



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

# COVID-19: Temporary spectrum management measures

Further temporary spectrum rights (No.4) in the 700 MHz Duplex and 2.1 GHz Bands

Consultation and Draft Decision including Draft Regulations

**Reference:** ComReg 22/17

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## Chapter 1

# 1 Introduction

1.1 This document sets out the Commission for Communications Regulation's ("ComReg") proposals to implement a further temporary electronic communications service ("ECS") (No.4) licensing framework beyond 1 April 2022 (the "Proposed Approach"), given:

- the temporary and extraordinary situation currently presented by COVID-19 and the increased traffic demands placed on wireless networks arising from the Government measures to address same, (hereinafter termed the "Temporary Situation"); and
- the need to provide the current licensees (i.e., the three mobile network operators ("MNOs")<sup>1</sup>) a reasonable period of time to manage an orderly transition (i.e., a reconfiguration of their networks) away from the use of COVID-19 temporary spectrum rights.

1.2 Based on current information, ComReg expects that **this will be its final proposal to put in place a further temporary licensing framework on the basis of the Temporary Situation**, noting among other things that:

- In January and February this year, the **Government removed most COVID-19 restrictions in Ireland**, albeit that the return to work in offices from 22 January 2022 is proceeding on a phased basis;
- The current COVID-19 restrictions as of 28 February 2022<sup>2</sup> relate to:
  - following public health advice to "protect yourself and others"<sup>3</sup> in relation to vaccines, close contacts, testing and self-isolation; and
  - international travel;
- While **MNO data traffic volumes** have continued to increase, **they reflect typical volume increases**, noting that mobile data traffic volumes have increased for every quarter since ComReg's Quarterly Key Data records began. Moreover, the rate of annual growth has declined from a COVID-19 peak of 46% in Q1 2020 to

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<sup>1</sup> Namely, Meteor Mobile Communications Limited ("Meteor"), Three Ireland (Hutchison) Limited ("Three") and Vodafone Ireland Limited ("Vodafone").

<sup>2</sup> See "[Public health measures for COVID-19](#)", Citizens Information, accessed on 26 February 2022.

<sup>3</sup> See "[Protect yourself and others from COVID-19](#)", HSE, accessed on 26 February 2022

33% in Q3 2021, which is in line with traffic growth before the pandemic (i.e., 30-35%);

- For **MNO voice traffic volumes**, while ComReg’s Quarterly Key Data Reports indicate that this increased from a stable pre COVID-19 level to a 20% increase in Q2 2020 (and maintained an increased level of 15% in Q1 2021 compared to pre COVID-19), the more recent figures from the network performance reports<sup>4</sup> indicate voice traffic levels returning to pre COVID-19 levels.

1.3 As a related matter, ComReg also notes that:

- The **Multi Band Spectrum Award (MBSA2) process** for the long-term assignment of spectrum rights in the 700 MHz, 2.1 GHz, 2.3 GHz, and 2.6 GHz bands **continues to progress**, noting that certain parts of ComReg’s Decision on the MBSA2 (Decision D11/20<sup>5</sup> (the “MBSA2 Decision”)) have been appealed to the High Court by Three Ireland (Hutchison) Limited and Three Ireland Services (Hutchison) Limited (collectively “Three”); and
- On 28 May 2021, regulations were made enabling the grant of a **Liberalised Use 2.1 GHz Band Licence** to existing 2.1 GHz band licensees.<sup>6</sup> In June 2021, Three and Vodafone applied for and were each granted such a licence in accordance with these regulations.

1.4 It is important to note that the background to, and context of, the Proposed Approach is exceptional and, while in this document ComReg proposes a further temporary spectrum licensing framework of up to 6 months, ComReg:

<sup>4</sup> In ComReg’s Network Industry Forum, network operators submit network traffic information to ComReg to allow ComReg, and other Government stakeholders, better understand the changing demands being placed on network operators and their ability to meet these demands. Network performance reports refers to the reports compiled by ComReg based on the network traffic information submitted by operators.

