

## Consultation Paper:

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**Request for Further Modifications to Rollout Obligations tied to the Development and Implementation of Broadband Wireless Access (BWA) Networks in the 3.5GHz Band in Malta.**

**Malta Communications Authority**

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## 1. Introduction

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Broadband wireless access (BWA) is a technology aimed at providing high-speed wireless access to data networks and is equivalent to wired broadband technologies such as ADSL or cable modems. BWA networks are able to support triple play services i.e. data (Internet), voice and video applications.

In October 2005, following a comparative process carried out by the Malta Communications Authority (MCA), three grants of rights of use were issued. Among other things, these rights of use stipulated the rollout and coverage obligations of the BWA network operators.

The MCA is currently in receipt of a written request from two of the BWA operators to extend their rollout obligations in view of a number of issues, which are deemed to impact the feasibility of a prospective WiMax development.

Prior to the MCA issuing any decision in this regard, it is embarking on a public consultation exercise, in an endeavour to assess the impact of such a decision on the market.

## 2. Background

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On the 23<sup>rd</sup> February 2005, following a consultation process, the Ministry for Competitiveness and Communications published its policy and implementation strategy with respect to the allocation and assignment of radio frequencies for the purposes of Digital Terrestrial Television (DTTV), Third Generation Mobile Telephony (3G) and Broadband Wireless Access (BWA).

This document set out the objectives and principles on which the assignment of the said frequencies was to be based. These were to provide the MCA, as final adjudicator of the assignment process, with a direction when considering the submissions made by undertakings applying for the grant of rights of use of the said spectrum.

The said document clearly laid down as Government's objective behind the process for spectrum assignment the achievement of broadband ubiquity in as short a timeframe as was reasonably possible, placing Malta at the vanguard of high-speed Internet access.<sup>1</sup> Accordingly, the advantage behind the introduction of BWA was seen to lie in the introduction of new national broadband networks that could compete with the existing fixed Digital Subscriber Line (DSL) and cable infrastructures.<sup>2</sup>

Following the publication of the said Policy and Implementation Strategy, the MCA, as the body entrusted by law to administer and assign radio frequencies, issued a call for expressions of interest<sup>3</sup> and subsequently a request for submissions of applications<sup>4</sup> for the grant of rights of use of frequencies for the setting up of a BWA network.

At the expiry of the deadline for submissions on Friday 3<sup>rd</sup> June, seven submissions were received, namely from:

- ✉ Cellcom Ltd
- ✉ Clearwire Europe SArl
- ✉ Innovative Technologies Ltd
- ✉ Maltacom plc
- ✉ Melita Cable plc
- ✉ Mobisle Communications Ltd (Go Mobile)
- ✉ Vodafone (Malta) Ltd

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<sup>1</sup> Policy and Implementation Strategy, p. 35

<http://www.mca.org.mt/infocentre/openarticle.asp?id=565&pref=2>

<sup>2</sup> ibid

<sup>3</sup> <http://www.mca.org.mt/infocentre/openarticle.asp?id=568&pref=6>

<sup>4</sup> <http://www.mca.org.mt/infocentre/openarticle.asp?id=635&pref=6>

Having considered the state of the broadband market, the objectives outlined in the policy document and the request for submissions, the relevant criteria and the applicants' submissions, the MCA concluded that access to rights of use of radio frequencies in the 3.5GHz band for the development and implementation of BWA networks in Malta should be awarded to:

**1. Cellcom Limited**

**2. Mobisle Communications Limited**

**3. Vodafone (Malta) Limited**

In particular the rollout and coverage obligations<sup>5</sup> linked to the grant of rights of use, based on the applicants' submissions were as follows:

	% Nationwide Coverage		
	Cellcom	Mobisle	Vodafone
<b>12 Months – Oct 06</b>	<b>50 %</b>	<b>39%</b>	<b>50%</b>
<b>24 Months – Oct 07</b>	<b>90%</b>	<b>66%</b>	<b>99%</b>
<b>36 Months – Oct 08</b>	<b>99%</b>	<b>90%</b>	
<b>48 Months – Oct 09</b>		<b>99%</b>	

In March 2006, the MCA received a request for a six-month extension by one of the BWA licensees, which was further corroborated by the other two licensees. Following a public consultation and considering the technological developments of the time, in June 2006 the MCA published a decision<sup>6</sup> stipulating that the rollout obligations were being updated as follows:

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<sup>5</sup> Timelines stipulated from grant date i.e. October 2005

