

Call for Expression of Interest for spectrum in the 3.6 GHz band for wireless broadband electronic communications services

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Malta Communications Authority

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www.mca.org.mt

Contents

1.	Preamble.....	3
2	Definitions.....	4
3	Introduction	5
4	Legal disclaimer.....	6
5	Spectrum bands being assigned.....	8
6	Assignment Process	9
7	Submission of Expressions of Interest	10
	Annex 1 – Expression of Interest	12
	Annex 2 – Qualification phase: sample questions	19

1. Preamble

In February 2021, the Malta Communications Authority (“MCA” or the “Authority”) published a consultation paper¹, outlining a proposed methodology for the assignment of additional spectrum for wireless broadband in the 700 MHz, 3.6 GHz and 26 GHz bands. Following consideration of the various responses received, a decision entitled ‘Assignment Process for Additional Spectrum for Wireless Broadband’ was published by the Authority in April 2021 (hereinafter referred to as the Decision)².

The Decision establishes the assignment process in respect of spectrum in the 700 MHz, 3.6 GHz and 26 GHz bands and the conditions attached to the resulting rights of use.

An authorised electronic communication service provider (‘ECS’) has lodged a formal request with the MCA for the assignment of spectrum in the **3.6 GHz band** to be used for the provision of electronic communications networks and services.

In line with the Decision, the Authority is hereby publishing a Call for Expression of Interest to determine the demand for spectrum in the pertinent band.

¹ MCA/C/21-4132

² MCA/D/21-4177

2 Definitions

Wherever the following terms appear in this document, they shall be attributed to the corresponding definitions in accordance with what is stated below:

Term	Definition
Applicant	The legal or natural person submitting an Expression of Interest as per Annex A of this document. In the cases of joint ventures, the term applies to the individual entities forming part of the joint venture.
Authority or MCA	Malta Communications Authority.
Bands	The 3.6 GHz band.
Call	The Call for Expression of Interest.
Decision	Decision MCA/D/21-4177 entitled 'Assignment Process for Additional Spectrum for Wireless Broadband' as published by the Authority on the 7 th April 2021.
Government	The Government of Malta.
Licensee	A successful applicant which, after settling the Initial Payment, is awarded a licence relating to the right of use for the relevant spectrum band at the Grant Stage of the Award process as described in the Decision.

3 Introduction

The MCA, as the competent authority responsible for the effective management of the radio frequency spectrum, invites undertakings who wish to obtain access to **rights of use of radio frequencies in the 3.6 GHz band** in the Maltese territory to express their interest in line with the provisions outlined in this document and the Decision.

Subsequent to the receipt of interest pursuant to **Annex A – Expression of Interest**, the MCA will assess whether demand has exceeded supply. Should the demand for the 3.6 GHz band, as established in response to this Call, not exceed the availability of the radio frequency spectrum in the pertinent band, the Authority reserves the right not to issue a Call for Applications but to grant the relevant rights of use for the distinct band directly to those Applicants that submit an Expression of Interest.

Should a Call for Applications not be required, all Applicants submitting an Expression of Interest will be invited to submit information relevant to the Qualification of the Applicant. Failure by the Applicant to provide any of the required information or a failure to pass the Qualification Phase assessment, will result in the discarding of the relevant Expression of Interest and the disqualification of the Applicant from being awarded a licence for the band in question as part of this process. Should the demand for one or more distinct radio frequency spectrum bands, as established in response to this Call, exceed the availability of the radio frequency spectrum in the pertinent band, an invitation to participate in a binding Call for Applications leading to the grant of the rights of use for the indicated radio frequency spectrum band shall be published. **Only Applicants that have submitted a valid Expression of Interest in line with the requirements established in this document shall be allowed to participate in the said Call for Applications.**

The terms and conditions of the licence will be communicated to the Applicants either through a Call for Applications or, where demand does not exceed supply, through a Request for Information pursuant to the Qualification Phase. Applicants will be required to submit a one-time non-refundable administration fee, a deposit and a bid bond/performance guarantee in the form of a Bank Guarantee in order to be granted the right to use the radio frequency spectrum band. An Expression of Interest must be submitted to the MCA by completing the form contained in **Annex 1**, in accordance with the instructions in this Call.

