulations 2022);
- vii. check that, in the case of rights issued pursuant to an EC harmonisation decision, the proposed Transfer or Lease complies with such harmonised use (Regulation 33(9) of the EECC Regulations 2022).
- viii. check that the proposed Transfer and Lease for the following licence types is for the full licence (i.e. Transfer or Lease a licence with same apparatus / apparatus set-up as in original licence):
 - Fixed Radio Link & Temporary Radio Link Licences,
 - Satellite Earth Station (SES) Licence
 - Mobile Radio Systems (Trunked Radio) Licences
 - Air Traffic Services,

⁴ For the Standard Procedure ComReg may, at its discretion, waive the requirement for Notifying Parties to provide specific information, in particular as set out in Part 2 of the Notification Form.

⁵ See the ComReg Website [General Authorisation | Commission for Communications Regulation \(comreg.ie\)](https://www.comreg.ie)

- Maritime Services,
 - Radiolocation, and
 - Radionavigation.
- ix. check that the proposed Transfer and Lease for the following licence types has the prior approval of the external body⁶ responsible for carrying out the technical assessment and/or technical approval.
- Air Traffic Services,
 - Maritime Services,
 - Radiolocation, and
 - Radionavigation.
- x. check whether a licence amendment request forms part of the Notification and whether the proposed licence amendment can be considered in parallel to its Phase 1 assessment below; and
- xi. Check that any claims of confidentiality are appropriately addressed and resolved in accordance with ComReg's guidelines on the treatment of confidential information.⁷

2.14 Should ComReg identify any issue in the course of its checks then it may, and at its discretion:

- refuse the proposed Transfer or Lease where the Notifying Parties would have to re submit the Notification once the issues are resolved; or
- inform the parties of the issue(s), providing them an opportunity to resolve same.

⁶ External body for prior approval is as follows:

- For Air Traffic Services, Radiolocation and Radionavigation WT licences with spectrum rights in the aeronautical bands, prior approval is required from the Irish Aviation Authority (IAA);
- For Radiolocation and Radionavigation WT licences for maritime use, prior approval is required from the Commissioner of Irish Lights (CIL); and
- For Maritime Services Licences with spectrum rights which have a land-based 'Maritime Mobile' International Telecommunications Union ("ITU") allocation, prior approval is required from the maritime division under the aegis of the Department of Transport.

⁷ Document 05/24 or may be amended or replaced from time to time.

2.3 Phase 1 Assessment

2.15 ComReg's Phase 1 assessment will commence following the resolution of matters in Section 2.2 above. Once the above is completed ComReg will establish this date as the 'Commencement Date' to reference future dates.

2.3.1 Publication of relevant information from Notification

2.16 ComReg will aim to publish a Notice on its website within 5 Working Days from the Commencement Date. This will contain relevant information extracted from the Notification Form and state whether the Standard or Simplified Procedure is being applied in this case.

2.3.2 Submissions from interested parties on proposed Transfer / Lease

2.17 A closing date for submissions will be clearly set out in the Notice, with the following timeframes envisaged⁸:

- **Simplified Procedure:** 14 days for interested parties to make submissions.
- **Standard Procedure:** 30 days for interested parties to make submissions.

2.18 ComReg will consider all submissions received. ComReg may, by publication on its website, and at its discretion, change the time limit for receipt of submissions. Submissions from interested parties should clearly indicate any information which they consider should be treated as confidential, and that material should be set out in a separate annex or clearly labelled as appropriate.

2.3.3 Requirement to provide further information

2.19 At any stage in the assessment of a Notification, ComReg may request further information from Notifying Parties and from other parties⁹ to aid in its assessment of the Notification.¹⁰

⁸ These envisaged timeframes have had regard to ComReg's consultation procedure guidelines (Document 24/04).

⁹ For example, other market players, resellers, customers or users.

¹⁰ Where information requested from the Notifying Parties, pursuant to Regulation 5(2) of the Regulations is not provided to it within the timeframe specified in such a request, ComReg will take this into account when aiming to provide its assessment.

2.3.4 Proposals

2.20 In the course of its assessment of a Notification, ComReg may enter into discussions with the Notifying Parties with a view to identifying measures which would ameliorate any effects of the notified Transfer or Lease on competition (as referred to in paragraphs 4, 5 and 6 of Regulation 5 of the Regulations). In the course of any such discussions entered into, any of the Notifying Parties may submit proposals to ComReg with a view to the proposals becoming binding on it or them if ComReg takes the proposals into account and states in writing that they form the basis or part of the basis of its determination pursuant to the Regulations. Should ComReg receive such proposals, ComReg will need additional time to consider same, which for example may include market testing. As an indication this could be in the order of 15 Working Days and potentially longer depending on the details of the measure or proposal being considered.

2.3.5 Determination that the Spectrum Transfer or Lease may be put into effect

2.21 ComReg will consider the proposed Transfer or Lease in light of all relevant legal requirements, including, in particular, Regulation 33 of the EECC Regulations 2022.

2.22 Having considered the information provided and all submissions received, ComReg, if it forms the opinion that the transfer and lease is in accordance with Regulation 33 of the EECC Regulations 2022 and in particular that the proposed Transfer or Lease:

- would not be likely to result in a distortion of competition (Regulation 33 (4)); and,
- does not present a clear risk that the new holder is unable to meet the original conditions for the right of use (where the original conditions are maintained) (see in particular paragraph 4c of Regulation 33),

will determine that the Transfer or Lease may be put into effect.

