



Rights of use of radio spectrum in the 2 GHz band for terrestrial systems capable of providing electronic communications services

Report on Consultation and Decision on the interim review of the licensing framework

Final Decision:

MCA/D/19-3733

Publication Date:

23 December 2019

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1. INTRODUCTION

In February 2005, the Government and the Malta Communications Authority (MCA) adopted a joint Policy and Implementation Strategy¹ which provided a framework for the licensing of radio spectrum in the 1920-1980 MHz and 2110-2170 MHz bands ('paired 2 GHz band') and the 1900-1920 MHz band ('unpaired 2 GHz band') for the provision of third generation mobile telephony services in Malta. Subsequently, based on this document, in March 2005, the MCA published a call for applications for the assignment of radio spectrum in these bands.

As a result of the call for applications process, on the 29th August 2005, the MCA granted rights of use of radio spectrum in the above-mentioned bands to Mobisile Communications Limited (now GO plc.) and to Vodafone Malta Limited, for a period of fifteen (15) years for the establishment and operation of third generation mobile communications networks. These licences will therefore expire on the 29th August 2020. On 16th August 2007, 3G Telecommunications Limited (which was subsequently acquired by what is now referred to as Melita Limited) was granted a similar licence but with an expiry date of 16th August 2022. Annex 1 provides information on the radio spectrum assignments in the paired and unpaired 2 GHz bands.

In 2012 as a measure to support a more flexible use of radio spectrum, the European Commission adopted Commission Implementing Decision 2012/688/EU on the harmonisation of the paired 2 GHz band for terrestrial systems capable of providing electronic communications services in the Union². Accordingly in line with this Decision, the MCA aligned the above-mentioned rights of use³ in the paired 2 GHz band with this EU Decision. The expiry dates of the respective assigned rights remained unchanged, i.e. 29th August 2020 and 16th August 2022.

In view of the upcoming expiry of these rights of use, on 30th August 2019 the MCA published a consultation (MCA/C/19-3660)⁴ which proposed adopting interim measures for the continued use of radio spectrum in these bands. The purpose of this document is to summarise the responses received during the consultation period and to present the MCA's decision on the way forward. It should be stressed that this decision will be adopting interim measures in order to align the licence expiry dates to a common one.

In addition a comprehensive review of the licensing regime for these bands will be undertaken prior to August 2022 but only following the adoption by the European Commission of the revisions to be made to the Commission Implementing Decision 2012/688/EU.

As a result, the radio spectrum usage fees found in the 8th Schedule (Part B) of the Electronic Communications Networks and Services (General) Regulations (S.L.399.28)⁵ are also envisaged to be updated following this Decision Notice.

¹ <https://www.mca.org.mt/sites/default/files/reports/strategy-doc.pdf>.

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1559650577823&uri=CELEX:32012D0688>.

³ https://mca.org.mt/regulatory/authorizations_licensing/spectrum-licensing.

⁴ https://www.mca.org.mt/sites/default/files/Consultation%20document_MCA-C-19-3660.pdf.

⁵ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10563&l=1>.

2. RESPONSES TO THE CONSULTATION

The consultation period for the Consultation Paper entitled 'Modifications to rights of use of radio spectrum in the terrestrial 2Ghz frequency band' (reference MCA/C/19-3660) ran from 30th August 2019 until the 27th September 2019.

Responses were received from the following:

- GO plc; and
- Vodafone Malta Limited.

The MCA wishes to thank these parties for their responses.

3. REVISION TO THE TERM OF RIGHTS OF USE OF RADIO SPECTRUM EXPIRING IN AUGUST 2020

As described in section 1, the expiry dates of the rights of use of radio spectrum that are currently in force do not expire simultaneously and will expire on the following dates:

Licence holder	Licence expiry date
GO plc.	29 th August 2020
Melita Limited	16 th August 2022
Vodafone Malta Limited	29 th August 2020

In its consultation (section 4.1), the MCA proposed to adjust the expiry dates of the licences expiring on 29th August 2020 to 16th August 2022, to ensure the simultaneous expiry of all rights of use within the same 2 GHz frequency band. This proposed measure was without prejudice to the right of the respective licence holder not to extend the licence validity beyond the 16th August 2022.