<sup>5</sup> See:

- [ComReg Document No. 20/122, ComReg Decision D11/20; Multi Band Spectrum Award - Response to Consultation and Decision - The 700 MHz Duplex, 2.1 GHz, 2.3 GHz and 2.6 GHz Bands](https://www.comreg.ie/publication/), published 18 December 2020. Available at: <https://www.comreg.ie/publication/>;
- [ComReg Document No. 20/122a; Multi Band Spectrum Award - DotEcon Report Assessment of responses to consultation on Draft Decision](https://www.comreg.ie/publication/), published 18 December 2020. Available at: [www.comreg.ie/publication/](https://www.comreg.ie/publication/);
- [ComReg Document No. 20/122b; Multi Band Spectrum Award - A Report by Plum Consulting London LLP](https://www.comreg.ie/publication/), published 18 December 2020. Available at: [www.comreg.ie/publication/](https://www.comreg.ie/publication/); and
- [ComReg Document No. 20/122s; Multi Band Spectrum Award - Updated Versions of Non-confidential Submissions to Document 19/124, 20/32 and 20/56](https://www.comreg.ie/publication/), published 18 December 2020. Available at: [www.comreg.ie/publication/](https://www.comreg.ie/publication/).

<sup>6</sup> [S.I 265 of 2021](https://www.irishstatutebook.ie/) - Wireless Telegraphy (Third Generation and GSM Licence (Amendment) and Interim Licensing) Regulations 2021, available at [www.irishstatutebook.ie/](https://www.irishstatutebook.ie/).

- reminds interested parties that the **existing and any further Temporary ECS Licensing framework are entirely without prejudice to the MBSA2** (see Section 2.5 below); and
- emphasises that **the MNOs should now begin to make transition plans and take actions in advance of the end of the presently proposed temporary spectrum licences in light of the Temporary Situation**, noting that, based on current information, ComReg expects this to be its final proposal for a further temporary licensing framework in relation to the Temporary Situation.

### Temporary spectrum rights issued to date

- 1.5 Given the Temporary Situation, and pursuant to requests received by ComReg from affected operators<sup>7</sup> for temporary spectrum rights, ComReg has previously consulted upon and, with the consent of the Minister, put in place four consecutive licensing frameworks of up to six months duration each for the temporary assignment of spectrum rights of use.
- 1.6 This has facilitated the issue of temporary spectrum rights in the 700 MHz Duplex and 2.1 GHz bands to all three MNOs which have been used to provide additional network capacity to address the increased traffic demands arising from the Temporary Situation. This has, in turn, also facilitated the leasing of 3.6 GHz spectrum rights by the three MNOs and Dense Air to Imagine, which has helped Imagine manage increases in data traffic on its network resulting from the Temporary Situation.

### Consideration of any further temporary spectrum licensing framework

- 1.7 In light of the expiry of the existing temporary licensing framework (and licences) on 1 April 2022 and the potential continuance of the Temporary Situation beyond that date, in January 2022 ComReg published Document 22/02<sup>8</sup>, an Information Notice, which set out some guidance regarding the next steps in considering whether a further temporary licensing framework beyond 1 April 2022 might be appropriate.

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<sup>7</sup> The three Irish MNOs submitted a common letter requesting temporary spectrum rights in advance of the COVID-19 temporary licensing framework.

<sup>8</sup> ComReg Document 22/02 - COVID-19: Potential Further Temporary ECS Licensing – January 2022 update and next steps in considering any further temporary licensing framework – Published 19 January 2022.