4 Legal disclaimer

(1) Although every care has been taken in preparing this document, no representation, warranty or undertaking however so described, expressed or implied, in respect of any error or misstatement is or will be made or given, and no responsibility or liability will be accepted by the MCA or by any of its officers, employees, servants, agents or advisers, however so described, as to the accuracy or completeness of this document or any other written or oral information made available to any interested party or its advisers concerning this document, and any liability howsoever arising (including in respect of this assignment process) is expressly disclaimed. No information contained in this document shall form the basis for any warranty or representation however so described by the MCA.

(2) In submitting an application form, the applicant accepts in full and in its entirety, the content and the terms and conditions of this document and of all its appendices, including any subsequent clarifications issued by the Authority, whatever the MCA's corresponding conditions may be. The applicant is required to examine carefully and comply with all instructions, forms, provisions and specifications, however so described, contained in this document, or those that may be requested by the Authority on the basis of this Call.

(3) By accepting any rights of use that it may be offered, the applicant agrees that, as the holder of the rights of use, it is responsible for all costs, liabilities and losses, however so described, derived from the operation or non-operation of the rights of use or authorised service for whatever cause.

(4) The Authority, whilst providing such notice as it may consider appropriate in the circumstances, reserves the right to alter any of the deadlines or conditions outlined in this Call. Under no circumstances will the Authority, or its officers or advisers (however so described), be liable for damages, whatever their nature (in particular, but not limited to, damages for loss of profits) in relation to any such alterations, even if the Authority would have been advised of the possible liability for damages. No information contained in this Call shall form the basis for any warranty or representation, however so described, by or term of any contract with the MCA. In case any part of the text represented in this document is in contradiction with the text in the Decision MCA/D/21-4177 issued by the MCA, the text in that Decision will prevail.

(5) This assignment of rights of use of radio frequencies is governed solely by Maltese Law, and is subject to the exclusive jurisdiction of the competent Maltese Courts and, or Tribunals, however so described.

(6) Unless stated otherwise in this Call, any communications including any notifications, however so described, as referred to in this Call by an applicant to the Authority, must be in writing.

(7) The publication of this Call does not bind the Government and/or the Authority to assign the radio frequency spectrum or to proceed to a further stage in the process for the assignment of this radio frequency spectrum band.

5 Spectrum band being assigned

The spectrum band subject to this Expression of Interest is the 3.6 GHz band (3.4 GHz – 3.8 GHz) with the specifications, conditions and obligations, however so described, as specified in the Decision.

In this respect the Authority is sounding the market to see whether there is an interest in this band, which to-date is entirely unassigned.

Interested parties must not apply for specific frequencies in the respective band but are to submit the Expression of Interest for any number of Lots in the Spectrum Band subject to the **unrelaxed spectrum cap** for the band in question.

The Applicant must state:

- The maximum number of Lots in the respective band that it may apply for throughout the course of the Call ('Maximum Interest'). The Applicant needs to ensure that the Maximum Interest registered in any of the bands will cover the interest it might register in all stages of the Award process for the respective band including a possible auction.
- Its preferred assignment of Lots ('Preferred Option') for each of the respective bands.

An Applicant must not apply for spectrum in excess of the established Spectrum Cap³ and, or its declared Maximum Interest.

The overall demand for Lots in the respective band will be determined by the Authority on the basis of the interest as expressed by all the Applicants.

As part of its Expression of Interest, the Applicant should also identify its specific unpaired 5 MHz channels of first choice, giving its reasons for such a preference. This shall not detract in any way from the Authority's sole discretion to assign to the Successful Applicant/s the specific frequency channels (i.e. Lots) in the way it deems fit, taking in particular into account spectrum efficiency considerations.

³ The Spectrum Caps and the respective spectrum cap relaxation mechanisms are established in the Decision.

6 Assignment Process

Subsequent to the receipt of interest pursuant to **Annex A – Expression of Interest**, the MCA will assess the cumulative demand, as expressed, and will notify applicants on whether a competitive assignment or a direct assignment process will be undertaken.

6.1 Competitive assignment process

Should the demand for the distinct radio frequency spectrum exceed availability, then a Call for Applications will be extended to Applicants that submitted a valid Expression of Interest in line with the process as established in the Decision.

6.2 Direct Assignment process

Should the demand for the spectrum not exceed availability, the MCA reserves the right not to issue a Call for Applications but to grant the relevant rights of use directly to those Applicants that have expressed an interest for the respective bands. In this case, the MCA will proceed with the granting of the said individual spectrum band directly to the parties who have submitted a valid Expression of Interest in response to this Call.