FEEDBACK RECEIVED FROM RESPONDENTS AND WAY FORWARD

One of the respondents expressed its agreement with the proposal put forward in the consultation.

The other respondent agreed with the proposal to align the expiry dates of existing rights of use but suggested prolonging the term by fifteen (15) years. This respondent considered that the technical conditions associated with this band should be revised and consulted upon following the adoption by the European Commission of the revisions to be made to the Commission Implementing Decision 2012/688/EU.

The MCA welcomes the comments made by the respondents to have simultaneous licence expiry dates.

However, the MCA does not agree with the suggestion in having a prolonged licence extension of fifteen (15) years in view of the following considerations:

1. The process to review Commission Implementing Decision 2012/688/EU is still not finalised.
2. An assessment needs to be carried out by the MCA to determine whether the conditions attached to the rights of use of radio spectrum in this band are adequate for next generation (5G) wireless networks. This will also include a review of the radio spectrum charges for the terrestrial 2 GHz band.

Decision 1

Upon receipt of a request from the holders of rights of use of radio spectrum in the terrestrial 2 GHz band expiring on 29th August 2020, the MCA shall extend such rights for the period indicated by the same holder. Such rights shall, however, not be extended beyond 16th August 2022.

Upon the grant of such extension for the rights of use of radio spectrum the holder will be subject to the payment of the relevant radio spectrum usage fees as established under the Electronic Communications Networks and Services (General) Regulations (S.L.399.28) or any other legislation applicable in respect of radio spectrum.

4. LICENCE FEES

The fee regime for the rights of use of radio spectrum in the 2 GHz band is established in the 8th Schedule (Part B) of the Electronic Communications Networks and Services (General) Regulations (S.L.399.28) and is reflective of the 2005 Policy and Implementation Strategy.

These Regulations provide two possible modes of payment, namely:

- Either an upfront payment, to be effected upon frequency assignment, amounting to €5,823,433.50; or
- a deferred payment scheme over a fifteen (15) year term, resulting in an overall payment of €8,618,681.57 over the licence term (refer to Annex 2).

Although in the consultation document (section 4.2), it was highlighted that the Government, as the owner of the radio spectrum, has the right to establish any radio spectrum licence fees which Government deems appropriate, the MCA proposed that the annual fee for the 2 GHz band is pegged to the fee for the rights of use currently expiring in 2022, as listed in Annex 2.

FEEDBACK RECEIVED FROM RESPONDENTS AND WAY FORWARD

One of the respondents expressed its agreement with the proposed radio spectrum fee put forward in the consultation.

The other respondent has also expressed its agreement, however on condition that the amount of radio spectrum to be extended is not reduced. This respondent stressed that in case the amount of radio spectrum to be extended is reduced, the fee shall also be reduced based on a pro-rata calculation.

The MCA, has taken note of the comments received and agrees with the principle that the radio spectrum fee to be charged should be reflective of the amount of radio spectrum described in the grant of the rights of use of radio spectrum. The MCA is also cognitive of the fact that the current radio spectrum assignments in the terrestrial 2 GHz band comprises a 'package assignment' of paired and unpaired radio spectrum.

Decision 2

The MCA will be recommending to Government to peg the radio spectrum fee for rights of use in the terrestrial 2 GHz band, to the fee for the rights of use currently expiring in 2022, i.e. € 344,747.26 per year or part thereof.

5. LICENCE CONDITIONS

The MCA considers that the conditions that are attached to the current rights of use of radio spectrum in the 2 GHz band do not constitute any regulatory burden or a barrier to the deployment of innovative wireless services in Malta.