2.23 Depending on the case ComReg will apply the Simplified or Standard Procedure as set out below.

Simplified Procedure

2.24 Under the Simplified Procedure, ComReg will inform the Notifying Parties and any other interested parties who have made submissions, that it has determined that the Transfer or Lease may be put into effect.¹¹

¹¹ As an indication, ComReg will aim to do this within 10 working days of the closing date of the receipt of submissions, however ComReg cannot provide any certainty on this as it will depend on the particulars of the proposed Transfer or Lease.

- 2.25 In accordance with Regulation 33(8) of the EECC Regulations 2022 ComReg will publish, on the ComReg Spectrum Transfer and Leasing webpage, the relevant details of the tradeable individual rights of use in tabular format. An example of the information that would be published in light of Regulations 33(3) and 33(8) is as follows:

Table 2: Example tabular information on tradable individual rights of use

ComReg Reference	Licence type	Licence reference	Transferor / Lessor	Transferee / lessee	Description (e.g. Frequency /location/time /Conditions)	Notification Date	ComReg's determination	Effective transfer date	End date of transfer / lease agreement
<i>TL2024_01</i>	Fixed radio link	<i>PP1234</i>	Party A (Transferor)	Party B (Transferee)	<i>18GHz link/Dublin /6 months / conditions maintained</i>	10/01/2024	10/02/2024	10/03/2024	10/09/2024

Standard Procedure

- 2.26 Under the Standard Procedure, ComReg will, inform the Notifying Parties and any other interested parties who have made submissions, that it has determined that the Transfer or Lease may be put into effect.¹²
- 2.27 On the date of the determination, ComReg, in addition to informing the Notifying Parties, will publish a notice of the making of the determination on its website and update the tabular information on its website as indicated in the table above.
- 2.28 At the same time, or at the earliest possible date thereafter (and in any event, no later than two months from the date of the determination) ComReg will publish a non-confidential version of the text of its determination, including relevant details of its assessment on its website.

2.3.6 Determination to carry out a full investigation

- 2.29 Where 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 proposed Transfer or Lease will not be to distort competition; or,

¹² As an indication, ComReg will aim to do this within 20 Working Days of the closing date of the receipt of submissions, however ComReg cannot provide any certainty on this as it will depend on the particulars of the proposed Transfer or Lease.

- form a view that there is not a clear risk of the new holder being able to meet original conditions of the licence (Regulation 33(4)(c) of the EECC Regulations 2022),

ComReg will proceed to carry out a full investigation, i.e. proceed to Phase 2.

2.4 Phase 2 (full investigations)

2.4.1 Publication of the notice to proceed to carry out a full investigation

- 2.30 ComReg will publish a notice on its website that it has decided to conduct a full investigation. ComReg will also engage with the Notifying Parties as to the basis for its decision to conduct a full investigation.

2.4.2 Determination of a provisional time period to carry out a full investigation

- 2.31 ComReg will, in so far as practicable within 5 Working Days of informing the Notifying Parties of its decision to conduct a full investigation, form an opinion of the time period necessary to carry out a full investigation (referred to as a “Phase 2 Provisional Time Period”).
- 2.32 ComReg will, in so far as practicable aim to conduct its full investigation within 113 Working Days from the forming of the opinion to carry out a full investigation. ComReg shall inform the Notifying Parties of the Phase 2 Provisional Time Period in writing. Where ComReg does not make a determination within the Phase 2 Provisional Time Period, the full investigation may continue according to revised timelines where ComReg may determine further Phase 2 Provisional Time Period(s) and will inform the Notifying Parties accordingly.

2.4.3 Submissions

- 2.33 The Notifying Parties and any other interested party is entitled to make submissions in writing no later than 30 calendar days from the date of publication of a notice to conduct a full investigation. ComReg will consider all submissions made within the specified deadline. ComReg may by notice on its website change the time limit for receipt of submissions if it considers that circumstances so require. Submissions should clearly indicate any information which should be treated as confidential which should be set out in a separate annex as appropriate.

2.4.4 Early determination that a Transfer or Lease may be put into effect

- 2.34 If ComReg, within the Phase 2 Provisional Time Period is satisfied that in its opinion:

- the result of the Transfer or Lease (with or without conditions as the case may be) would not be likely to distort competition; and/or
- there is no clear risk of the new holder being unable to meet the original conditions of licence (EECC Regulations 2022 - Regulation 33(4)(c)),

it will set out its determination and update the tabular information on its website that the Transfer or Lease may be put into effect with or without Conditions. ComReg will inform the Notifying Parties on the same date of its determination.

- 2.35 At the same time, or at the earliest possible date thereafter (and in any event, no later than two months from the date of the determination) ComReg will publish a non-confidential version of the text of its determination, including relevant details of its assessment on its website.

2.4.5 Statement of Issues

- 2.36 If, having considered all submissions, ComReg is not satisfied that:

- the result of the Transfer or Lease will not be to distort competition; and/or,
- there is no clear risk of the new holder being able to meet the original conditions of licence (EECC Regulations 2022 - Regulation 33 (4) (c)),

it will aim, in as far as practicable, 25 Working Days from the closing date for submissions, furnish its “Statement of Issues” to the Notifying Parties. The Statement of Issues will set out clearly ComReg’s concerns regarding the effect of the proposed Transfer or Lease on competition and/or its concerns regarding the risks in the new holder being unable to meet the original licence conditions (EECC Regulation 2022 Regulation 33(4)(c)).

2.4.6 Response to Assessment / Statement of Issues

- 2.37 Within 30 calendar days from the delivery of the Statement of Issues, the Notifying Parties may respond to ComReg in writing.