All parties submitting an Expression of Interest **will be invited** to participate in an **individual** process leading to a Qualification Phase carried out by the MCA. Failure to provide any of the required information or a failure to pass the Qualification Phase assessment will result in the discarding of the relevant Expression of Interest.

The aforesaid Qualification evaluation will include but is not limited to the following areas:

- The Applicant's credentials;
- The Applicant's experience in establishment, operation and commercialisation of electronic communications networks;
- The Applicant's business plan; and
- Access to adequate financing for the venture.

Further detail, including a sample of the questions relevant to the qualification process are included in Annex 2.

7 Submission of Expressions of Interest

7.1 Submitting an Expressions of Interest

Completed expression of interest forms must be received by the Authority by no later than **noon of the 26 April 2021**.

The Applicant is to submit a copy of the application in **Annex 1** both in hard (paper) copy and electronically at spectrum.mca@mca.org.mt. All Expressions of Interest received will remain sealed until the Closing Date. In the case where the Applicant is not registered as an authorised ECS undertaking with the MCA and is a company, then a certified copy of the Memorandum and Articles of Association of the applicant company must be included with the application form. Submissions received after the Closing Date will not be considered and will be returned to the Applicant.

Any pages on which entries or corrections to an Expression of Interest have been made must be initialled by the person or persons signing the application form.

Submissions should be clearly labelled "**Expression of Interest for spectrum in the 3.6 GHz band for wireless broadband**" and the name and address of the Applicant should be clearly visible on the outside of an appropriately sealed envelope/package.

Expressions of Interest should be submitted at the Authority either by recorded delivery (postal/courier service) or hand delivered to:

Chief Officer – Spectrum Management & Technology
Malta Communications Authority
Valletta Waterfront
Pinto Wharf
Floriana FRN 1913
Malta

All costs incurred in connection with the preparation, production and submission of the Expressions of Interest will be borne exclusively by the Applicant. Regardless of the outcome of the process, Applicants may, under no circumstance, claim reimbursement from the Authority of any costs related, to their submission.

7.2 Opening of Expressions of Interest

Expressions of Interest will be opened electronically and/or on the premises of the Authority upon the expiration of the Closing Date. The names of the Applicants will subsequently be published on the Authority's website (www.mca.org.mt).

7.3 Confidentiality

Submitted information will be made public by the Authority subject to the Authority's Internal Guidelines on Confidentiality published on 16 December 2004.

Annex 1 – Expression of Interest

The Expression of Interest Form consists of two parts – Part I and Part II:

- Part I should be completed in clearly legible type or block letters by the Applicant.
- Part II is a declaration, which must be signed:
 - In the case of an individual, by the person in whose name the Application is made;
 - In the case of a legal person, by the person or persons duly authorised to act for, and on behalf of, the said legal person. In this case the supporting documentation empowering such person(s) to represent the Applicant in this context must be presented with the declaration.

This form may be completed electronically to facilitate processing and sent to spectrum.mca@mca.org.mt. In all cases, an original copy of the duly filled in application form together with, (where applicable) an original copy of the Memorandum and Articles of Association of the applicant company, must be submitted to the MCA in an envelope clearly marked **“Expression of Interest for spectrum in the 3.6 GHz band for wireless broadband”** which is to be addressed to:

Chief Officer – Spectrum Management & Technology
Malta Communications Authority
Valletta Waterfront
Pinto Wharf
Floriana FRN 1913
Malta

Part I: Information Required from the Applicant

1. Applicant Contact Details

1.1	Applicant's Name	
1.2	Business postal address of Applicant	
1.3	Company Registration Number	
1.4	Telephone Number	
1.5	Fax Number	
1.6	website address	
1.7	Postal address of registered office ⁴	
1.8	VAT number	

⁴ In the case of registered companies whose business address differs from that of the address of their registered office.