In this regard in its consultation document, under section 4.3, the MCA proposed retaining the same licence conditions that are currently in force also for the extended licence term. Nonetheless, the MCA proposed not to extend the assignment of the unpaired 2 GHz band since this spectrum is not being used by the respective licence holders.

The consultation also highlighted the fact that the harmonised technical framework for the paired 2 GHz band as set out in Commission Implementing Decision 2012/688/EU is being revised in order to make it suitable for next generation (5G) wireless systems. This will compel the MCA to review the national spectrum management framework for this frequency band following adoption of the amendments made to Commission Implementing Decision 2012/688/EU.

FEEDBACK RECEIVED FROM RESPONDENTS AND WAY FORWARD

One of the respondents expressed its agreement with the arguments and proposals presented by the MCA in its consultation document.

The other respondent expressed its agreement to retain the same conditions that are attached to the current rights of use of radio spectrum in the 2 GHz band also for any extended rights in the same frequency band. This respondent also made reference to the review of Commission Implementing Decision 2012/688/EU and requested the MCA to consult with all the relevant stakeholders prior to adopting certain measures for the new technical regime. With respect to the proposal not to extend the assignment of radio spectrum in the unpaired 2 GHz band this respondent expressed its consent on condition that the radio spectrum charges are revised downwards as appropriate.

The MCA positively notes that both respondents agree with the arguments laid down in its consultation document to apply the current licence conditions also for any extended licence in the 2 GHz band. In this regard the MCA has taken into account the arguments made with respect to the unpaired 2 GHz spectrum. The MCA considers that these arguments are valid even in light of the fact that such radio spectrum has not as yet been repurposed for other radio applications. Regarding the comments made on a future consultation procedure concerning the 2 GHz band, the MCA will, at the appropriate time and in line with the consultation and transparent mechanism pursuant to the Malta Communications Authority Act (Cap. 418) undertake to consult publicly on any future framework concerning the terrestrial 2 GHz radio spectrum.

Decision 3

The conditions that are attached to current grants of rights of use of radio spectrum in the 2 GHz band will be retained for any extended period. Such conditions will therefore not be altering the radio spectrum assignments in the paired and unpaired radio spectrum currently granted to each undertaking.

ANNEX 1 - RADIO SPECTRUM ASSIGNMENTS IN THE 2 GHz BAND

Paired 2 GHz band (Frequency Division Duplex - FDD):

guard band	GO plc (19.8 MHz)	Melita Ltd. (19.8 MHz)	Vodafone Malta Ltd. (19.8 MHz)	guard band	
1920.0 MHz	1920.3 MHz	1940.1 MHz	1959.9 MHz	1979.7 MHz	1980.0 MHz

paired with

guard band	GO plc (19.8 MHz)	Melita Ltd. (19.8 MHz)	Vodafone Malta Ltd. (19.8 MHz)	guard band	
2110.0 MHz	2110.3 MHz	2130.1 MHz	2149.9 MHz	2169.7 MHz	2170.0 MHz

Unpaired 2 GHz band (Time Division Duplex - TDD):

guard band	unassigned (4.8 MHz)	Melita Ltd. (5 MHz)	Vodafone Malta Ltd. (5 MHz)	GO plc (5 MHz)	guard band	
1900 MHz	1900.1 MHz	1904.9 MHz	1909.9 MHz	1914.9 MHz	1919.9 MHz	1920 MHz

ANNEX 2 - DESCRIPTION OF THE DEFERRED PAYMENT SCHEME

Licence No.	Anniversary	Annual licence fee (€)
0 (upon licence grant)		517,120.89
1		517,120.89
2		3,447, 472.63
3		344,747.26
4		344,747.26
5		344,747.26
6		344,747.26
7		344,747.26
8		344,747.26
10		344,747.26
11		344,747.26
12		344,747.26
13		344,747.26
14		344,747.26
15		344,747.26
TOTAL:		8,618,681.57