



Commission for
Communications Regulation

Third Party Business Radio

Re-opening the scheme for licensing

Response to Consultation

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1 Introduction

- 1 The Commission for Communications (“ComReg”) established the Third Party Business Radio (“TPBR”) licensing scheme in 2005¹, following a public consultation². The TPBR scheme provides the business radio community with a versatile service offering that can be tailored by licensees to meet the short term or longer term needs of individual users as these evolve over time. Unlike traditional business radio licences, TPBR licences allow licensees to provide business radio services to third parties throughout the State, without the requirement for individual licences in respect of each specific geographic site or each third party user.
- 2 TPBR licences have been issued under the Wireless Telegraphy (Third Party Business Radio Licence) Regulations 2005³ (“the Regulations”) which amongst other things provides that TPBR licences shall be of five years duration and shall then expire.
- 3 In 2010, prior to the expiry of the first TPBR licences, ComReg re-opened the TPBR scheme in order to grant new licences for a further five year period.
- 4 During the period December 2010 to December 2011, ComReg issued 31 TPBR licences to 11 different operators. All current TBPR licences (listed in Tables 1 and 2 below) will expire by the end of 2016.
- 5 In Consultation 15/63⁴ ComReg proposed to re-open the TPBR scheme in accordance with its functions, objectives, powers and duties relating to management of spectrum as mainly set out in the Communications Regulation Act 2002, as amended, the Electronic Communities (Electronic Communications Networks) (Framework) Regulations⁵, the Electronic Communities (Electronic Communications Networks) (Authorisation) Regulations 2011⁶, and the Wireless Telegraphy Acts 1926-2009.
- 6 Three parties responded to Consultation 15/63, as listed below, and ComReg thanks these parties for their responses, non-confidential versions of which are published in Document 15/109a:
 - BP Multipage (“BP2),

¹ See ComReg Response to Consultation 05/74 “New Licensing Scheme for Provision of Business Radio Licences to Third Parties”, dated 22 September 2005.

² ComReg consultation document 05/45 “New Licensing Scheme for Provision of Business Radio Licences to Third Parties”, dated 23 June 2005.

³ S.I. 646 of 2005

⁴ ComReg Document 15/63 “Consultation on Third Party Business Radio Scheme”

⁵ S.I. 333 of 2011

⁶ S.I. 335 of 2011

- ESB Networks ("ESBN")
- Mobile Radio Links Limited ("MRL")

2 Response to Consultation 15/63

2.1 Spectrum Assignments

- 7 In Consultation 15/63 ComReg proposed to reduce the number of VHF channels available for TPBR licensing given the low demand (only 5 of the 20 VHF channels have ever been assigned).
- 8 In addition, on the basis of the number of enquiries received since the closure of the TPBR licensing scheme, ComReg considered that there would be increased demand for UHF channels in any new TPBR licensing scheme. Consequently, ComReg proposed to make an additional 10 UHF channels available under the proposed new scheme and posed the following two consultation questions.

Q. 1 Do you agree with ComReg's proposal to reduce the number of VHF channels for TPBR from 20 to 10? Please give reasons for your answer.

Q. 2 Do you agree with ComReg's proposal to make an additional 10 UHF channels available for TPBR licensing should demand for spectrum exceed supply? Please provide reasons for your answer.

Views of Respondents

- 9 All three respondents were supportive of ComReg's proposal to reduce the number of VHF channels for TPBR from 20 to 10. However, both ESNB and BP suggested that ComReg should consider making additional VHF channels available should there prove to be demand for same.
- 10 All three respondents were supportive of the proposal to increase the number of UHF channels and further expressed the view that if there is sufficient demand then additional UHF channels should also be made available. MRL expressed the view that it is likely that existing licensees would look to acquire additional channels in order to enable them to expand their operations and meet client demand.

2.2 Award Process

- 11 In Consultation 15/63, ComReg, put forward a number of proposals in respect of the award of TPBR licences, which in summary were as follows:
- Licences will be issued on a "first come, first served" basis;
 - If demand should exceed supply then licences will be awarded via the drawing of lots;

- Applications for all channels that are currently licensed will be accepted one month prior to the licence expiry date of existing licences;
- In the event of the drawing of lots successful incumbent TPBR licensees will be reassigned their existing channel;
- The number of unused TPBR channels indicates that supply exceeds demand which in turn suggests that the availability of TPBR licences is not acting as a barrier to entry, or restricting competition in the provision of TPBR services. Consequently there will be no restriction on the number of channels or licences that can be assigned to any one applicant;
- The scheme will be closed for new applications on 31 December 2017.