2. Principal Contact Details

2.1	Name of primary contact person	
2.2	Designation	
2.3	Postal address	
2.4	Telephone Number	
2.5	Mobile Number	
2.6	E-mail Address	

3. Provide the Company's Profile

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4. Spectrum being requested

a) Frequency band

3.6 GHz

b) Amount of Unpaired Spectrum in MHz

c) Equivalent Amount of Unpaired Spectrum specified in Lots

d) Any preferred channels (incl. reference to the frequency range)

5. Spectrum Requirements & Channel Preference - Justification

(List **technical** reasons to justify why the Applicant should be assigned rights of use in accordance with the stated spectrum requirements and channel preferences)

6. Description of Network and, or Service:

a) Description of service/s to be provided⁵:

b) Description of network/s to be operated, including high-level network maps:

7. Estimated Date of Commencement of the Relevant Activity

Please indicate the estimated date of commencement of activities.

Month:

Year:

⁵ Any additional details should be provided in separate attachments.

Part II: Declaration

I / We hereby declare that:

- The information provided is accurate and complete in all respects;
- Misrepresentation or failure to submit any information as requested by the Authority shall be deemed by me/us as a good and sufficient cause to disregard the application; and
- Any legal dispute between the Authority and an Applicant shall be governed solely by Maltese law and shall be subject to the exclusive jurisdiction of the competent Maltese courts and, or tribunals however so described.

Full name(s) of Signatory/Signatories:	Designation	Signature

Date: _____

Data Protection Clause

In terms of the Data Protection Act (Chapter 440 of the Laws of Malta), the Authority will process any personal data supplied on this application form or subsequently supplied by yourself, whether orally or in writing, for all or any of the following:

- the proper processing of your application form as submitted;
- preventing, detecting and/or prosecuting fraud, any administrative non-compliance, and any other non-compliant or criminal activity or omission which the Authority is bound to report and/or act upon whilst meeting any other legal or regulatory obligations;
- establishing, exercising or defending any legal action;
- internal management, research and statistics, systems administration, the development and improvement of the Authority's services;
- the proper conduct of our obligations arising under any law or statutory instrument and the protection and promotion of our legitimate interests; and
- to make public the necessary information as specified in the relevant law and/or instrument.

Relevant data will be disclosed or shared as appropriate with all our employees and with other third parties if pertinent to any of the purposes listed above.

By signing this form, you confirm that you are giving your explicit consent, in terms of the Data Protection Act, on behalf of yourself and all the other persons specified in this form, for the Authority to process your respective personal information as outlined above and you confirm that you have brought this Data Protection notice to the attention of these other persons and obtained their respective consents.

The Authority undertakes to implement appropriate measures and safeguards for the purpose of protecting the confidentiality, integrity and availability of all data processed.

This Data Protection Clause forms an integral part of the Application Form for the Call for Expression of Interest for Additional Spectrum for Wireless Broadband.

Annex 2 – Qualification phase: sample questions

This Annex includes a sample of the questions relevant to the qualification process which is being included for information purposes only. The MCA reserves the right to amend this list of sample questions in their entirety.

Part I: Information Required from the Applicant

A. Applicant's Credentials

1. Information on the Applicant

The following information is being requested from the applicant⁶:

- (i) Confirmation that none of the shareholders are acting as fiduciaries or trustees however so described for any other person; if they are, then full disclosure of the names, addresses and ID card numbers of all principals or beneficiaries as the case may be, and the same declarations/information from them as is requested from direct shareholders is required⁷;
- (ii) The information in this section must be provided in relation to each parent company of the applicant, and of the applicant's parent company, leading up to the ultimate beneficiary stakeholders of the applicant;
- (iii) Confirmation that there exists no agreement, written or verbal, relating to the sale of the shares in the applicant; if there are any, full disclosure of the agreement and the persons entitled thereto is required. This refers to both issued shares involving existing shareholders and new shares to be issued by the applicant.

The following questions must be answered by the applicant and the declaration below signed by the authorised representative thereof⁸:

If the answer to any of the questions below is yes, please give full particulars on a separate sheet making clear reference to the question in relation to which the information is being provided.

⁶ If the applicant has already provided this information to the MCA, the applicant need not provide it again here. A clear indication in full of the document wherein the information was provided and the relevant part of that document would suffice. However, if any of the information provided in the said document is no longer applicable, whether in full or in part, then the applicant must provide full information relating to that part of the document that is no longer applicable.

⁷ In the case of an individual who does not hold a Maltese ID card, then his/her passport number must be provided.

⁸⁸ If the applicant has already answered these questions in relation to another application or submission, a clear indication in full of the document in which these questions were answered, and of the relevant part of that document would suffice. However, if any answers given previously need to be modified, whether in part or in full, the applicant must reply to these questions in full. In any case, the declaration must be signed by the authorised representative of the applicant.

