



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Opportunities for Testing & Trialling Wireless Services and Technologies in Ireland Guidelines Document

Guidelines Document

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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Legal Disclaimer

This document is not a binding legal document and also does not contain legal, commercial, financial, technical or other advice. This is an information note for the guidance of applicants to the Commission for Communications Regulation (“ComReg”) for the issue of a wireless test or trial licence. ComReg is not bound by it, nor does it necessarily set out ComReg’s final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this document and the due exercise by ComReg of its functions and powers, and the carrying out by ComReg of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of ComReg. Inappropriate reliance ought not therefore to be placed on the contents of this document.

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1 Introduction

1. The Commission for Communications Regulation (“ComReg”) operates a special licensing regime to encourage innovation and development involving new radio technologies or services. Two licence types are available, one covering technology tests and the other covering service trials involving third parties or the public. These are referred to elsewhere in this document as “test licences” and “trial licences”, respectively. Both licence types are intended to support genuinely novel research and development activities, and are not intended for the commercial delivery of electronic communication services. A number of restrictions apply to the test and trial licences to differentiate them from other types of licence: in particular limits apply to the duration and, in the case of trial licences, the number of third-party participants and the charges that can be levied on participants.
2. This document provides information on the test and trial licensing schemes, details the (non-exhaustive) conditions attached to test licences and trial licences, and the circumstances in which these licences will be issued.
3. The main body of national legislation governing test and trial licences is the Wireless Telegraphy Act, 1926, as amended, and specifically, the Wireless Telegraphy (Research and Development Licence) Regulations, 2005 (S.I. No. 113 of 2005) and the Wireless Telegraphy (Third Party Trial Licence) Regulations, 2005 (S.I. 114 of 2005). In addition, EU measures, as transposed into Irish law, may affect the policy and regulation of amongst other things the granting of spectrum rights of use, innovation and licensing. In particular, readers should be aware of the *Framework Regulations (S.I. No. 333 of 2011)* and the *Authorisation Regulations (S.I. No. 335 of 2011)*, both of which can be downloaded from the ComReg web site (www.comreg.ie)¹.
4. Test licences will not permit the involvement of members of the public in the tests. Trial licences will permit limited participation by third parties including members of the public. Trial licences may also be subject to the conditions of the General Authorisation for the provision of electronic communications and services, which are specified in ComReg Document 03/81R6. Any specific queries relating to licensing or general authorisation requirements should be referred to ComReg.

¹ Readers should be aware that Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code is in the process of being transposed in the State and will replace the EU Telecoms Framework, including S.I. No. 333 of 2011, and S.I. No. 335 of 2011, in due course.

5. Applications for test or trial licences can be made via email using the application forms available at: www.comreg.ie.

In addition, applicants or interested parties should visit “Test & Trial Ireland” (www.testandtrial.ie), a wireless licensing service provided by ComReg to encourage innovation and development of wireless communications using Ireland's radio spectrum. This website contains a short video on the regime itself, how to apply and testimonials from previous clients as well as other items of interest.

1.1 Scope of Test and Trial Licences

6. **Test licences** relate solely to the carrying out of tests of novel or innovative radio equipment, uses of spectrum or technologies and may not be appropriate where the applicant is seeking in the longer term to acquire a full operational licence for the service under test.
7. **Trial licences** relate to the carrying out of trials of novel or innovative radio services involving members of the public or other third parties. Trial licences will be available for any new service that does not fit within existing licence categories.

2 Conditions Attached to Test Licences

8. This section sets out certain conditions that are attached to a test licence, however this is not an exhaustive list. Test licensees must comply with the conditions set out in the Wireless Telegraphy (Research and Development Licence) Regulations, 2005 (S.I. 113 of 2005).

2.1 Involvement of Third Parties

9. Test licences do not permit the involvement of the public or the provision of services to third parties and are intended for in-house testing only. Joint ventures or collaborative research may be permitted subject to prior notification to ComReg of the name, address and nature of participation of each such party, and the issue by ComReg of prior specific sanction for their involvement.

2.2 Licence Duration

10. A test licence is valid for a specified duration, limited to a maximum period of twelve months from the date on which it comes into operation. Where the nature of the test requires a longer duration and the radio spectrum that is licensed is not required for other purposes, ComReg may consider extending the duration of the test for a further period (maximum 12 months), subject to a formal application from the holder of the test licence not less than one month before its expiry. The application for the new licence must include reasons to justify the extension of the test. Further extensions will be considered on a similar basis

2.3 Licence Revocation

11. A test licence may be revoked by ComReg should the licensee cease to meet the provisions or any of the terms or conditions attached to the test licence, or cease to use the licensed equipment and/or spectrum for the purposes set out in the test licence. ComReg also reserves the right to amend, suspend or withdraw a test licence.

2.4 Frequencies for test licences

12. The radio spectrum extends from very low frequencies (below 9 kHz) to an upper limit of 3000 GHz². Different parts of the spectrum are allocated to different services, such as fixed, mobile, broadcasting or satellite (frequencies above 240 GHz are not currently allocated to any specific uses). In principle, test licences will be considered for any part of the radio spectrum where spectrum is available and the undertaking of the test will not cause undue interference to other radio services.