2.4.7 Discussions and Proposals

- 2.38 During this period (within the 30 calendar days from the furnishing of the Statement of Issues), ComReg may enter into discussions with the Notifying Parties and the Notifying Parties may make proposals to ComReg with regard to the manner in which the Transfer or Lease may be put into effect, or to the adoption of measures which would ameliorate any effects of the notified Transfer or Lease on competition or its concerns regarding the risk of the new holder being unable to meet the original Licence Conditions.

2.4.8 Consequences of failure to respond

- 2.39 Failure by any one of the Notifying Parties to respond within the time provided may be deemed to constitute a waiver of that party's right to contest the issues set out in the Statement of Issues. Failure of all Notifying Parties to so respond may authorise ComReg, without further notice, to find the facts to be as set out in the Statement of Issues and to adopt a final determination on the basis of such findings.

2.5 Phase 2 FINAL DETERMINATION

2.5.1 Phase 2 Final Determination

- 2.40 On completion of the Phase 2 review period, ComReg shall make one of the following determinations:
- That the proposed Transfer or Lease may be put into effect;
 - That the proposed Transfer or Lease may not be put into effect;
 - That the proposed Transfer or Lease may be put into effect subject to compliance with ComReg specified conditions.

2.5.2 Publication of Commission's determination

- 2.41 ComReg will publish notice of its determination on its website as soon as possible following the making of the determination and it will update the tabular information on its webpage thereafter.

Contents of ComReg's written determination

- 2.42 In every case, ComReg's final written determination in regard to the Transfer or Lease will include a statement of the facts, a summary of the information, evidence and submissions considered by ComReg and the reasons grounding that determination. ComReg will publish the written determination on its website, within 2 months after the making of that determination, and after allowing the Notifying Parties an appropriate period to indicate whether certain information in the written determination should be redacted on the grounds of confidentiality. Such requests will be assessed in accordance with ComReg's procedures on the treatment of confidential information (Document 05/24) as may be amended from time to time.

Chapter 3

3 Guidelines for competition assessment

3.1 Introduction

- 3.1 This chapter offers guidance on how ComReg will determine whether or not a Transfer or Lease would distort competition.
- 3.2 Circumstances may arise that are not envisaged by these guidelines, and ComReg shall consider such circumstances on a case-by-case basis. These guidelines are interpreted in a flexible manner, and ComReg reserves the right to deviate from the Guidelines if it forms the view that it would be appropriate to do so given the specific circumstances of any particular case.
- 3.3 While considering whether a proposed Transfer or Lease would be likely to distort competition ComReg, will have regard to Regulations 33(4) and 34 of the EECC Regulations 2022, in particular as to any measures that may be taken in this regard.
- 3.4 To assist readers, explanations are set out below of a number of technical terms that are used in these guidelines, as follows:
- a) The term **coordinated effects** refers to engagement between competitors in coordinated interaction, such as agreeing amongst themselves, either tacitly or expressly, to raise their prices or reduce their output;
 - b) The term **non-horizontal transfer or lease** refers to a situation where there is no overlap in terms of the products or services provided on the Transferors or Lessors' spectrum rights and products or services to be provided by the Transferee or Lessee on current (if any) and acquired spectrum rights of use;
 - c) The term **Notification** means a Notification of a proposed Transfer or Lease made to ComReg under Regulation 4(1) of the Regulations;
 - d) The term **Notifying Party** means the Transferor or Lessor and the Transferee or Lessee as the context so requires;
 - e) The terms **Transfer or Lease** is set out in the Regulations; and

- f) The term **unilateral effects** refers to a situation where a Transfer or Lease would strengthen any Undertaking's position in a market to such an extent as to allow it to act more independently, to an appreciable extent, of its competitors than it could otherwise do. For example, increasing the Undertaking's market power to such an extent that it could largely ignore the reactions of its competitors and/or customers to actions on its part such as (but not limited to) profitably increasing its prices.

3.5 Transfers or Leases are considered by assessing a number of factors, including amongst others:

- i. The effect of the Transfer or Lease on market structure (both wholesale and retail)¹³;
- ii. Whether the Transfer or Lease would likely have an effect on the level of competition among existing competitors in the market. In this regard, both unilateral and coordinated effects are examined; and
- iii. Whether the Transfer or Lease would likely have an effect of leading directly to efficiency gains¹⁴ that cannot be realised by any means other than the Transfer or Lease.

3.6 All lists of factors in these guidelines are considered to be non-exhaustive unless otherwise stated.

¹³ This can, for example, involve reviewing whether the spectrum Transfer or Lease would give rise to changes in the number of market participants, their capacity to provide wireless electronic communications services or other services, their market shares for different services (e.g. data, voice, etc) and other factors.

¹⁴ A Transfer or Lease may lead to potential benefits to customers in terms of higher quality services and/or at lower prices (translated from the lower costs enjoyed by the Undertaking), which may outweigh any potential distortions to competition (see also, paragraphs 3.39-3.42 in relation to efficiencies).

