



An Coimisiún um  
**Rialáil Cumarsáide**  
Commission for  
**Communications Regulation**

## Spectrum Lease Notification

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

### Information Notice

**Reference:** ComReg 20/75

**Date:** 19/08/2020

**An Coimisiún um Rialáil Cumarsáide**  
**Commission for Communications Regulation**

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## Additional Information

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# 1: Introduction

1. In October 2017, the Commission for Communications Regulation (“ComReg”) published its response (“Document 17/82”)<sup>1</sup> to the public consultation (“Document 17/47”)<sup>2</sup> on its draft framework for spectrum leases in Ireland (“Spectrum Lease Framework”). ComReg also updated its spectrum transfer procedures to reflect its decisions on the Spectrum Lease Framework in the RSPP<sup>3</sup> and 700 MHz<sup>4</sup> bands (“Document 14/11R”<sup>5</sup>).
2. While the draft Wireless Telegraphy (Transfer of Spectrum Rights of Use) (Amendment) Regulations have yet to be made, there is no impediment to leasing applications being submitted in advance of the completion of that process.<sup>6</sup>
3. On 6 August 2020, Imagine Communications Ireland Limited (“Imagine”)<sup>7</sup> submitted to ComReg a notification regarding its proposal to lease spectrum rights in the 3.6 GHz band from Dense Air Limited (“Dense Air”) (“Proposed Lease”) (“Lease Notification”).
4. Having considered the Lease Notification, and in accordance with the procedures set out in Document 14/11R (and paragraphs 15-17 of same in particular), this information notice sets out:
  - by way of background and context, relevant material regarding ComReg’s recent Covid-19 Temporary Spectrum Management Measures;
  - the relevant technical details of the Proposed Lease and other relevant material; and

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<sup>1</sup> ComReg Document 17/82 – Spectrum leases in Ireland: Response to Consultation on the framework for spectrum leases in Ireland – published 12 October 2017. <https://www.comreg.ie/publication-download/spectrum-leases-ireland-response-consultation-framework-spectrum-leases-ireland>

<sup>2</sup> ComReg Document 17/47 – Consultation on Spectrum leasing in Ireland: Consultation on Spectrum leasing in Ireland – published 1 June 2017. <https://www.comreg.ie/publication-download/consultation-spectrum-leasing-ireland>

<sup>3</sup> The EU RSPP Decision (Decision No 243/2012/EU) requires EU Member States to allow the transfer or leasing of spectrum rights of use in the 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2.6 GHz and 3.6 GHz bands (the “RSPP Bands”).

<sup>4</sup> Decision (EU) 2017/899 of 17 May 2017 on the use of the 470-790 MHz frequency band in the Union requires EU Member States to allow the transfer or leasing of spectrum rights of use in the 700 MHz (694-790 MHz) band.

<sup>5</sup> ComReg Document 14/11R – Spectrum Transfer and Lease Framework in Ireland: Procedures and Guidelines, and Notification Form(s) – published 12 October 2017. <https://www.comreg.ie/publication-download/framework-for-spectrum-transfers-and-spectrum-transfer-notification-form>

<sup>6</sup> See, for example, the Wireless Telegraphy (3.6 GHz Band Licences) Regulations 2016 (S.I. No. 532 of 2016) at <http://www.irishstatutebook.ie/eli/2016/si/532/made/en/print#>

<sup>7</sup> Imagine Communications Ireland Limited provides fixed wireless electronic communication services.

- the process by which interested parties may make submissions on the Proposed Lease and next steps.