2.5 Licence Fee

13. The fee for a test licence will be €200 for 12 months. This fee will be reduced pro rata for shorter durations down to a minimum of €100. The table below shows the range of fees:

| Wireless Test Licence Duration | Fee (€) |
|--------------------------------|---------|
| 6 months or less | €100 |
| 7 months | €116.67 |
| 8 months | €133.33 |
| 9 months | €150 |
| 10 months | €166.67 |
| 11 months | €183.33 |
| 12 months | €200 |

² For a full description of available radio spectrum allocations in Ireland please refer to the Radio Frequency Plan for Ireland (ComReg Document 20/58R2).

3 Conditions Attached to Trial Licences

14. This section sets out certain conditions that are attached to a trial licence, however this is not an exhaustive list. Trial licensees must comply with the conditions set out in the Wireless Telegraphy (Third Party Trial Licence) Regulations, 2005 (S.I. 114 of 2005).

3.1 Non-commercial nature of trials

15. Trial licences are issued on the understanding that the trial is carried out on a non-commercial basis and, in particular, that any payment or like consideration by a third party to the licensee in connection with the use of radio equipment, spectrum or services under the licence is limited to recovery of costs arising from the trial. Details of any charges to be levied on participants and the basis of their calculation must be provided with the licence application. For the avoidance of doubt, ComReg will not be liable for any costs incurred by the licensee in applying for the licence or operating the trial.
16. The trial licensee must retain for inspection by ComReg, the name, address and nature of participation of each third party involved in the trial. The trial licensee must ensure that each participant is informed of the nature of the trial (i.e. temporary, for trial purposes only, non-commercial), any costs that are to be recovered from the participant (if applicable) and that there is no obligation to subscribe to any commercial service that might subsequently be launched by the licensee following completion of the trial. A template suitable for this purpose is presented in Annex A to this document. Details of the information on the nature of the trial to be supplied to trial participants must be submitted with the trial licence application form. ComReg will expect, as a minimum, that this information will be fully reflected in the terms of any contract that exists between the licensee and trial participants.
17. The number of third parties that the applicant wishes to participate in the trial must be stated in the application. As a general rule, the number of participants will be limited to 100 for trials involving specific user groups (e.g. business users) and limited to 1,000 for trial services aimed at the consumer market. In exceptional cases ComReg may consider higher numbers but these must be justified objectively by the applicant. The number of third party participants permitted, once agreed by ComReg, will be specified in the licence schedule and must not be exceeded at any time during the trial.

18. Before an application can be processed, each applicant must submit a declaration to ComReg, whereby it undertakes to ensure that all participants and third parties in the trial are fully informed of the nature of the trial.

3.2 Licence Duration

19. A trial licence is valid for a specified duration, limited to a maximum period of twelve months from the date on which it comes into operation. Where the nature of the trial requires a longer duration and the radio spectrum that is licensed is not required for other purposes, ComReg may consider extending the duration of the trial for a further period (maximum 12 months), subject to a formal application from the holder of the trial licence not less than two months before its expiry. The application for the new licence must include reasons to justify the extension of the trial and must meet all of the conditions detailed below. Further extensions will be considered on a similar basis:

- a) The extension must be justified objectively by the licensee.
- b) The licensee must be pursuing with ComReg the development of an appropriate licensing scheme to provide for full service licence (note that this will not however confer any automatic right to a licence should such a scheme be introduced).
- c) The service under trial must not replicate any existing wireless communication service available in Ireland.
- d) No alternative licensing scheme exists for the service concerned.

3.3 Licence Revocation

20. A trial licence may be revoked or suspended by ComReg in accordance with Irish law, including the provisions of the Authorisation Regulations (S.I. 335 of 2011)³.

³ Including the successor legal instrument transposing equivalent provisions of the European Electronic Communications Code.

21. Without prejudice to paragraph (1), where the Third Party Trial does not constitute an electronic communications network or an electronic communications service as defined in the Framework Regulations⁴, the Commission may, where there is serious or repeated non-compliance by the licensee with the conditions attached to the licence and having considered any representations, withdraw or suspend the licence.

3.4 Frequencies for trial licences

22. As per paragraph 12 above, trial licences will be considered for any part of the radio spectrum where spectrum is available and the undertaking of the trial will not cause undue interference to other radio services.

23. A trial licence may only be issued where, in ComReg's opinion, there is scope for a full operational licence for the service under trial to be issued in the radio spectrum concerned in the future⁵. In the event that ComReg subsequently decides to make full operational licences available, the holding of a trial licence will not accord any right, entitlement, expectation or advantage to the trial licensee with regard to obtaining a full operational licence.