3.1.1 Market definition

- 3.7 Having regard to established economic principles, relevant European Commission guidance¹⁵ and Irish and EU statutes and case law, ComReg will, where appropriate, seek to define the product or service and geographic scope of the relevant market(s) which may be impacted by all proposed Transfers or Leases which are notified to it. This provides a basis for deciding whether or not a Transfer or Lease would distort competition. In defining the relevant product or service and geographic scope of the market, ComReg may also distinguish between wholesale and retail markets (i.e. “upstream” and “downstream” markets) that are directly and indirectly relevant to a proposed Transfer or Lease.
- 3.8 However, it should also be noted that in some circumstances ComReg may assess the effects upon competition directly, without having first defined the relevant market(s). For example, the distortion to competition test can be applied by identifying the competitors of the parties to the proposed Transfer or Lease. This may include competitors who are outside the relevant market(s) but are nevertheless potentially impacted by the proposed Transfer or Lease. Such additional factors may be relevant for the assessment of a proposed Transfer or Lease and therefore may be taken into consideration by ComReg when deciding whether or not a Transfer or Lease distorts competition.
- 3.9 Market definition, where utilised, provides a conceptual framework within which the impact of a proposed Transfer or Lease can be assessed. It is not always necessary to reach a firm conclusion on market definition - for example, where it is clear that the proposed Transfer or Lease is not likely to raise competition concerns on any reasonable definition of the market.
- 3.10 Market definition recognises that a spectrum right of use is a factor of production that combines with other intermediate inputs to provide a product or service to end-users. ComReg’s approach is generally to be technologically neutral (unless specific circumstances dictate otherwise) and to focus on the actual use of spectrum, rather than on the technology employed. This general approach is based on the assumption that end-users of a particular electronic communications service, provided over a wireless network, generally have no preference as to the technological means of delivering that service (subject to considerations regarding quality, price and relevant product or service parameters, and speed of services). In this context, technologies and spectrum rights of use are both factors of production which enable undertakings to provide electronic communications networks and services.

¹⁵ European Commission (2024), ‘Commission Notice on the definition of relevant market for the purposes of Union competition law’, Official Journal C/2024/1645), 22/2/2024

- 3.11 In defining any relevant market(s), ComReg will consider whether any effective demand-side or supply-side substitutes exist such as would directly or indirectly constrain the price setting behaviour of a hypothetical monopolist supplier of the product or service being sold by the firm in question. To the extent that such effective substitutes may exist, and may constrain pricing behaviour, a broader product or service market definition may be appropriate.
- 3.12 A geographic market is an area in which the parties to a proposed Transfer or Lease are involved in the supply of the relevant products or services, and in which the conditions of competition are sufficiently similar or homogeneous as to distinguish that area from other geographic areas in which the conditions of competition are appreciably different.
- 3.13 Overall, in order that ComReg may decide whether or not a Transfer or Lease would be likely to distort competition in any market(s), the parties thereto are encouraged to identify all relevant markets which may be affected (in the Notification Form attached at Annex 1).

3.1.2 Market concentration

- 3.14 Assessment of market concentration takes into account the number of competitors in a market and their shares in that market. High concentration means a market containing a relatively small number of large firms. Any assessment of the effects of a proposed spectrum trade on market concentration, pre and post Transfer or Lease, should include an assessment of the extent to which different spectrum bands or rights of use can be employed to provide substitutable services to end-users, or to other Undertakings in the context of wholesale arrangements, while comparing the differing costs of providing the same service using different spectrum bands or rights of use.
- 3.15 ComReg may assess the concentration of spectrum holdings across substitutable bands (rather than market shares or turnover which are unlikely to immediately change as a result of a Transfer or Lease). Any assessment would need to ensure that the bands being compared are in fact comparable. Assessments would be carried out in a flexible manner and on a case-by-case basis and also consider the extent to which pre and post Transfer or Lease that the two parties are able to provide services across their entire spectrum holdings.
- 3.16 ComReg will assess the potential effects of any proposed Transfer or Lease on the concentration of spectrum holdings having regard to a number of considerations, including:
- Cost advantages for Undertakings with larger (or more suitable) spectrum holdings and cost disadvantages for Undertakings with smaller (or less suitable) spectrum holdings;

- Increased capacity for Undertakings with larger spectrum holdings and relative capacity constraints for undertakings with smaller holdings;
- Ability of holders of larger quantity of spectrum rights to provide specific services (e.g. with faster speeds) versus holders of smaller quantity of spectrum rights; and
- Whether any relevant spectrum right of use is being used efficiently.

3.1.3 Analysis of competitive effects

- 3.17 This section outlines ComReg's approach to analysing the effects of a spectrum Transfer or Lease on rivalry between existing competitors. It includes analysis of the effects on the behaviour of the parties to a Transfer or Lease and on the reactions of other market participants, particularly competitors and customers. ComReg's focus is on identifying the immediate constraints on the exercise of market power.
- 3.18 A spectrum Transfer or Lease does not affect undertakings' competitive positions directly. Without a corresponding sale of the hardware assets and customer base, undertakings' actual market shares in any upstream or downstream markets are generally unaffected in the direct aftermath of a Transfer or Lease. ComReg's assessments of the likely competitive effects of a Transfer or Lease recognise that assigned spectrum rights of use influence undertakings' ability to compete.
- 3.19 While a Transfer or Lease will in many instances be expected to have positive results, some such Transfer or Lease could increase unilateral market power or increase the likelihood of collusion among existing competitors (known as coordinated effects). In both cases, only an increase in market power that is sustainable over time may be problematic.
- 3.20 Any assessment of potential unilateral and coordinated effects must cover a sufficiently long time horizon over which spectrum holdings can affect undertakings' cost structures and capacity (as opposed to focusing on immediate market shares and pricing which most likely would not change in the immediate aftermath of a spectrum Transfer or Lease).
- 3.21 The factors which ComReg may consider include all or any of the following:
- Wholesale and retail market shares;
 - Concentration of spectrum holdings;
 - Incentives to increase prices post-transfer or post-lease owing to unilateral effects;
 - Incentives to coordinate;

- Barriers to entry;
- changes in potential service quality (e.g. speeds) post Transfer or Lease that could be replicated by competitors, absent increased costs to competitors; and
- Efficiencies arising from the transfer or lease.