- 1.8 In relation to the next steps, Document 22/02 recommended that the MNOs submit a joint or common request for any further temporary licensing framework to ComReg by 10 February 2022 which would (i) set out the specific details of any such joint/common request and (ii) provide sufficiently detailed supporting information based on the updated and prevailing COVID-19 considerations at that time.
- 1.9 Each of the MNOs has now submitted to ComReg a common letter requesting a further Temporary ECS Licensing framework (“MNO’s Request”) and, separately, individual supporting information.
- 1.10 This consultation document sets out ComReg’s:
- preliminary assessment of the MNO’s Request and whether a further temporary licensing framework would be appropriate in principle (Chapter 3);
  - specific proposals in respect of a possible further temporary licensing framework (Chapter 4) and draft decision in respect of same (Chapter 5); and
  - draft regulations which would be made subject to the consent of the Minister under the Wireless Telegraphy Act 1926 to give effect to ComReg’s specific proposals (Annex 4).
- 1.11 Noting the importance of consulting close to the expiry date of the existing licensing framework due to the nature of the Temporary Situation and, in turn, the need to then progress matters expeditiously, ComReg is again employing a greatly accelerated consultation process and requests that submissions from interested parties be provided by no later than close of business on **Wednesday 9 March 2022**.

## 1.1 Structure of document

- 1.12 The remainder of this document is structured as follows:
- **Chapter 2:** sets out some background information relevant to this consultation, including information on the previous and current Temporary Spectrum Licensing Frameworks, the Government measures to address COVID-19, network traffic information since the adoption of the Government measures, ComReg’s MBSA2 project and other supporting actions such as spectrum leasing;
  - **Chapter 3:** sets out information on the MNO’s Request, ComReg’s observations on same and its preliminary assessment and its preliminary view on whether it would be appropriate in principle to provide for further temporary spectrum rights in light of the Temporary Situation;

- **Chapter 4:** sets out ComReg's proposals for a further temporary spectrum licensing framework;
- **Chapter 5:** sets out ComReg's draft Decision regarding its proposals;
- **Chapter 6:** sets out information on submitting comments on this consultation and outlines the next steps;
- **Annex 1:** includes a glossary of terms;
- **Annex 2:** summarises ComReg's statutory functions, objectives, and duties relevant to the management of Ireland's radio frequency spectrum;
- **Annex 3:** sets out the non-confidential submissions from the MNOs in support of their requests for further temporary spectrum rights of use and correspondence with other interested parties; and
- **Annex 4:** sets out the Draft Regulations needed to facilitate the proposed assignment of further temporary spectrum rights of use by ComReg.

## Chapter 2

# 2 Background Information

2.1 This chapter sets out some background information relevant to this consultation regarding:

- the COVID-19 Temporary Spectrum Licensing Frameworks implemented to date;
- the Government measures to address COVID-19 and associated vaccination plan;
- network traffic information since the adoption of the Government measures;
- consumer information: mobile voice and mobile data services;
- ComReg's MBSA2 project; and
- other supporting actions, such as spectrum leasing in the 3.6 GHz band.

## 2.1 COVID-19 Temporary Spectrum Licensing Frameworks implemented to date

2.2 Given the Temporary Situation, and pursuant to requests from affected operators<sup>9</sup>, ComReg has consulted upon and (with the consent of the Minister) put in place four consecutive licensing frameworks for the temporary assignment of spectrum rights of use. These are:

- the Temporary ECS licensing framework (from 8 April 2020 to 7 October 2020)<sup>10</sup>;
- the Further Temporary ECS licensing framework (from 8 October 2020 to 1 April 2021)<sup>11</sup>;

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<sup>9</sup> The three MNOs submitted a common letter requesting temporary spectrum rights on 24 March 2020 (See Annex 3 of Document [20/21](#)), on 2 September 2020 (see Annex 3 of Document [20/86R](#)) on 9 & 11 February 2021 (see Annex 3 of Document [21/16](#)), and on 21 and 22 July 2021 (see Annex 3 of Document [21/87](#)).

<sup>10</sup> Given effect by the Wireless Telegraphy (Temporary Electronic Communications Services Licences ([S.I. No. 122 of 2020](#)), Regulations 2020 which were made on 8 April 2020 with the consent of the Minister for Communications, Climate Action and Environment.

<sup>11</sup> Given effect by the Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) Regulations 2020 ([S.I. No. 407 of 2020](#)) which were made on 2 October 2020, with the consent of the Minister for the Environment, Climate and Communications.