	YES / NO
(a) Has the applicant or any related company or entity however so described ever applied for and been refused a licence or an equivalent authorisation or registration – however so described - to conduct business in Malta or elsewhere?	
(b) Has the applicant or any related company or entity however so described failed to satisfy a judgement debt under a court order in Malta or elsewhere within a year of the making of the order?	
(c) Has the applicant or any related company or entity however so described made any compromise or arrangement with its creditors, or otherwise failed to satisfy creditors in full?	
(d) Has the applicant or any related company or entity however so described ever had an official receiver or provisional administrator or liquidator appointed over any of its property in Malta, or has the substantial equivalent of any such person been appointed in any other jurisdiction? If so, give full particulars.	
(e) Has the applicant or any related company or entity however so described ever had a garnishee order or warrant of seizure or the substantial equivalent of such orders or warrants served on it in any jurisdiction?	
(f) Has the applicant or any related company or entity however so described ever had a notice of resolution for dissolution and consequential winding up in Malta, or had the substantial equivalent of such a notice given in any other jurisdiction?	
(g) Has a petition ever been served in Malta for the compulsory liquidation of the applicant or any related company, or has the substantial equivalent of such a petition ever been served against the applicant or any related company in any other jurisdiction?	
(h) Has an inspector or other authorised officer however so described of any government department, public authority or agency, professional association or other regulatory body established under any Maltese Law or equivalent under overseas law, ever investigated the affairs of the applicant or any related company?	
(i) Has the applicant or any related company ever been censured, prosecuted, warned as to its conduct, disciplined or publicly criticised by, or made the subject of a court order at the instigation of any supervisory or regulatory authority?	
(j) Has the applicant or any related company ever been refused entry in Malta or elsewhere to any professional body or trade association?	
(k) Is the applicant or any related company engaged or does it expect to be engaged in Malta or elsewhere in any litigation which may have a material effect on the resources of the undertaking?	
(l) Has the applicant or any related company ever been found non-compliant with the obligations relating to the payment of social security and taxes in accordance with the laws of Malta or the country in which it is established?	

<p>(m) Has the applicant or any related company at any time been convicted of any offence by any court, in Malta or elsewhere? If so, when giving particulars, state the court by which applicant or any related company was convicted, the offence, the penalty imposed, the jurisdiction (including the full name of the competent court), and the date of conviction.</p>	
<p>(n) Has the applicant or any related company, in Malta or elsewhere, been censured, disciplined or criticized for serious professional misconduct?</p>	
<p>(o) Has the applicant or any related company ever been subject of conviction by final judgement of participation in a criminal organisation (as defined in Article 2(1) of Council Joint Action 98/733/JHA), corruption (as defined in Article 3 of the Council Act of 26 May 1997 and Article 3(1) of Council Joint Action 98/733/JHA respectively), fraud (within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities) or money laundering (as defined in Article 1 of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering)?</p>	
<p>(p) Has any interest or share in the profits ever been pledged or hypothecated as a security for a debt, or deposited as a security for the performance of an act, or to secure the performance of a contract?</p>	

Declaration:

This declaration must be completed by the authorised representative/s of the applicant in block capitals or typed.

I, _____ declare that the particulars supplied above are true to the best of my knowledge and belief.

Signature/s:

Position in undertaking:

Date:

2. Information on the Directors of the Applicant

The following information is being requested from the Directors of the applicant⁹:

- (i) A list of all directorships currently held in other companies by each of the directors of the applicant;
- (ii) Name, address, nationality, place and date of birth, occupation and brief curriculum vitae (with relevant experience) of each director;
- (iii) A certified copy of the (Maltese) ID card or passport (in the case of non-holders of Maltese ID cards) of each director;
- (iv) A recent bank reference on each director from a bank licensed to operate in a reputable jurisdiction
- (v) A recent police conduct certificate from the authorities in the place of residence of the directors.

The following questions must be answered by the applicant's directors and the accompanying declaration below duly signed by them¹⁰:

Please answer Yes or No to the following questions. If the answer to any of the questions below is yes, please give full particulars on a separate sheet making clear reference to the question in relation to which the information is being provided.