## 2: Background: Covid-19 Temporary Spectrum Management Measures

5. In Consultation Document 20/21<sup>8</sup>, ComReg relevantly noted that:
- operators may have existing rights of use that are not being used and that this spectrum could be utilised by other operators that have equipment readily available;
  - in the 3.6 GHz band there are licensees that currently have none or very limited deployments using their respective spectrum rights at this time;
  - this spectrum could therefore be used by operators during the Temporary Situation for the greater benefit of consumers;
  - it would encourage and look very favourably on any lease arrangement that would be put in place during the period of Temporary Spectrum Management Measures; and
  - the key elements of the Temporary ECS Licence as set out in Document 20/21 (for example, 6 month licences for a nominal fee) could be used as a reasonable proxy for any such lease.
6. Four respondents to Document 20/21 submitted views in support of the leasing spectrum rights in the 3.6 GHz band<sup>9</sup>. In summary:
- Imagine submitted that its network and customer premises equipment was capable of making full use of any assignments in the 3.6 GHz Band that are unused by MNOs;
  - 3IRL submitted that, for the duration of the Temporary Situation, it would pause its rollout in the 3.6 GHz Band where it would require a cessation of existing services to customers from other providers, and that it was open to sub-leasing some of its 3.6 GHz spectrum rights of use to fixed wireless providers on a temporary basis;
  - Eir submitted that it had suspended 3.6 GHz transition activities in cases where this is requested by an existing FWALA operator and stated that it was willing to consider leasing unused 3.6 GHz spectrum in rural areas; and

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<sup>8</sup> See Section 3.6.1 of ComReg Document 20/21 – COVID-19: Temporary spectrum management measures: Temporary spectrum rights in the 700 MHz, 2.1 GHz and 2.6 GHz Bands – <https://www.comreg.ie/publication-download/covid-19-temporary-spectrum-management-measures>

<sup>9</sup> See Section 3.8 of ComReg Document 20/27 – COVID-19: Temporary spectrum management measures: Response to Consultation and Decision on temporary spectrum rights in the 700 MHz, 2.1 GHz and 2.6 GHz Bands – <https://www.comreg.ie/publication-download/covid-19-temporary-spectrum-management-measures-response-to-consultation-and-decision-on-temporary-spectrum-rights-in-the-700-mhz-2-1-ghz-and-2-6-ghz-bands>

- Vodafone stated that it was happy to cooperate with leasing proposals and that it had been approached by Imagine in this regard.
7. In the response to consultation and decision (Document 20/27), ComReg welcomed the positive views of respondents to provide solutions to improve the services for consumers during the Temporary Situation and in relation to potential leasing of spectrum rights in the 3.6 GHz band.

## 2.1 Other 3.6 GHz Band Spectrum Leases

8. On 29 April 2020, Imagine Communications Ireland Limited (“Imagine”) submitted to ComReg three separate notifications regarding its proposals to lease spectrum rights in the 3.6 GHz band from each of Meteor Mobile Communications Limited (trading as “eir”) (“Meteor”), Three Ireland (Hutchison) Limited (trading as “3”) (“3IRL”) and Vodafone Ireland Limited (trading as Vodafone) (“Vodafone”).
9. Having considered the Lease Notifications, and in accordance with the procedures set out in Document 14/11R, ComReg published Document 20/30<sup>10</sup> and invited interested parties could make submissions on the proposed leases to Imagine and next steps. The closing date for the submission of responses to ComReg Document 20/30 was 22 May 2020, and no submissions were received.
10. Having considered the information provided by the notifying parties, in accordance with Document 14/11R, ComReg published Document 20/51<sup>11</sup> wherein the Commission formed the opinion that the result of the leases would not distort competition and determined that the leases may be put into effect for a period of three months from 22 June 2020.

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<sup>10</sup> ComReg Document 20/30 – Spectrum Lease Notification: Proposed lease of spectrum rights in the 3.6 GHz band from each of Meteor Mobile Communications Limited, Three Ireland (Hutchison) Limited, and Vodafone Ireland Limited to Imagine Communications Ireland Limited – published 8 May 2020.

<sup>11</sup> ComReg Document 20/51 – Spectrum Lease Determination: Lease of spectrum rights in the 3.6 GHz band from each of Meteor Mobile Communications Limited, Three Ireland (Hutchison) Limited, and Vodafone Ireland Limited to Imagine Communications Ireland Limited – published 19 June 2020.



## 3: Key elements of the Lease Notification

11. Details of the Lease Notification are set out in the **Annex** to this information notice but, at a high level, entail Imagine leasing 20 MHz of Dense Air's 3.6 GHz band spectrum rights at five locations.
12. In addition, the Proposed Lease is for an initial three month period, "with the possibility of renewal of up to a further 3 calendar months by mutual consent."
13. ComReg notes that the Lease Notification does not entail any amendments to the licence conditions of Dense Air.