3.1.4 Unilateral effects

- 3.22 ComReg shall consider whether a proposed spectrum Transfer or Lease would strengthen any Undertaking's position in a market to such extent as to allow it to act more independently of its competitors than it could otherwise do. For example, if a spectrum Transfer or Lease resulted in such significant cost advantages or quality of service advantages for one undertaking or in such a concentration of spectrum held by one undertaking, which increased the undertaking's market power to such extent that it could largely ignore the reactions of its competitors and/or customers to actions on its part such as profitability increasing its prices by a small but significant amount, then that would constitute a unilateral effect of the spectrum transfer or lease.
- 3.23 ComReg will assess whether any increased spectrum holding, post-Transfer or Lease, would likely give an Undertaking the ability and incentive to increase its prices (or reduce its output) without concern as to the reactions of its competitors and/or customers. ComReg will consider both the short-term and the long-term effects of a proposed Transfer or Lease. The long-term horizon is relevant, in particular, if spectrum acquired through a Transfer or Lease is likely to lead to a significant long-term cost advantage for the acquiring Undertaking over its competitors.
- 3.24 ComReg's assessment of an Undertaking's ability and incentive to increase its prices will take into account a range of factors including the following:
- The ability of the Undertaking's competitors to compete effectively with it, post-Transfer or post-Lease;
 - The likelihood of new market entry;
 - The likelihood of new spectrum bands becoming available;
 - The ability of the Undertaking's customers to react to a price increase by switching to a competitor; and
 - whether there are any strong customers or groups of customers that can constrain the pricing behaviour of the Undertaking (countervailing buyer power).

3.1.5 Coordinated Effects

- 3.25 A spectrum Transfer or Lease may negatively distort competition if it facilitates competitors engaging in coordinated interaction (tacitly or expressly), such as agreeing amongst themselves to raise their prices or reduce their output. Such behaviour is known as coordinated effects.
- 3.26 ComReg's assessment of the coordinated effects of any proposed spectrum Transfer or Lease would consider whether the Transfer or Lease would increase the ability and/or incentivise undertakings to engage in tacit or explicit collusion. The factors which ComReg shall consider include:
- Whether the Transfer or Lease has an impact on transparency in the market;
 - The availability of a punishment mechanism; and
 - Barriers to entry.
- 3.27 Concentration of spectrum may feed into further concentration in upstream and/or downstream market(s) and could create a situation whereby two or more Undertakings could collude, in any market or markets.
- 3.28 ComReg's assessment would focus on whether the Transfer or Lease may result in more symmetric cost structures and capacities among competitors and/or a reduction in product or service differentiation, which may be conducive to tacit or explicit collusion.
- 3.29 Collusive behaviour need not be equivalent to monopolist behaviour to be harmful to consumers, and collusion may harm consumers even where some competitors are not party to the collusive arrangements or where there are occasional lapses into price wars.
- 3.30 ComReg also recognises that there are dynamic factors such as new technologies which may make it difficult to sustain collusive behaviour even if the spectrum Transfer or Lease was to result in a more concentrated and/or symmetric market structure.
- 3.31 If a spectrum Transfer or Lease is likely to increase cost heterogeneity, then the likelihood of resulting coordinated effects should reduce. Where appropriate, ComReg may choose to consider dynamic factors in its analysis of competitive effects.

3.1.6 Spectrum Transfer or Lease with a new entrant

- 3.32 Spectrum Transfer or Leases do not necessarily increase market concentration. A spectrum right of use may be transferred or leased to a smaller competitor by a larger competitor, or to a new entrant without any existing spectrum rights of use.
- 3.33 While each notified spectrum Transfer or Lease shall be assessed on its own merits, ComReg is unlikely to prohibit a Transfer or Lease from being put into effect where a new entrant without any existing spectrum right of use acquires such a right of use. Such a Transfer or Lease leading to the entry of an additional competitor would generally result in a more fragmented market and is accordingly less likely to result in competition concerns.

3.1.7 Other competitive effects considered by ComReg

Entry

- 3.34 If entry into a market is relatively easy, such that the behaviour of competitors in the market is constrained by the threat of potential entry, then the impact of a spectrum Transfer or Lease on competition in such a market may be minimal as the threat of potential entry may prevent both unilateral and coordinated effects.
- 3.35 ComReg would note, however, that in some markets for electronic communications services, there is a scarcity of spectrum and so market entry is difficult.

Closeness of competition between parties

- 3.36 The extent to which the Notifying Parties were competitors before the Transfer or Lease may affect the impact on competition, and therefore the distortion to the competitive dynamic in the market. In particular, the impact on or reduction of competition would be greater the closer competitors the undertakings were before the Transfer or Lease (e.g. two undertakings targeting similar customer profiles and/or offering similar tariffs and bundles, which are perceived by consumers to be close substitutes).

Implications on adjacent markets (non-horizontal transfer or lease)

- 3.37 A spectrum Transfer or Lease could take place as a 'non-horizontal' transfer or lease where there is no overlap in terms of the services provided on the transferee's or lessee's current (if any) and acquired spectrum. Such a Transfer or Lease does not produce any change in the level of concentration in the relevant market. However, while a non-horizontal Transfer or Lease is less likely than a horizontal Transfer or Lease to create competitive concerns, distortions to competition are still possible in certain circumstances.

- 3.38 For example, an Undertaking with a strong position with respect to certain services provided using spectrum could enter a new market and leverage its market power to the detriment of competition in the long term. In considering the likelihood of anti-competitive leveraging, ComReg will consider, in particular:
- if the services are unrelated (i.e. neither substitutes nor complements), in which case it is unlikely that the undertaking could engage in anti-competitive leveraging;
 - whether the Transfer or Lease may be efficiency-enhancing, in particular if the downstream services are complements, which may offset any detriment to competition;
 - whether the acquiring undertaking may provide greater variety of services post-Transfer or Lease and achieve economies of scope which may offset any detriment to competition;
 - the market position of the acquiring undertaking pre-Transfer or pre-Lease, in particular whether that undertaking already holds a position of market power in one or more of the markets.