⁹ If the applicant has already provided this information to the Authority, the applicant need not provide it again here. A clear indication in full of the document wherein this information was provided and the relevant part of that document would suffice. However, if any of the information produced in the said document is no longer applicable, whether in full or in part, then the applicant must provide full information relating to that part of the document that is no longer applicable. Certificates and documentation required must be updated to the date of this submission.

¹⁰ If the applicant's directors have already answered these questions in relation to another application or submission, a clear indication in full of the document in which these questions were answered, and of the relevant part of that document would suffice. However, if any answers given previously need to be modified, whether in part or in full, the applicant's directors must reply to these questions in full. In any case, the declaration must be signed by each of the directors concerned.

	YES / NO
(a) Have you at any time been a director or managing director of any undertaking whose licence or authorisation in relation to its commercial activity to operate has, during the period of your involvement or within 12 months thereafter, been revoked, cancelled, restricted, suspended or surrendered under any law?	
(b) Have you at any time been a director or senior executive or an equivalent position of any undertaking whose application for a licence to conduct any business in Malta or elsewhere has, during the period of your involvement or within 12 months thereafter, been refused or withdrawn?	
(c) Have you at any time been convicted of any offence by any court, in Malta or elsewhere? If so, when giving particulars, state the court by which you were convicted, the offence, the penalty imposed and the date of conviction.	
(d) Have you, in Malta or elsewhere, been censured or disciplined by any professional body to which you belong or have belonged or made the subject of a court order at the instigation of any regulatory authority or have you ever held a practising certificate subject to conditions?	
(e) Have you, or has any company, with which you are, or have been associated as a director or managing director, by reason of any matters relating to it at a time when you were so associated, been the subject of an investigation, in Malta or elsewhere, by a governmental, professional or other regulatory body?	
(f) Have you incurred a judgement debt under a court order in Malta or elsewhere or made any compromise arrangement with your creditors within the last ten (10) years?	
(g) Have you in Malta or elsewhere, been dismissed from any office or employment or barred from entry to any profession or occupation?	
(h) Has any company with which you were associated as a director or managing director in Malta or elsewhere been wound up or otherwise made any compromise or arrangement with its creditors or ceased trading, either when you were associated with it or within twelve (12) months after you ceased to be associated with it? Has anything analogous to any of these events occurred under the laws of any other jurisdiction?	
(i) Have you been concerned with the management or conduct of affairs of any undertaking which, by reason of any matter relating to it at a time when you were so concerned, has been censured, warned as to future conduct, disciplined or made subject to a court order at the instigation of any regulatory authority in Malta or elsewhere?	
(j) Have you, in conjunction with the formation or management of any corporate body , partnership, firm or unincorporated undertaking, been adjudged by a court in Malta or elsewhere to have civil liability for any	

fraud, misfeasance or other misconduct by you towards such a body or company or towards any members thereof?	
(k) Has any legal person with which you are associated as a director, executive or manager been compulsorily wound up or dissolved either by order of any court or because it was adjudged bankrupt or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within five (5) years after you ceased to be associated with it? If so, give full particulars.	
(l) Are you presently or do you expect to be engaged in any litigation in Malta or elsewhere, other than in a professional capacity?	
(m) Have you ever become bankrupt or availed yourself of the laws relating to bankruptcy or insolvency?	
(n) Have you ever been subject of conviction by final judgement of participation in a criminal organisation (as defined in Article 2(1) of Council Joint Action 98/733/JHA), corruption (as defined in Article 3 of the Council Act of 26 May 1997 and Article 3(1) of Council Joint Action 98/733/JHA respectively), fraud (within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities) or money laundering (as defined in Article 1 of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering)?	
(o) Have you ever been found non-compliant with the obligations relating to the payment of social security and taxes in accordance with the legal provisions of Malta or of any other country?	

CERTIFICATION

I certify that the above information is complete and correct to the best of my knowledge and belief.