## 4: Submitting comments and next steps

### 4.1 Submitting Comments

14. In accordance with Document 14/11R, ComReg now invites submissions from interested parties on the Lease Notification, whether singularly or combined, and refers to the Chapter 3 of Document 14/11R for guidance on how ComReg will determine whether or not a proposed lease would distort competition.
15. ComReg requests that submissions be made by no later than **1 September 2020**.
16. Submissions must be provided in written form (e-mail) to [marketframeworkconsult@comreg.ie](mailto:marketframeworkconsult@comreg.ie), clearly marked — Submissions to ComReg Document 20/75.
17. Electronic submissions should be submitted in an unprotected format so that they may be readily included in the ComReg submissions document for electronic publication.
18. ComReg appreciates that respondents may wish to provide confidential information if their comments are to be meaningful. In order to promote openness and transparency, ComReg will publish all respondents' submissions to this notice, as well as all substantive correspondence on matters relating to this document, subject to the provisions of ComReg's guidelines on the treatment of confidential information (Document 05/24).
19. In this regard, respondents should submit views in accordance with the instructions set out below. When submitting a response to this notification that contains confidential information, respondents must choose one of the following options:
  - A. Submit both a non-confidential version and a confidential version of the response. The confidential version must have all confidential information clearly marked and highlighted in accordance with the instruction set out below. The separate non-confidential version must have actually redacted all items that were marked and highlighted in the confidential version.

OR

  - B. Submit only a confidential version and ComReg will perform the required redaction to create a non-confidential version for publication. With this option, respondents must ensure that confidential information has been marked and highlighted in accordance with the instructions set out below. Where confidential

information has not been marked as per our instructions below, then ComReg will not create the non-confidential redacted version and the respondent will have to provide the redacted non-confidential version in accordance with option A above.

20. For ComReg to perform the redactions under Option B above, respondents must mark and highlight all confidential information in their submission as follows:
  - a. Confidential information contained within a paragraph must be highlighted with a chosen particular colour,
  - b. Square brackets must be included around the confidential text (one at the start and one at the end of the relevant highlighted confidential information),
  - c. A Scissors symbol (Symbol code: Wingdings 2:38) must be included after the first square bracket.
21. For example, “Redtelecom has a market share of [~~25%~~].”

## 4.2 Next steps

22. ComReg will consider all submissions made in response to this notice within the specified deadline and:
  - may request further information from the notifying parties and from other sources to aid in its assessment of any submissions received;
  - may enter into discussions with the notifying parties with a view to identifying measures which would ameliorate any effects of the notified leases on competition;
  - if it forms the opinion that the result of any lease/s (whether singularly or combined) will not be to distort competition, will determine that the lease may be put into effect and publish notice of its determination on its website on the same day as the determination is made<sup>12</sup>; and
  - if having considered the information provided and all submissions received, ComReg is unable on the basis of the information before it to form a view that the result of a lease will not be to distort competition, ComReg will make a