12 ComReg asked the following questions on its proposed award process.

- Q. 3 Do you agree with ComReg's proposals for the application process for the granting of new TPBR licences? Please provide reasons for your answer.
- Q. 4 Do you agree with ComReg's proposal not to impose a cap on the amount of spectrum/number of licences that can be awarded / granted to any one applicant? Please provide reasons for your answer.
- Q. 5 Do you agree with ComReg's proposal to close the TPBR licensing scheme once all the channels are assigned or until 31 December 2017? Please provide reasons for your answer.

Views of Respondents

- 13 All three respondents agreed with ComReg's proposed application process as set out in Consultation 15/63. MRL expressed a preference for incumbent licensees to be assigned their existing channel prior to the drawing of lots as retuning to an alternative frequency assignment would be costly.
- 14 Two of the respondents (BP and MRL) agreed with ComReg's proposal not to impose a cap on the amount of spectrum/number of licences that could be awarded / granted to any one applicant.
- 15 ESNB did not agree with ComReg's proposal regarding spectrum caps stating that, while unlikely, the absence of caps could result in all the spectrum going to one applicant who could then "*hold other applicants to ransom*". ESNB contended that this possibility should be addressed through the imposition of caps which could be removed after the initial application period. ESNB did not put forward any proposal as to the level at which such a cap should be set or as to how long the initial application period should extend.

- 16 All three respondents agreed with ComReg's proposal to close the TPBR licensing scheme on 31 December 2017. Both BP and MRL considered that this proposal was fair. MRL added that it would enable TPBR licensees to win new contracts by obtaining additional spectrum. ESNB stated that it would be prudent to assess the operation of the scheme over its lifetime.

ComReg's position

- 17 ComReg does not agree with MRL's position that incumbent licensees should be assigned their existing channel prior to the drawing of lots. ComReg must apply open, objective, transparent, non-discriminatory and proportionate procedures for granting of rights of use for radio frequencies.⁷ ComReg therefore cannot provide preferential access to incumbents and must treat all applications for TPBR channels equally. As set out in the Regulations, TPBR licences are granted for 5 years after which all rights of use expire entirely and existing TPBR licensees have no right or entitlement to the reassignment of a previously assigned channel. However, the application and award process proposed in Consultation 15/63 should minimise the likelihood of interested parties not acquiring the channel of their choice. This includes that, if it should become appropriate and necessary to draw lots then ComReg will endeavour to ensure that incumbent TPBR licensees are re-assigned their existing channels.
- 18 ComReg does not agree with EBN's submission that the absence of caps could result in all the spectrum going to one applicant who could then "hold others to ransom". ComReg is of the view that the supply of available TPBR channels which to date has exceeded demand, in tandem with the proposed application and award processes, should be sufficient to prevent a situation occurring in which all of the available spectrum is obtained by a single licensee.
- 19 ComReg is also of the view that the 5-year duration of the licences awarded under the TPBR licensing scheme provides for an appropriate timeframe in which to assess the operation of the scheme and to make provision for any technological to spectrum allocation changes. As such, ComReg does not consider that periodic reviews of the scheme should be conducted within the 5-year timeframe.

2.3 Additional issues raised.

- 20 In its response, ESB noted that there is an ETSI⁸ work item tasked with harmonising the use of the 452.5 - 457.5 MHz paired with 462.5 - 467.5 MHz spectrum band for utility applications and ESB submitted that ComReg should not assign any spectrum within this range.

⁷ Further to Regulation 9(4) of S.I. No. 335 of 2011, the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011.

⁸ European Telecommunications Standards Institute

ComReg's Position

- 21 ComReg notes that the 452.5 - 457.5 MHz paired with 462.5 - 467.5 MHz spectrum band is currently not harmonised in Europe for utility applications. In addition, there is no work-plan in place to begin harmonisation of these bands within CEPT⁹, the body responsible for such activities. ComReg further notes that this band is extensively used for various different business radio applications throughout Ireland. ComReg will continue to monitor any developments in relation to the allocation of this spectrum band.

⁹ The European Conference of Postal and Telecommunications Administrations.

3 Final Position

- 22 Having regard to ComReg's statutory functions, objectives and duties pertaining to managing the radio frequency spectrum¹⁰, the following represents ComReg's final position on the re-opening of the TPBR licensing scheme.
- 23 ComReg has decided to reduce the number of VHF channels for TPBR from 20 to 10 and to make an additional 10 UHF channels available for TPBR licensing. ComReg has further decided to accept applications from all interested parties for TPBR licences for all channels that are currently assigned, one month prior to the licence expiry date (as indicated in Tables 1 and 2 below). If demand should exceed supply than channels will be assigned via the drawing of lots.
- 24 In order to minimise the potential for disruption to customers of existing TPBR licensees, ComReg will endeavour to ensure that where it is appropriate and necessary to draw lots then successful incumbent TPBR licensees will be re-assigned their existing channels.
- 25 As set out in paragraph 13 above ComReg has decided not to impose a spectrum cap.
- 26 ComReg will grant 5 year TPBR licences until all available channels have been assigned or until 31 December 2017 - whichever comes first - after which the scheme will be closed.