- the Further Temporary ECS (No. 2) licensing framework (from 2 April 2021 to 1 October 2021)<sup>12</sup>; and
- the Further Temporary ECS (No. 3) licensing framework (from 2 October 2021 to 1 April 2022)<sup>13</sup>.

2.3 Each of these licensing frameworks have provided for the temporary assignment of spectrum rights in the 700 MHz Duplex, 2.1 GHz, and 2.6 GHz bands for a period of up to 6 calendar months.

2.4 Such temporary licensing frameworks were and are intended solely to address the Temporary Situation and are entirely without prejudice to the award of spectrum rights of use in the MBSA2 (see Section 2.5 below). Applicants for a temporary licence have accepted same in the relevant Application Declaration Form<sup>14</sup> when applying for a licence.

2.5 To date, eight separate temporary spectrum licences for spectrum rights in the 700 MHz and 2.1 GHz bands<sup>15</sup> covering the overall period from April 2020 to 1 April 2022 have been issued to each of the three MNOs as detailed in Table 1 below.

2.6 As outlined by the MNOs in their submissions to ComReg's consultations and their most recently submitted information<sup>16</sup>, the temporary spectrum rights have been used to provide additional network capacity to support the provision of voice and data services to consumers, to address the increased traffic demands arising from the COVID-19 measures.

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<sup>12</sup> Given effect by the Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) (No.2) Regulations 2021 ([S.I. No. 137 of 2021](#)) were made on 22 March 2021, with the consent of the Minister for the Environment, Climate and Communications

<sup>13</sup> Given effect by the Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) (No.3) Regulations 2021 ([S.I. No. 501 of 2021](#)) were made on 30 September 2021, with the consent of the Minister for the Environment, Climate and Communications..

<sup>14</sup> See paragraph 4 of Part 6 of the Application Form in Documents [20/27a](#), [20/88a](#) and [21/24a](#) and [21/96a](#).

<sup>15</sup> Since July 2021, Three and Vodafone have not requested or been assigned temporary 2.1 GHz spectrum rights, as each applied for and was granted a 2.1 GHz Band Liberalised Use Licence in June 2021, thus removing the need for temporary rights in that band for these operators.

<sup>16</sup> For example, see:

- Section 3.2 of [ComReg Document 21/87](#) which summarises the MNOs' submissions in support of a Further Temporary ECS (No.3) licensing framework; and
- Chapter 3 of this document which sets out the information received from the MNOs in support of further COVID-19 temporary licensing framework.

**Table 1: COVID-19 Temporary spectrum licences issued**

Licence		Meteor	Three	Vodafone
Temporary ECS Licensing Framework	1. Initial Licence	9 April 2020 to 8 July 2020 (700 MHz & 2.1 GHz)	9 April 2020 to 8 July 2020 (700 MHz & 2.1 GHz)	22 April 2020 to 21 July 2020 (700 MHz & 2.1 GHz)
	2. Renewal Licence	9 July 2020 to 7 October 2020 (700 MHz & 2.1 GHz)	9 July 2020 to 7 October 2020 (700 MHz & 2.1 GHz)	22 July 2020 to 7 October 2020 (700 MHz & 2.1 GHz)
Further Temporary ECS Licensing Framework	3. Initial Licence	8 October 2020 to 7 January 2021 (700 MHz & 2.1 GHz)	8 October 2020 to 7 January 2021 (700 MHz & 2.1 GHz)	8 October 2020 to 7 January 2021 (700 MHz & 2.1 GHz)
	4. Renewal Licence	8 January 2021 to 1 April 2021 (700 MHz & 2.1 GHz)	8 January 2021 to 1 April 2021 (700 MHz & 2.1 GHz)	8 January 2021 to 1 April 2021 (700 MHz & 2.1 GHz)
Further Temporary ECS (No2) Licensing Framework	5. Initial Licence	2 April 2021 to 1 July 2021 (700 MHz & 2.1 GHz)	2 April 2021 to 1 July 2021 (700 MHz & 2.1 GHz)	2 April 2021 to 1 July 2021 (700 MHz & 2.1 GHz)
	6. Renewal Licence	2 July 2021 to 1 October 2021 (700 MHz & 2.1 GHz)	2 July 2021 to 1 October 2021 (700 MHz)	2 July 2021 to 1 October 2021 (700 MHz)
Further Temporary ECS (No3) Licensing Framework	7. Initial Licence	2 October 2021 to 1 January 2022 (700 MHz & 2.1 GHz)	2 October 2021 to 1 January 2022 (700 MHz)	2 October 2021 to 1 January 2022 (700 MHz)
	8. Renewal Licence	2 January 2022 to 1 April 2022 (700 MHz & 2.1 GHz)	2 January 2022 to 1 April 2022 (700 MHz)	2 January 2022 to 1 April 2022 (700 MHz)