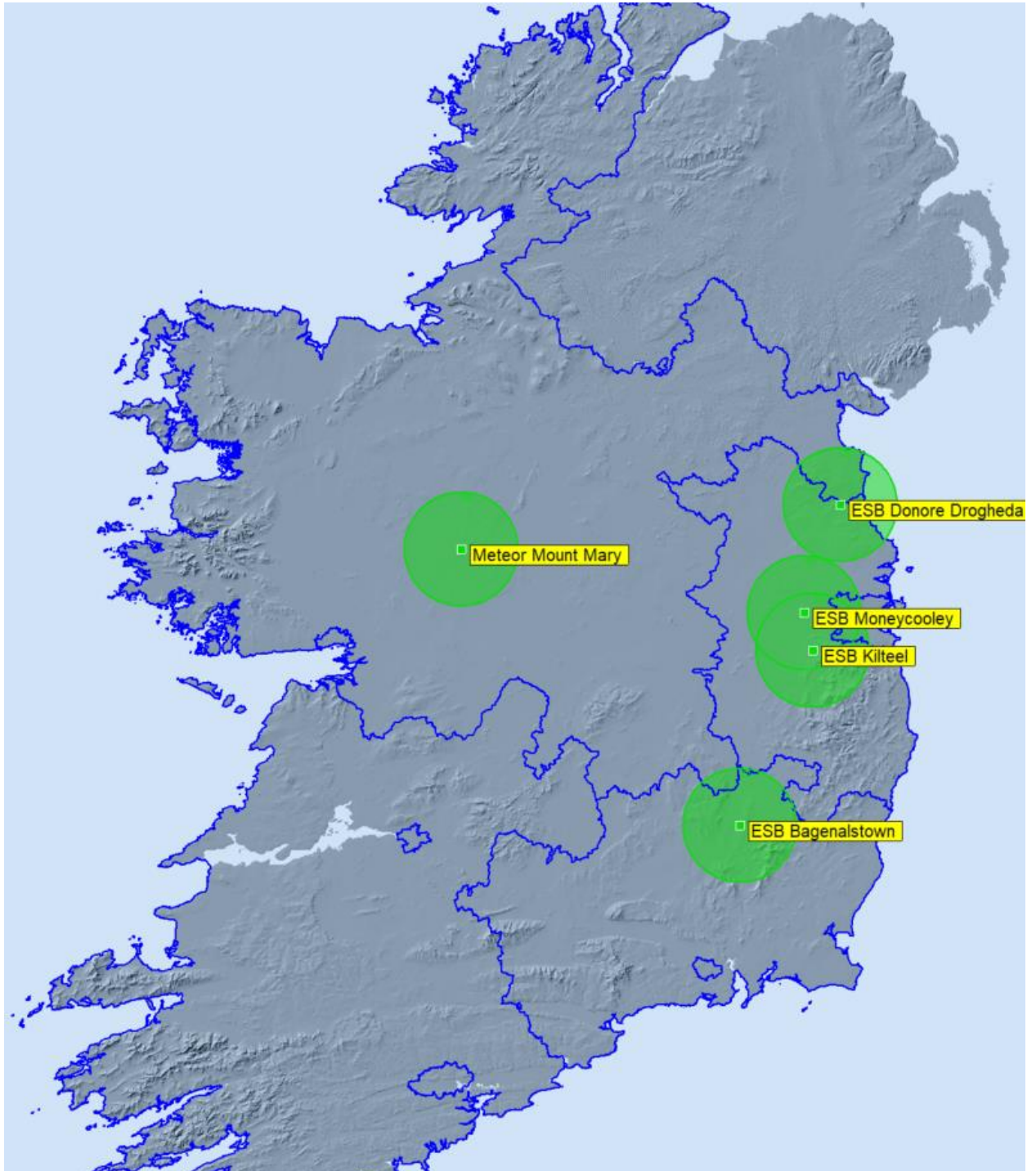
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<sup>12</sup> In particular, ComReg will, within 35 working days of the publication of this information notice, inform the notifying parties and any other undertakings or third parties who have made submissions that it has so determined. On the date of the determination, the Commission, in addition to informing the notifying parties, will publish notice of the making of the determination on its website. The Commission will publish a non-confidential version of the text of its determination on its website at the earliest possible date thereafter (and in any event, no later than two months from the date of the determination).

determination to carry out a full investigation of any such lease (i.e. to proceed to phase 2 as set out in Document 14/11R).

# Annex 1: Imagine/Dense Air proposed lease

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



**Table 1: Technical details of each service area for the proposed Imagine/Dense Air lease**

Service area	Centre Point of service area		Radius (km)	Frequency Range (MHz)	Quantum of spectrum (MHz)	Maximum EIRP per Sector (dBm over 20MHz)
	Easting	Northing				
LH002 ESB Donore Drogheda	307405	273681	20	3410 – 3430	20	37
KE014 ESB Moneycooley	294635	235831	20	3410 – 3430	20	37
CW006 ESB Bagenalstown	272124	161291	20	3410 – 3430	20	37
GY041 Meteor Mount Mary	174653	257959	20	3410 – 3430	20	37
KE008 ESB Kilteel	297569	222716	20	3410 – 3430	20	37