Ch ID	BTX	BRX	Licensee Name	Licence Expiry Date
TBV-01	165.5875	170.3875	BP Multipage	05-01-2016
TBV-02	165.3625	170.1625	BP Multipage	05-01-2016
TBV-03	166.1000	170.9000	RSP	05-01-2016
TBV-04	166.3625	171.1625	DAL Electronics	07-03-2016
TBV-05	166.3875	171.1875	EMR	19-12-2015
TBV-06	166.4125	171.2125		
TBV-07	166.4625	171.2625		
TBV-08	166.4750	171.2750		
TBV-09	166.5375	171.3375		
TBV-10	165.1875	169.9875		

Table 1: TPBR VHF spectrum assignments

¹⁰ See, in particular, Sections 10 and 12 of the Communications Regulation Act 2002, as amended, Regulations 16 and 17 of the Framework Regulations (SI 333 of 2011) and Regulations 9, 10 and 11 of the Authorisation Regulations (SI 335 of 2011).

Ch ID	BTX	BRX	Licensee Name	Licence Expiry Date
TBU-01	454.2000	468.2000	BP Multipage	05-01-2016
TBU-02	454.2125	468.2125	BP Multipage	05-01-2016
TBU-03	454.3250	468.3250	RSP	05-01-2016
TBU-04	454.3375	468.3375	RSP	05-01-2016
TBU-05	454.3875	468.3875	Kestrel Comms	05-01-2016
TBU-06	454.4000	468.4000	Kestrel Comms	05-01-2016
TBU-07	454.4500	468.4500	EMR	05-01-2016
TBU-08	454.6750	468.6750	EMR	05-01-2016
TBU-09	454.6875	468.6875	Mongey	09-01-2016
TBU-10	454.9375	468.9375	Mongey	09-01-2016
TBU-11	454.9500	468.9500	Mobile Radio Links	05-01-2016
TBU-12	454.9625	468.9625	Mobile Radio Links	05-01-2016
TBU-13	454.9875	468.9875	DAL Electronics	07-03-2016
TBU-14	457.7750	463.2750	Universal	25-04-2016
TBU-15	457.8000	463.3000	Universal	25-04-2016
TBU-16	457.8125	463.3125	EMR	19-07-2016
TBU-17	457.8875	463.3875	EMR	19-07-2016
TBU-18	457.9000	463.4000		
TBU-19	457.9125	463.4125	EMCA	06-12-2016
TBU-20	457.9250	463.4250		
TBU-21	457.9375	463.4375	Cully Automation	19-12-2015
TBU-22	458.0125	463.5125		
TBU-23	458.0250	463.5250	RSP	19-12-2015
TBU-24	458.0375	463.5375	EMR	19-12-2015
TBU-25	458.0500	463.5500	BP Multipage	20-12-2015
TBU-26	458.0750	463.5750	BP Multipage	20-12-2015
TBU-27	458.0875	463.5875	Cully Automation	04-01-2016
TBU-28	458.1875	463.6875	Mobile Radio Links	21-12-2015
TBU-29	458.2000	463.7000		
TBU-30	458.2125	463.7125		
TBU-31	458.4000	463.9000		
TBU-32	458.4125	463.9125		
TBU-33	458.4250	463.9250	Apex Radio Systems Ltd	27-06-2016
TBU-34	458.4375	463.9375		
Ch. 68	453.8375	460.3375		
Ch. 69	453.85	460.35		
Ch. 70	453.8625	460.3625		
Ch. 71	453.875	460.375		

Ch. 72	453.8875	460.3875		
Ch. 73	453.9	460.4		
Ch. 74	453.9125	460.4215		
Ch. 75	453.925	460.425		
Ch. 78	453.9625	460.4625		
Ch. 80	453.9875	460.4875		

Table 2: TPBR UHF spectrum assignments

4 Next Steps

- 27 The revised “Guidelines to Applicants for Third Party Business Radio (TPBR) Licences” (05/82R3) and associated application form (05/82aR3) provide guidance on the general terms and conditions associated with the TPBR licensing process and are available from www.comreg.ie .
- 28 Applications will be accepted from 18 November 2015.