<sup>6</sup> <http://www.mca.org.mt/infocentre/openarticle.asp?id=820&pref=6>

	% Nationwide Coverage		
	Cellcom	Mobisle	Vodafone
<b>18 Months – April 07</b>	<b>50 %</b>	<b>39%</b>	<b>50%</b>
<b>30 Months – April 08</b>	<b>90%</b>	<b>66%</b>	<b>99%</b>
<b>42 Months – April 09</b>	<b>99%</b>	<b>90%</b>	
<b>48 Months – Oct 09</b>		<b>99%</b>	

### **3. Outline of Requests Received**

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As highlighted earlier on in this document, the MCA has received requests for further modifications to the rollout obligations from two of the three BWA operators that were granted rights of use in October 2005. In their requests, both operators have expressed the view that they do not expect equipment to be widely available in the market prior to 2008.

All authorised BWA operators have opted to deploy a network based on the WiMax standard. Any assessment should therefore take into consideration the standard's developments to date. The WiMax family currently consists of two main standards, the 802.16d, which caters for fixed or nomadic access, and the 802.16e, which enables the provision of mobile services. The certification process for the 802.16d standard started in Q1 2006 whilst that for the 802.16e products is expected to start in the coming weeks. Widespread availability of standard-compliant equipment is highly dependent on the successful completion of these certification processes. As a result, 802.16d-compliant equipment is now being marketed by the equipment manufactures, whilst 802.16e equipment is expected to be made available later on this year.

## 4. Decision Implications

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In accordance with Regulation 59 of the Electronic Communications Networks and Services (General) Regulations, 2004 (Legal Notice 412 of 2004) the MCA specified particular conditions, including the rollout conditions, regulating the award of the relevant frequencies. These conditions were contained in the licences for the grant of rights of use of radio frequency spectrum for the establishment and operation of a broadband wireless access network awarded to each of the successful applicants<sup>7</sup>.

However, since a number of externalities could hinder the network deployment, Clause 10 of each of the said licences allowed room for an extension being granted to the licensees by the MCA:

*"The Licensee shall ensure that access to its BWA network is made available to users in the Coverage territory in accordance with the coverage requirements and timeframes set out in Annex II of this Licence and the conditions listed in this Licence such that users can adequately access its BWA network:*

*Provided that the Licensee's obligation under this article shall not apply if subsequent to a request in writing by the Licensee, the Authority agrees in writing that it is not practicable for the Licensee to carry out its obligations under this article."*

Yet, in issuing any decision in this regard the MCA must take into account its regulatory objectives since the assignment of rights of use in the 3.5GHz band was meant to foster the proliferation of broadband in Malta leading to increased competition and consumer value. Moreover, the main principle underpinning the BWA assignment was that spectrum is a limited national resource and must be used efficiently. In fact, definite rollout and coverage obligations were included in the licences as a result of these considerations.

At this stage, a delay of over 12 months implies not only a postponement in the start of the network deployment but could also influence the overall timeframes envisaged for nationwide coverage (October 2009). This would inevitably have a significant negative impact on the market's competitive landscape and therefore on the consumers.

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<sup>7</sup> <http://www.mca.org.mt/infocentre/openarticle.asp?id=779&pref=6>  
<http://www.mca.org.mt/infocentre/openarticle.asp?id=777&pref=6>  
<http://www.mca.org.mt/infocentre/openarticle.asp?id=778&pref=6>

On the other hand, one would have to assess the commercial impact that an immediate BWA rollout using 802.16d compliant equipment would have in the long-term if the network were eventually migrated to 802.16e.

Above all one has to evaluate whether the long-term benefits of such an extension would outweigh the short-term negative impact on the market's competitiveness.

**What are your views on these requests?**

**Should the MCA grant a further extension to the rollout obligations?**

**If so, what modified timelines should be imposed by the MCA? Justify.**



## 5. Consultation Process

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The MCA invites comments from interested parties regarding this Consultation.

The MCA considers that a timely decision is necessary so as to provide clarity to the market. Furthermore the MCA believes that this consultation is necessary to protect the interests of the market in accordance with Maltese and Community law.

For these reasons, the MCA considers that a reduced timeframe is appropriate for submission of comments. The consultation period will run until 16:00pm on Friday 9 February 2007. Comments should be sent to:

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Written representations will be made public by the MCA subject to the MCA's Internal Guidelines on Confidentiality published on 16 December 2004.

**Joseph V Tabone**  
**Chairman**

**26 January 2007**