# **Annex 2: Imagine/Dense Air proposed lease agreement**

# Lease Agreement for Short Term Use by Imagine of Part of Dense Air Ireland's 3.6GHz Band Spectrum

27<sup>th</sup> July, 2020



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# 1 Background and Purpose

Further to the 3.6 GHz Band Spectrum Award (“the Award”) conducted by the Commission for Communications Regulation (“ComReg”) and the Transition by Imagine to its new 3.6 GHz Band spectrum on foot of the Award as well as measures introduced by the Irish Government in response to the declaration on 11 March 2020 by the World Health Organisation (“WHO”) that the novel coronavirus (COVID-19) could be characterised as a pandemic resulting in significant changes to the normal traffic levels and patterns of the electronic communications networks (“ECNs”) in Ireland Imagine has identified a requirement for the short term lease of part of Dense Air’s<sup>1</sup> 3.6GHz Band Spectrum.

The purpose of this document is to set out the terms under which the agreed part of Dense Air’s 3.6GHz Band Spectrum will be leased by Imagine<sup>2</sup>.

## 2 Scope of Agreement

The Lessee (Imagine) and Lessor (Denseair) are proposing that Lessee would use 3.6 GHz Band spectrum rights assigned to Lessor<sup>3</sup> for a short and defined period of time in the locations and area as identified in **Annex 1**.

### 2.1 Spectrum Lease Definition

The Proposed Arrangement entails the short-term use by Lessee of Lots already commenced under Lessor’s 3.6 GHz Band Liberalised Use Licence, the Proposed Arrangement is considered to be a proposed spectrum lease that is subject to the (relevant aspects) of the Spectrum Transfer and Lease Framework in Ireland (ComReg Document 14/11R) (“the Framework”), including:

1. confirmation that all requisite information and administrative fee has been provided<sup>4</sup>;
2. publication by ComReg of a notice on its web-site containing certain information<sup>5</sup>;
3. consideration of any responses received from third parties; and
4. a determination by ComReg.

### 2.2 Details of Spectrum to be Leased

To comply with the Spectrum Transfer and Lease Framework in Ireland (ComReg Document 14/11R) (“the Framework”), the following details are provided for the ComReg notice:

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<sup>1</sup> Dense Air Ltd

<sup>3</sup> 3.6 GHz Band spectrum assigned to Lessor under its 3.6 GHz Band Liberalised Use Licence, which it has no immediate plans to use.

<sup>3</sup> 3.6 GHz Band spectrum assigned to Lessor under its 3.6 GHz Band Liberalised Use Licence, which it has no immediate plans to use.

<sup>4</sup> Administrative fee to be waived by ComReg (to be confirmed)

<sup>5</sup> See paragraph 15 of Document 14/11R.

### 2.2.1 The names of the notifying parties (and trading names);

(1) **Dense Air Ireland** having its registered office at Pavilion House, 31 Fitzwilliam Square, Dublin 2; and

(2) **Imagine Communications Ireland Limited** having its registered office at Unit 5/6 Sandyford Business Centre, Blackthorn Road, Sandyford Industrial Estate, Dublin 18 ('Imagine')

### 2.2.2 The business activities of the undertakings involved in the transfer or lease notification.

Provision of Telecommunications services to the retail and wholesale market.

### 2.2.3 Technical details of the transfer or lease notification

- a. the service area, frequency range and dates set out in **Annex 1** to this document;
- b. the apparatus locations set out in **Annex 2** to this document;
- c. the service area as defined in **Annex 3** to this document;
- d. Services to be provided;  
The provision of FWA services to Imagine's existing customers only within the service area identified in Annex 1 to this document; and
- e. apparatus to be used in the proposed service area;  
Apparatus will be as currently licensed and operated by Imagine in its liberalised licence and TPL licences.

## 3 Licence Conditions

The lessor is and will continue to comply with all the licence conditions attaching to the rights of use to spectrum to be transferred following a partial transfer.