## 2.2 COVID19: Government's measures and vaccination plan

2.7 Since March 2020, the Government has set out five separate plans<sup>17</sup> to tackle COVID-19 and taken a suite of measures, including, at various stages, requiring<sup>18</sup>:

- people to stay at home, except for work, education, or other essential reasons, or to exercise within 2 (then 5) kilometres of their home;
- people to work from home, unless their work is an essential service that cannot be done from home;
- people not to visit other households except for essential purposes; and
- schools, colleges, and childcare facilities to be temporarily closed.

2.8 The extent of the measures adopted has varied over time, depending on factors such as the public health advice for tackling COVID-19 at that time, albeit that certain measures such as requiring or encouraging people to work from home where possible have largely been in force since March 2020 until recently (see below).

2.9 On 21 January 2022, the Government announced the easing of a number of COVID-19 measures<sup>19</sup>:

- social distancing measures and limits on gatherings were removed;
- the 8pm curfew for restaurants, bars, cafes, and pubs was removed and there was no longer a requirement to show COVID-19 passes; and
- the requirement to work from home (unless it is necessary to attend the workplace in person) ended from 24 January 2022. In line with

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<sup>17</sup> These plans demonstrate the evolving response of the Government to tackling COVID-19 and are:

- Ireland's National Action Plan;
- the Roadmap to Reopening Society and Business;
- Resilience & Recovery 2020-21 - Plan for Living with COVID-19;
- Resilience and Recovery 2021- The Path Ahead; and
- Reframing the challenge - Continuing our recovery and reconnecting.

<sup>18</sup> On 20 March 2020, the [Health \(Preservation and Protection and Other Emergency Measures in the Public Interest\) Act 2020 \(Act1 of 2020\)](#) was signed into law. This was extended until at least 31 March 2022 by the [Health and Criminal Justice \(Covid-19\) \(Amendment\) \(No 2\) Act 2021](#). The Act gives the Minister for Health the power to make regulations to introduce measures to slow down the spread of the virus.

See Citizens Information, "Public Health Measures for COVID-19", accessed on 26 February 2022, available at <https://www.citizensinformation.ie/>

<sup>19</sup> See, [Ireland to scrap vast majority of Covid rules from Saturday morning](#), ITV news, 21 January 2022.

the Transition Protocol guidance<sup>20</sup>, this phased return should proceed dependent on the circumstances of individual workplaces, informed by consultations with workers, and as appropriate to each sector.

2.10 On 21 February 2022, the Government made a further announcement removing most of the remaining COVID-19 restrictions from 28 February 2022<sup>21</sup>:

- people were no longer legally required to wear masks, but masks should still be worn on public transport and in healthcare settings;
- physical distancing measures in schools ended; and
- the national testing and tracing program was scaled back.

2.11 The current COVID-19 measures<sup>22</sup> and restrictions in place as of 28 February relate to:

- following public health advice to “*protect yourself and others*”<sup>23</sup> in relation to vaccines, close contacts, testing and self-isolation; and
- international travel.

## COVID-19 Vaccination Programme

2.12 As of 2 March 2022, and based on figures provided by the Health Service Executive<sup>24</sup>:

- the cumulative vaccine uptake for people 5 years and older in Ireland of one dose is 86.10% and for full vaccination is 84.39%, giving Ireland one of the highest rates of COVID-19 vaccination doses administered in Europe<sup>25</sup>; and
- the cumulative booster vaccine uptake for people 5 years and older is 60%.