Efficiencies

- 3.39 If a spectrum Transfer or Lease gives rise to anti-competitive effects, it is possible that these could be compensated for or outweighed by improvements in efficiencies resulting directly from the spectrum Transfer or Lease. A Transfer or Lease of spectrum may lead to potential benefits to customers in terms of higher quality and lower prices (translated from the lower costs enjoyed by the Undertaking), which may outweigh any potential distortions to competition. This depends on the spectrum band in question, as the marginal benefits of holding spectrum, and the ability to aggregate spectrum across bands, or holding contingent blocks of spectrum, can differ greatly across bands. It will be important to assess the likely magnitude of these benefits and to ensure that any benefits are passed on to customers.
- 3.40 The burden of proof for demonstrating that any efficiency benefits outweigh any negative effects would lie with the Notifying Parties, who may also need to demonstrate that the efficiencies would emerge with a sufficient likelihood.
- 3.41 The spectrum Transfer or Lease could also result in demand-side efficiencies that result in either an increase in the demand for one or more of the products or services provided over a certain spectrum band or bands in the spectrum trade, or that result in the creation of a new product or service or set of products or services (for example, a new wireless service).
- 3.42 Factors which the Notifying Parties may label as “efficiencies” but which ComReg would not consider to be relevant as part of its assessment include:

- savings due to the integration of administration or head office functions;
- input price reductions related to buyer power;
- efficiencies related to economies of scale and scope that do not involve marginal cost reductions; and
- efficiencies that may reduce prices in one market but cannot compensate for price increases in another.

Annex: 1 Notification Form¹⁶

Introduction

- A 1.1 Undertakings involved in a proposed Transfer or Lease of spectrum rights of use to which the [Draft] Wireless Telegraphy (Transfer and Lease of individual rights of Use for radio spectrum for the provision of electronic communications networks and services) Regulations 2024¹⁷ (Statutory Instrument No. __ of 2024) (the “Regulations”) apply, must submit this Notification Form to ComReg.
- A 1.2 Undertakings must make a joint Notification, such that all Notifying Parties give consent for ComReg to consider the Notification of a proposed Transfer or Lease.
- A 1.3 All elements of Part 1 of the Notification Form must be completed.
- A 1.4 In addition, Part 2 of the Notification Form must be submitted where the Standard Procedure is expected to apply to the Notification (See Table 3 below).

¹⁶ A writeable PDF format of this form will be made available on the ComReg website.

¹⁷ All subsequent references to Regulations in this document refers to the draft Regulations contained in Annex 5 of Document 24/59.

Table 3: Current ECN/ECS licence types where the Simplified or Standard Procedure would be expected to apply

Simplified Procedure	Standard Procedure	Licence types to which the Transfer and Lease Framework does <u>not</u> apply
1. 3.6 GHz Band Transition Protected 2. 400 MHz Band 3. Air Traffic Services 4. Emergency Service Digital Radio (ESDR) 5. Fixed Radio Link & Temporary Fixed Radio Link 6. Fixed Wireless Access Local Area (FWALA) 7. GSM for Railway (GSM-R) 8. Maritime Services 9. MBSA2 2.3 GHz Band Transition 10. Mobile Radio Systems (Trunked Radio)) 11. Mobile Satellite Service and Complementary Ground component (MSS with CGC) 12. Radiolocation, 13. Radionavigation 14. Satellite Earth Station (SES) 15. Telemetry (National) 16. Telemetry Regional (On-Site, Local Area and Wide Area) 17. Third Party Business Radio	18. 26 GHz Band National Point-to-Point 19. 3G Licence & 2.1 GHz Band Liberalised Use 20. 3.6 GHz Band Liberalised Use 21. 3.6 GHz Band Spectrum Lease 22. MBSA1 Liberalised Use 23. MBSA2 Liberalised Use 24. MBSA2 Spectrum Lease	25. Aircraft Station 26. Amateur Station 27. Automatic Identification System (AIS) 28. Business Radio 29. Coimisiún na Meán, 30. Community Repeater 31. RTÉ Analogue Sound Broadcasting Services, 32. RTÉ Digital Sound Broadcasting Multiplex, and 33. RTÉ Digital Terrestrial Television Broadcasting Services 34. Temporary Business Radio (including PMSE), 35. Test (Research and Development) 36. Trial (Third Party Trial) 37. Wireless Public Address System (WPAS)

A 1.5 ComReg, at its discretion, may form the view that the Standard Procedure may apply to any Notification and seek that Part 2 also be completed as part of the Notification.

- A 1.6 Notifying Parties must identify on the Notification Form whether any information is genuinely confidential providing the appropriate rationale in support of the claim. If the Notification does not contain confidential information, Notifying Parties are to state this as part of the Notification. Should ComReg not receive a statement regarding confidentiality, the process to publish the information cannot proceed until this is determined as ComReg may need to apply its guidelines on the treatment of confidential information.¹⁸

Part 1 Information that must be submitted for all Notifications

Part 1a: General information

- A 1.7 Please provide all the relevant details as set out in the tables below.

Table 4: General information¹⁹ - Transferor/Lessor

No.	Transferor / Lessor details	Information provided
1a1	Legal name	
1a2	Trading name	
1a3	Provider Name ²⁰ (as listed on ComReg's Electronic Register of Authorised Undertakings (ERAU))	
1a4	Business address ²¹	

¹⁸ ComReg Document 05/24, as may be amended.

¹⁹ ComReg is bound by GDPR legislation, the personal and account information identified below will not be published by ComReg in its publication of the Notification: ComReg's e-licensing account number Contact person – name, telephone and e-mail address.