The Lessee will comply with all licence conditions attaching to the original rights of use of radio frequencies that are to be transferred.

## 4 Commercial Agreement

The fee to be paid by the lessee to the lessor will be agreed by the parties for the duration of the lease.

The duration of the lease will be for 3 calendar months, commencing 1<sup>st</sup> August, 2020, with the possibility of renewal of up to a further 3 calendar months by mutual consent.

At the end of the 6-month period the agreements will be reviewed in the context of any agreed Transition plan in place at that time and the situation regarding COVID-19 Temporary spectrum management measures.

## 5 Signature

	Lessor	Lessee
Signed		
Name	<b>Paul Senior</b>	<b>Mike Stacey</b>
Title	<b>Director</b>	<b>Chief Technology &amp; Innovation Officer</b>
Company	<b>Dense Air Ireland 405 Q House, Furze Road, Sandyford, Dublin 18, Ireland</b>	<b>Imagine Communications Group Sandyford Business Centre, Dublin 18, Ireland</b>
Date	<b>27th July, 2020</b>	<b>27th July, 2020</b>

## ANNEX 1- Service Area, Frequency Range and Commencement/Expiry Dates entailed by the Proposed Arrangement

Service Area	Frequency Range	Commencement Date	Expiry Date
<b>Lat: 53.70213738</b> <b>Long: -6.374676522</b> <b>Radius: 20km</b>	3410MHz - 3430MHz	01/08/2020	31/10/2020
<b>Lat: 53.364561 Long: -6.579381</b> <b>Radius: 20km</b>	3410MHz - 3430MHz	01/08/2020	31/10/2020
<b>Lat: 52.698506 Long: -6.934056</b> <b>Radius: 20km</b>	3410MHz - 3430MHz	01/08/2020	31/10/2020
<b>Lat: 53.57113261</b> <b>Long: -8.383519102</b> <b>Radius: 20km</b>	3410MHz - 3430MHz	01/08/2020	31/10/2020
<b>Lat: 53.246111</b> <b>Long: -6.539177</b> <b>Radius: 20km</b>	3410MHz - 3430MHz	01/08/2020	31/10/2020

Table 1: Service Area, Frequency Range and Commencement/Expiry Dates entailed by the Proposed Arrangement

## ANNEX 2 – Details of Apparatus Location entailed by the Proposed Arrangement

Service Area	Site Identity	Latitude	Longitude	Maximum EIRP per Sector (dBm over 20MHz)
<b>Lat: 53.70213738</b> <b>Long: -6.374676522</b> <b>Radius: 20km</b>	LH002 ESB Donore Drogheda	53.70214	-6.37468	37dBm
<b>Lat: 53.364561</b> <b>Long: -6.579381</b> <b>Radius: 20km</b>	KE014 ESB Moneycooley	53.36456	-6.57938	37dBm
<b>Lat: 52.698506</b> <b>Long: -6.934056</b> <b>Radius: 20km</b>	CW006 ESB Bagenalstown	52.69851	-6.93406	37dBm
<b>Lat: 53.57113261</b> <b>Long: -8.383519102</b> <b>Radius: 20km</b>	GY041 Meteor Mount Mary	53.57113	-8.38352	37dBm
<b>Lat: 53.246111</b> <b>Long: -6.539177</b> <b>Radius: 20km</b>	KE008 ESB Killeel	53.246111	-6.539177	37dBm

Table 2: Details of Apparatus Location entailed by Proposed Arrangement

## ANNEX 3 – Details of Service Areas entailed by Proposed Arrangement

Centre Point	Easting	Northing	Radius (max 20 km)	Corresponding TSA(s)
<b>LH002 ESB Donore Drogheda</b>	-6.37468	53.70214	20km	N/A
<b>KE014 ESB Moneycooley</b>	-6.57938	53.36456	20km	N/A
<b>CW006 ESB Bagenalstown</b>	-6.93406	52.69851	20km	N/A
<b>GY041 Meteor Mount Mary</b>	-8.38352	53.57113	20km	N/A
<b>KE008 ESB Killeel</b>	-6.539177	53.246111	20km	N/A

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