## 2.3 Network traffic since the adoption of COVID-19 measures

2.13 This section presents information on the network traffic demands being placed on MNOs in light of the Temporary Situation informed by:

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<sup>20</sup> See [Transitional Protocol - Good Practice Guidance for Continuing to Prevent the Spread of COVID-19](#), 31 January 2022.

<sup>21</sup> See “[Ireland drops most of its remaining COVID restrictions](#)”, 22 February 2022, Reuters.

<sup>22</sup> See “[Public health measures for COVID-19](#)”, Citizens Information, accessed on 2 March 2022.

<sup>23</sup> See “[Protect yourself and others from COVID-19](#)”, HSE, accessed on 26 February 2022

<sup>24</sup> Gov.ie, “Vaccinations”, available at <https://covid19ireland-geohive.hub.arcgis.com/pages/vaccinations>.

<sup>25</sup> Statista, “*Number of Covid-19 Vaccination doses administered in Europe by country*”, available at [www.statista.com](http://www.statista.com)

- I. The weekly network performance reports provided by network operators to ComReg’s Network Industry Forum; and
- II. ComReg’s Quarterly Key Data Reports and the Data Portal where ComReg informs stakeholders of the key trends and developments in the Irish electronic communications market.

### I. Network Performance Reports

2.14 The data provided by network operators to ComReg’s Network Industry Forum (illustrated in Figure 1) presents the aggregate monthly change in voice and data traffic volumes on the mobile networks from February 2020 to February 2022, compared to a pre-COVID-19 base level (i.e., February 2020)