²⁰ Note that for the purposes of ensuring that a Transfer or Lease occurs between Undertakings, both parties need to hold a General Authorisation and the Provider Name needs to be the same as the Legal name. See ComReg website for further details [General Authorisation | Commission for Communications Regulation \(comreg.ie\)](#).

²¹ Complete postal address of registered office or, if it does not have a registered office, the principal place where it carries on business

No.	Transferor / Lessor details	Information provided
1a5	Website	
1a6	ComReg's eLicensing account number	
1a7	Contact person – name	
1a8	Contact person - telephone	
1a9	Contact person – e-mail address	
1a10	Contact person – postal address	

Table 5: General information - Transferee/Lessee

No.	Transferee / Lessee details	Information provided
1a11	Legal name	
1a12	Provider Name ²² (as listed on ComReg's Electronic Register of Authorised Undertakings (ERAU))	
1a13	Trading name	
1a14	Business address ²³	
1a15	ComReg's eLicensing account number (if held)	

²² Note that for the purposes of ensuring that a Transfer or Lease occurs between Undertakings, that both parties hold a General Authorisation, the Provider Name needs to be the same as the Legal name. See ComReg website for further details [General Authorisation | Commission for Communications Regulation \(comreg.ie\)](#).

²³ Complete postal address of registered office or, if it does not have a registered office, the principal place where it carries on business

No.	Transferee / Lessee details	Information provided
1a16	Website	
1a17	Contact person – name	
1a18	Contact person - telephone	
1a19	Contact person – e-mail address	
1a20	Contact person – postal address	

Part 1b: Description of the proposed Transfer or Lease

A 1.8 Please specify the information requested in the table below:

Table 6: Description of the proposed Transfer or Lease

No.	Description of proposed Transfer or Lease	Information provided
1b1	Is the spectrum rights of use being transferred or leased?	[transferred] / [leased]
1b2	ComReg Licence reference number(s)	
1b3	Frequencies or frequency ranges to be transferred /leased (kHz, MHz, GHz)	
1b4	Geographic extent of Transfer or Lease (For example, entire area covered by existing Licence, county or geographic contour, specific site only. For anything other than the “ <i>entire area covered by existing licence</i> ” please provide all relevant details)	
1b5	Proposed effective start date of Transfer or Lease ²⁴	

²⁴ The effective date is subject to the Procedures necessary for ComReg to make a determination in relation to any notified Transfer or Lease. Notifying parties should aim to take into account the indicative time periods set out in the Procedures in providing this date. ComReg cannot provide any guarantee that the determination will be made by the proposed effective start date.

No.	Description of proposed Transfer or Lease	Information provided
1b6	Proposed end date of Lease ²⁵	
1b7	Intended use of the spectrum following the Transfer or Lease	
1b8	General description of the proposed Transfer or Lease (Additional information may be submitted alongside this Notification Form. For example, the proposed Transfer / Lease agreement between Notifying Parties)	

²⁵ If a Transfer the expiry date on the licence will be the end date.

No.	Description of proposed Transfer or Lease	Information provided
1b9	Please provide information to demonstrate the ability of Transferee / Lessee (if appropriate) to meet any existing Licence Conditions	
1b10	<p>Details of the existing spectrum holdings (i.e. the quantum of spectrum held under all licences) of each Notifying Party in Ireland (including details that the parties' subsidiaries hold).</p> <p>For licence types that are indicated to fall under the simplified procedure, please provide details of the existing spectrum holdings for the licence type subject to the Transfer or Lease.</p> <p>At its discretion, ComReg may request that Notifying Parties submit all existing spectrum holdings.</p> <p>For licence types that are indicated to fall under the standard procedure, please provide details of all existing spectrum holdings.</p>	

Part 1c: Licence specific information

A 1.9 For the following licence types the prior approval of the external body responsible for carrying out the technical assessment and/or technical approval is required.

- Air Traffic Services,
- Maritime Services,
- Radiolocation, and
- Radionavigation.

Table 7: Licence specific information

No.	Licence specific information	Information provided
1c1	Is licence specific information from another authority being supplied as part of the Notification?	[Yes/No]

No.	Licence specific information	Information provided
1c2	If yes, please provide a description of the information being submitted and attach the information to the Notification Form.	

Part 1d: Preliminary Checks

A 1.10 To facilitate ComReg conducting its Preliminary Checks as set out in Section 2.2 of the procedures and to facilitate an efficient process, Notifying Parties are required to consider the preliminary checks and confirm that all of the checks are satisfied.

Table 8: Preliminary checks checklist

No.	Checks to be carried out	Answer
(i)	Confirmation that all the required information has been furnished ²⁶	[Yes]
(ii)	Confirmation to ensure that all Notifying Parties hold a General Authorisation and are Undertakings ²⁷	[Yes]
(iii)	Confirmation that it is a Transfer or Lease, or both, to which the Regulations apply. This may include Notifying Parties considering whether the proposal needs to be notified to the CCPC or the EC and is subject to merger control and should be notified to the CCPC or the EC.	[Yes]
(iv)	Confirmation that the proposed use complies with the purpose/services allowed in a particular licensing regime	[Yes]
(v)	Confirmation that all licence fees in respect of the particular rights of use have been paid and are up to date	[Yes]
(vi)	Confirmation that ComReg has not served a notice(s) in relation to the revocation or suspension of the licence(s) subject to the proposed Transfer or Lease (Regulation 15 of the EECC Regulations 2022)	[Yes]
(vii)	Confirmation that, in the case of rights issued pursuant to an EC harmonisation decision, the proposed Transfer or Lease complies with such harmonised use (Regulation 33(9) of the EECC	[Yes or N/A]

²⁶ For the Standard Procedure ComReg may, at its discretion, waive the requirement for Notifying Parties to provide specific information, in particular as set out in Part 2 of the Notification Form.