Date:

Signature:

Name of Director:

3. Information on the Shareholders of the Applicant

The following information is being requested from the applicant¹¹:

- (i) Overview of the applicant, including details of its date of formation, a highlight of significant developments since and its current legal status;
- (ii) A detailed description of the applicant's ownership structure including all direct and indirect ownership interests, together with a summary of any agreements which have a determinative influence on the applicant's decision making power. The information should include any foreseeable changes in this respect;
- (iii) For each stakeholder, shareholder, bearer of options, of certificates of entitlement, of preferred stock, of debt capital or of other securities issued by the applicant, the following information is to be submitted:
 - The stakeholder's relationship to the applicant (e.g., number and type of capital shares or securities held, nominal value of capital shares as well as voting and dividend rights associated with any and all types of shares), syndicate / consortium agreements;
 - In the case of natural persons:
 - a. Name, nationality, place and date of birth and occupation of each shareholder; and
 - b. Certified copies of ID cards or passports (in the case of non-holders of Maltese ID cards), where not already submitted under Part I.B.2 above.
 - In the case of legal persons :
 - a. Name (of the legal person), postal address of registered office, telephone number, fax number, date and place of establishment, website address, company registration number;
 - b. Parent company of the group; and
 - c. Certified copy of memorandum and articles of association in case of shareholding companies together with a recent good standing certificate as issued by their respective banks.

In cases where the applicant has a large number of stakeholders (shareholders), the information indicated is to be provided on all shareholders or group of shareholders (where shareholders are members of the same Group of Companies or are otherwise linked together) that hold shares with voting rights in excess of 25% in the applicant.

¹¹ If the applicant has already produced this information before to the Authority, the applicant need not reproduce it here. A clear indication in full of the document wherein this information was produced and the relevant part of that document would suffice. However, if any of the information produced in the said document is no longer applicable, whether in full or in part, the applicant must provide full information relating to that part of the document that is no longer applicable. Certificates and documentation required must be updated to the date of this submission.

Where any of the applicant's shareholders that fall beyond the above threshold are regulated companies under the relevant financial services legislation, the applicant must provide information as to the place of incorporation of the companies, their regulatory status and the nature of the fund. Apart from this information, where the said shareholders are collective investment schemes, all the information related to the shareholders listed in paragraphs (i), (ii) and (iii) above must be provided in relation to the Manager of the scheme.

In cases where the applicant is a company quoted on a stock exchange, it must provide information in relation to the said listing and must provide the above mentioned information in relation to those shareholders or group of shareholders (where shareholders are members of the same Group of Companies or are otherwise linked together) that hold shares of twenty five per cent (25%) or more.

In cases where capital shares or other securities issued by the applicant are administered on behalf of their owner by third parties (for example trustees), such facts are to be noted in the submission and the aforementioned information should refer to the actual owner, or principal beneficiary of the shares/securities.

The Authority reserves the right to request further information in relation to the above.

The following questions must be answered by those applicant's shareholders that satisfy the criteria mentioned above:

- (1) I declare that I am the beneficial owner of the shares indicated by my name in the documents forming part of the submission to the Authority and that the personal details set out above are correct.

- (2) I declare that the remittance of all and any funds which have been or which at any time in the future may be remitted for the account of the company as payment of allotment monies for the shares is not and will not be the proceeds of an offence, and consequently does not and will not constitute a money laundering offence in the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta).

Date:

Signature:

Name of Shareholder:

C. Competence and Experience

Managerial Competence:

The applicant should provide details of the managerial staff of the organisation applying for the rights of use of radio frequencies.

Experience:

The applicant should provide details of the organisation applying for the rights of use of radio frequencies.

Managerial Competence

a) Details of its organisational structure (organigram), clearly identifying executive or senior staff positions, relevant disciplines and levels of expertise.

b) Detailed information on the top management tier. This information should at least include:

- i) Name;*
- ii) Date and place of birth;*
- iii) ID Card Number (or Passport Number in case of non-holders of a Maltese ID Card);*
- iv) Nationality;*
- v) Principal residential address;*
- vi) Bank reference;*
- vii) Recent police good conduct certificate; and*
- viii) Curriculum vitae, highlighting relevant experience.*

Where an applicant is supplementing its competence through association with another entity, it must, in that case, prove to the Authority that it will have, at its disposal, the resources necessary for the execution of the obligations of the rights of use, for example, by producing a written legally binding commitment / guarantee by those entities to place the necessary resources at the disposal of the applicant.

Experience

(1) The applicant should clearly demonstrate its knowledge and experience with regard to the establishment, operation and commercialisation of a public electronic communications network for at least, a five (5) year-period prior to the submission of its application. In particular, for any networks referred to in the submission, details of the location, the licensing authority, date of licence award and launch date of service provision should be provided.

(2) In cases of joint ventures or newly formed subsidiary companies, the information mentioned in this section must be provided in relation to the individual parties of the joint ventures and of the parent companies respectively.

If necessary use additional sheets. These should be appended to this page.