3.5 Licence Fee

24. The fee for a trial licence will be €500 for 12 months. This fee will be reduced pro rata for shorter duration licences down to a minimum of €100. The table below shows the range of fees:

| Wireless Trial Licence Duration | Fee (€) |
|---------------------------------|---------|
| 2 months or less | €100.00 |
| 3 months | €125.00 |
| 4 months | €166.67 |
| 5 months | €208.33 |
| 6 months | €250.00 |
| 7 months | €291.67 |
| 8 months | €333.33 |
| 9 months | €375.00 |
| 10 months | €416.67 |
| 11 months | €458.33 |
| 12 months | €500 |

⁴ Including the successor legal instrument transposing equivalent provisions of the European Electronic Communications Code.

⁵ Note however that the issue of a trial licence does not imply any obligation on ComReg's part to make available a full operational licence.

4 Additional Conditions Attached to both Test and Trial Licences

4.1 Licence Expiry

25. Upon completion of the specified duration, the licence will expire and unless a further licence for the test/trial has been granted to the licensee the test/trial will be deemed to have ended. Permission for the use of the portion of radio spectrum assigned under the test / trial licence lapses not later than the licence's expiry. Test / trial licensees should note that when the licence expires, any prohibitions and criminal or civil liabilities imposed by law, such as under the Wireless Telegraphy Acts, as amended, may apply. The granting of a test / trial licence does not convey any right, entitlement or expectation, either implicit or explicit, to:

- (i) any renewal or replacement of the test / trial licence,
- (ii) a full licence (i.e. permission for the use of radio spectrum for purposes other than the defined testing purposes permitted under the test / trial licence);
- (iii) any continued use of the portion of radio spectrum assigned under the test / trial licence, or to any other portion, following completion of the test / trial;
- (iv) immunity or a defence in respect of any criminal or civil liability arising upon the expiry of the test / trial licence.

4.2 Interference and Co-existence with other radio services

26. Test and Trial licences are issued on a non-protected, non-interference basis, i.e. the licence carries no guarantee of protection against interference by other users of the radio spectrum and the use which the licence allows must not cause interference to other users of the radio spectrum. If such interference does arise operation of the system under test or trial must cease immediately. Any costs incurred by ComReg or any other party in resolving interference problems arising from a test or trial licence will be borne entirely by the licensee.

27. A test or trial licence does not convey any exclusive right to the use of the spectrum which is authorised under that licence.

4.3 Access to information arising from tests or trials

28. ComReg reserves the right to require access to any test results, data or information arising from operations carried out under a test or trial licence, where this might have a bearing on interference or other spectrum management considerations. Such information will be treated as commercially confidential and will not be disclosed to any other party without the prior agreement of the licensee.

4.4 Specific Provisions

29. ComReg is also concerned to ensure consistency between the approaches to the issue of a test / trial licence and the issue of a full licence within a particular area. This may prompt the inclusion in a test / trial licence of further specific provisions.

4.5 Consideration of Applications

30. In addition to the general conditions of the test and trial licences, the following are some of the factors which ComReg may take into account in considering whether or not to issue a test or trial licence on foot of an application:

- a) the principles of good management of the radio spectrum as a natural resource and as a public facility;
- b) existing, and possible future, frequency allocations at national and international level (see ComReg Document 20/58R2); and
- c) the nature of the test / trial for which a licence is sought.

5 The Application Process

31. Applications for test or trial licences can be made via email using the application forms available at www.testandtrial.ie and www.comreg.ie. Completed application forms can be submitted to licensing@comreg.ie.
32. The application form requires the submission of details concerning the applicant, the nature of the proposed test/trial, the equipment which it is proposed to use in the test/trial and any third parties to the trial. Applicants for trial licences are requested to bring the conditions attached to the trial licence to the attention of each third party and to make a declaration on the application form that this has been done.
33. The completed form, and any supporting material which the applicant wishes to supply, will form the basis of an application. The Commission reserves the right to seek further relevant information from the applicant. It is likely that, in many cases, consideration of an application will involve further correspondence and/or meetings between the Commission and the applicant. The Commission also reserves the right to contact any third parties which the applicant has notified as proposed participants in the test or trial.
34. Payment of the relevant licence fee must be made prior to the issuing of any licence
35. For further Information concerning the application process, please contact:

ComReg Test & Trial Ireland Team,
The Commission for Communications Regulation,
One Dockland Central,
Guild Street,
Dublin 1.

E-mail: info@testandtrial.ie

Annex: 1 Template for Informing Trial Participants of the Nature of the Trial

A 1.1 The information provided to the trial participants should include:

- details of any charges that will be applied and confirmation that these are intended solely to cover the costs incurred by the licensee in running the trial;
- the duration of the trial;
- a summary of the trial licence conditions; and
- a full description of the trial service.

A 1.2 Additionally, the following text should be included in the information provided to trial participants:

“I have agreed to participate in a radio service trial to be carried out by [name of licensee] during the period [enter estimated start and finish dates of trial]. I understand that that there is no guarantee of continued service beyond the trial period, that I am under no obligation to subscribe to any subsequent commercial service provided by [name of licensee] upon completion of the trial and that any subsequent commercial service that might be offered would not necessarily be on the same terms and conditions or at the same price as the trial.”

A 1.3 Where practical, each participant should sign the document as follows:

Signature _____

Date _____

Name of Trial Participant _____

Contact Details _____