²⁷ See the ComReg Website [General Authorisation | Commission for Communications Regulation \(comreg.ie\)](https://www.comreg.ie)

No.	Checks to be carried out	Answer
	Regulations 2022).	
(viii)	<p>Confirmation that the proposed Transfer and Lease for the following licence types is for the full licence (<i>i.e. Transfer or Lease a licence with same apparatus and technical conditions as in original licence</i>):</p> <ul style="list-style-type: none"> • Fixed Radio Link & Temporary Radio Link Licences, • Satellite Earth Station (SES) Licence • Mobile Radio Systems (Trunked Radio) Licences • Air Traffic Services, • Maritime Services, • Radiolocation, and • Radionavigation. 	[Yes or N/A]
(ix)	<p>Confirmation that the proposed Transfer and/or Lease for the following licence types has the prior approval of the external body²⁸ responsible for carrying out the technical assessment and/or technical approval.</p> <ul style="list-style-type: none"> • Air Traffic Services, • Maritime Services, • Radiolocation, and • Radionavigation. 	[Yes or N/A]

²⁸ External body for prior approval is as follows:

- For Air Traffic Services, Radiolocation and Radionavigation WT licences with spectrum rights in the aeronautical bands, prior approval is required from the Irish Aviation Authority (IAA);
- For Radiolocation and Radionavigation WT licences for maritime use, prior approval is required from the Commissioner of Irish Lights (CIL); and
- For Maritime Services Licences with spectrum rights which have a land-based 'Maritime Mobile' International Telecommunications Union ("ITU") allocation, prior approval is required from the maritime division under the aegis of the Department of Transport.

No.	Checks to be carried out	Answer
(x)	In the case of a licence amendment request forming part of the Notification can the request be considered ²⁹ in parallel to its Phase 1 assessment.	[Yes or N/A]
(xi)	Confirmation that any claims of confidentiality are appropriately clarified in the Notification along with supporting rationale in accordance with ComReg's guidelines on the treatment of confidential information ³⁰ .	[Yes]

Part 2 Information that must be submitted for licence types that are to be considered in ComReg's Standard Procedure

A 1.11 Detailed information of each of the Notifying Parties:

- the jurisdiction in which it is incorporated and its respective geographical area of activity.
- a description of each Notifying Party, their business activities in the State, including their respective corporate groups (if relevant), in the proposed Transfer or Lease.
- the turnover of each of the Notifying Parties (including that of their respective corporate groups), both worldwide and in the State for the last financial year for which such information is available and for any available interim period in the current year.

A 1.12 Detailed description of proposed Transfer or Lease:

- description of the nature of the proposed Transfer or Lease.
- details of the commercial objectives sought to be achieved by the proposed Transfer or Lease (e.g., pre and post-Transfer/Lease capacity utilisation, strategic alternatives such as equipment upgrades or spectrum farming, network investment plans).
- any contractual arrangements made in relation to the Transfer or Lease - this can be in the form of a draft Transfer or Lease agreement between the parties;

²⁹ A key consideration in this regard is whether the resultant licence conditions are permitted and provided for in the respective licensing regulations.

³⁰ Document 05/24 or may be amended or replaced from time to time.

- in the case of partial Transfers, a proposal for the division of spectrum usage fees in accordance with the relevant licensing regulations between the licence holder and the Transferee so that there is no net reduction in the spectrum usage fees payable to ComReg as a result of the Transfer. In the case of a Lease and noting whether the proposed fees would be provided for under the licensing regulations, the Lessor shall continue to remain responsible for paying the licence fees.

A 1.13 Market information:

- a description and definition of what the Notifying Party/Parties consider to be the relevant upstream and downstream markets that may be affected by the proposed spectrum Transfer or Lease. This should be informed by the proposed usage of the spectrum which it is proposed to be transferred or leased
- an estimate of the size of the markets described above, information on recent entry, any potential entry, cost of entry, comment on the minimum efficient scale and minimum spectrum requirements for a viable business.

A 1.14 Views of Notifying Parties:

- views as to why the Notifying Parties consider that the Transfer or Lease will not distort competition in the markets described by you above in the State.
- estimates of the shares of each of the Transferee or Lessee (including aggregated market share of any relevant group companies) and of the Transferor or Lessor in the market(s) described by you above. Provide also estimates of the shares of competitors in these markets and explain the basis of these estimates.
- views as to possible efficiencies which may occur as a result of the Transfer or Lease. Please quantify these efficiencies and the extent to which consumers would benefit from them.
- views as to why the Notifying Parties are of the view that the Transfer or Lease does not create a risk of harmful radio interference.

A 1.15 Supporting Documentation:

- a copy of the most recent audited annual report for each of the Notifying Parties.
- a copy of any reports or other documentation relating to any analysis undertaken on the:
 - impact of the transaction on network operations or performance

- competitive effect of the transfer or lease on any market.

A 1.16 Ancillary Restraints:

- Provide details of any arrangements constituting restrictions which you believe are directly related and necessary to the implementation of the proposed transaction. Justify how, in your view, each such arrangement is directly related and necessary to the implementation of the proposed transaction in the State

Contact details for notifying ComReg

A 1.17 All Notifications and queries relating to any proposed Transfer or Lease of Individual Rights of Use must be submitted by e-mail to ComReg's Spectrum Licensing team as detailed below:

Reference: Proposed Spectrum Transfer / Lease (as appropriate)

email: licensing@comreg.ie