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D. Business Plan

<p>The applicant should provide the Business Plan together with the supplementary information</p>	
<p><i>(1) The applicant is required to provide a concise detailed business plan clearly depicting the financial and technical analysis, including amongst other things:</i></p> <ul style="list-style-type: none"> <i>a) A market analysis with an industry description and outlook, as well as an evaluation of both existing and future competition and any possible entry barriers;</i> <i>b) A demand analysis with an outline of the target market including its demographics, size and needs;</i> <i>c) A marketing analysis including the product range, lead times involved, pricing/tariff structure including gross margin targets and the growth strategy. This should include a justification of the ability of the product/service in question to meet the customer needs, leading to an identification of the forecasted market share;</i> <i>d) A five (5) year financial plan with separate profit and loss and cash flow forecasts highlighting the relevant drivers including forecasted demand, revenue and relevant costs. In the case of Capital and Operating Expenditure, the applicant must provide details of the relevant cost drivers to fulfil the licence obligations;</i> <i>e) Plans in order to comply with the obligations arising from the rights of use and the relevant laws; and</i> <i>f) A technology review providing an overview of the relevant technological requirements to fulfil the licence obligations and any other relevant authorisations that are necessary to operate the network. This review should also include the relevant technology drivers in connection with the financial plan.</i> <p><i>2) The applicant should outline the grounds on which any estimates are based, and include any relevant market research data and market test results. In particular when assumptions are made in areas that are material and are subject to a high degree of uncertainty, then this uncertainty and the resulting sensitivity of results needs to be clearly indicated.</i></p> <p><i>(3) The business plan must provide the adequate information to enable the MCA to be in a position to determine the viability of the project of the applicant as well as its project financing needs. The business plan shall not exceed the maximum page length of thirty six (36) pages. Project financing needs should be in line with the description of the financial resources declared.</i></p>	
<p>If necessary use additional sheets. These should be appended to this page.</p>	<p>For MCA Internal Use Only</p>

E. Project Financing and Applicant's Financial Standing

The applicant should provide details on the financial resources and its financial standing.

(1) The applicant must prove to the satisfaction of the Authority that it has at its disposal the financial resources necessary in support of its proposed business plan, even in the case where the applicant is a holder of spectrum licenses in Malta. For this purpose, the applicant is required to provide a comprehensive financing plan for the development of the electronic communications network and the applicant's operations, including the market introduction of the service. Such a plan shall cover documentation of the access to equity and borrowed capital. The documentation must include all aspects relating to the financing of both the development and operation (the amount of existing equity, owners' guarantees for additional injection of equity, credit lines / commitments from creditors, etc.).

In particular, the applicant must expand on how it is to be funded to implement the proposed project and explain:

- a) the bank sources and provide letters from financial institutions confirming negotiations, if any, including full details of security to be provided, if any;*
- b) shareholder funding and sources of shareholding funds, including if sourced by way of loan, full details of the persons (individuals or legal persons) providing such loans to the shareholder/s and full details of security interests, if any;*
- c) third party funding arrangements and full details of security interests, if any.*

Detailed proof of such funding must be included in the submission. In particular, the applicant must provide the full names and addresses (including e-mail addresses) of lenders and contact persons who may be contacted by the Authority for verification.

(2) Any constraints relating to equity and borrowed capital such as the need to maintain certain financial key ratios, restrictions on dividend payments, etc., shall be fully described.

(3) The applicant should submit evidence of its financial standing (including financial key ratios) and, where applicable, that of its parent company and of the latter's parent company (where applicable), and so forth up to the ultimate beneficiary. Audited financial statements for the previous three years must be included. In the case of a quoted company on a stock exchange, market capitalisation performance over the same period should also be included. The same requirement applies to parent companies, or other companies on which the applicant has based any of its financial qualifications. These financial statements must be verified by an independent certified auditor. Where an applicant relies upon the financial performance of any parent company or Connected Persons in order to evidence its financial standing, then such parent company or Connected Persons will be required to submit a company guarantee guaranteeing the obligations of the applicant.

(4) The Authority requires that the data presented in this section is:

- a) Consistent with the assumptions presented in the business and financial plans; and*
- b) Adequately supported by official documentation.*

(5) In addition, a copy of the financial plans is to be provided in a spread sheet format (including any calculation to facilitate the analysis of internal calculations within the spread sheet).

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