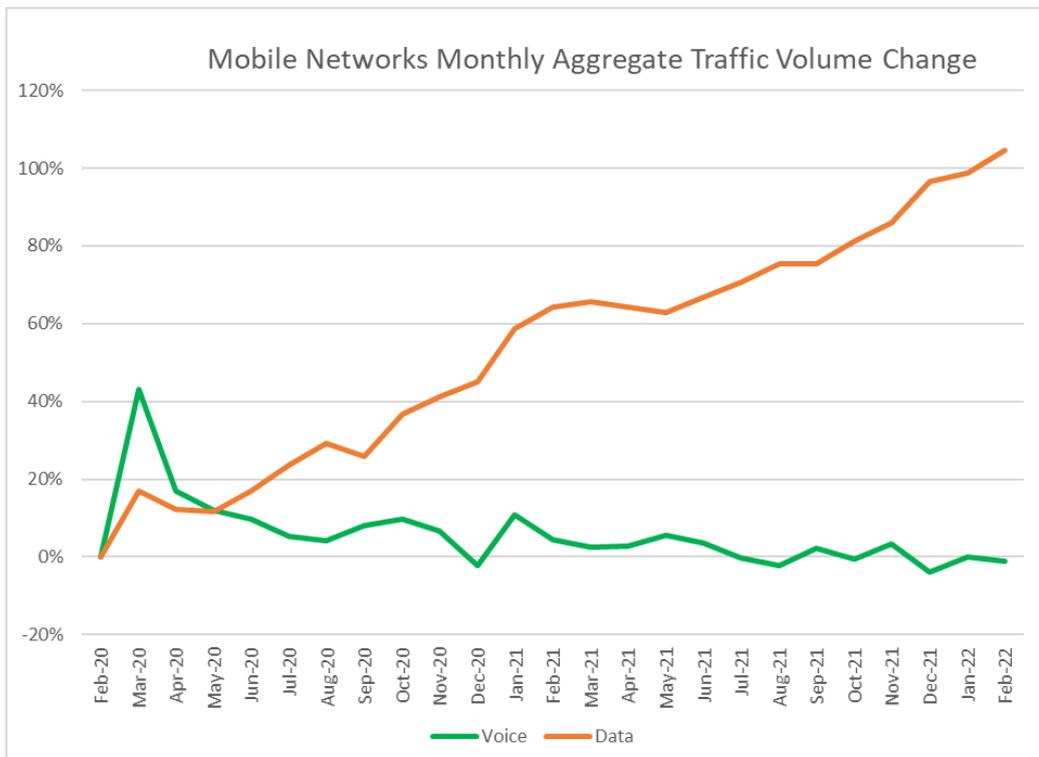


Figure 1: Mobile Networks Monthly Aggregate Traffic Volume Increase<sup>26</sup>

2.15 From this information, ComReg observes:

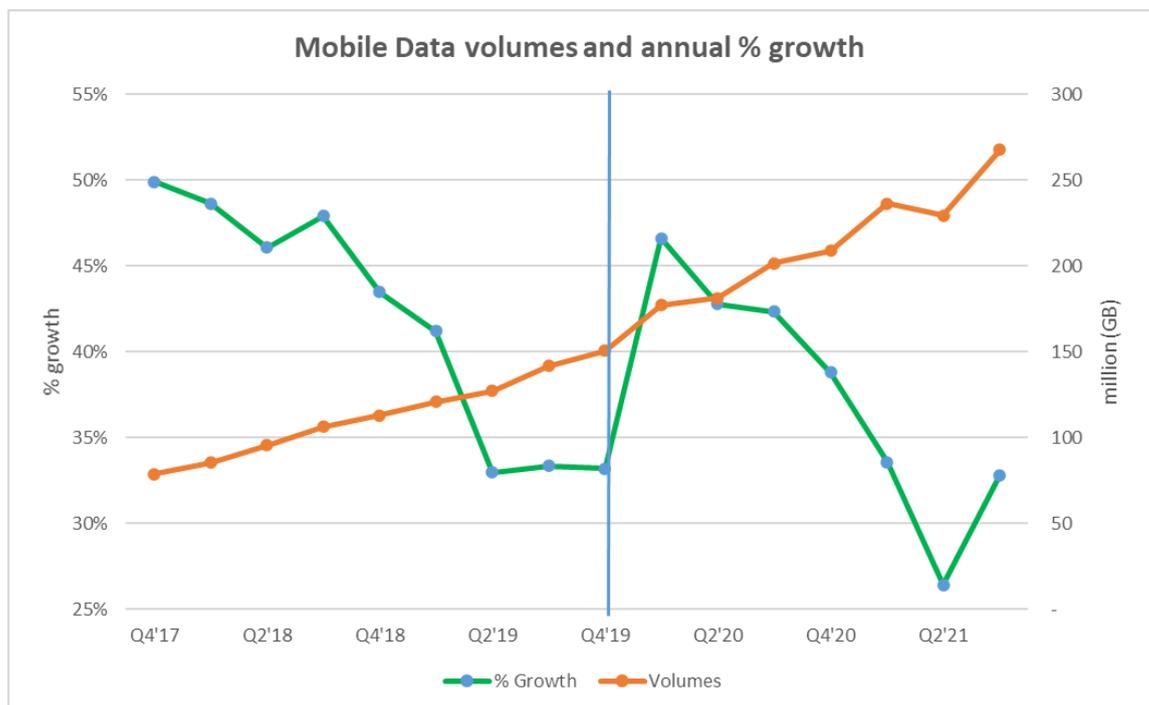
- For **mobile voice traffic volumes**, in March 2020 this increased sharply by 43% compared to the pre-COVID-19 base level, but since then, it has declined to pre-COVID-19 levels; and
- For **mobile data traffic volumes**, in March 2020 this increased by 17% compared to the pre-COVID-19 base level, and since then, this has generally increased at a stable rate with no sharp increases or decreases.

<sup>26</sup> Note that these are total traffic volume increases against a base level immediately before the COVID-19 government restrictions were put in place.

## II. ComReg Quarterly Key Data

2.16 Information from the data sets<sup>27</sup> informing ComReg’s Quarterly Key Data Reports, including its most recent data for Q3 2021<sup>28</sup>, is presented as follows:

- Figure 2 provides information on mobile data expressed in terms of volumes and annual % growth; and
- Figure 3 provides information on mobile voice expressed in terms of volume and annual % growth.



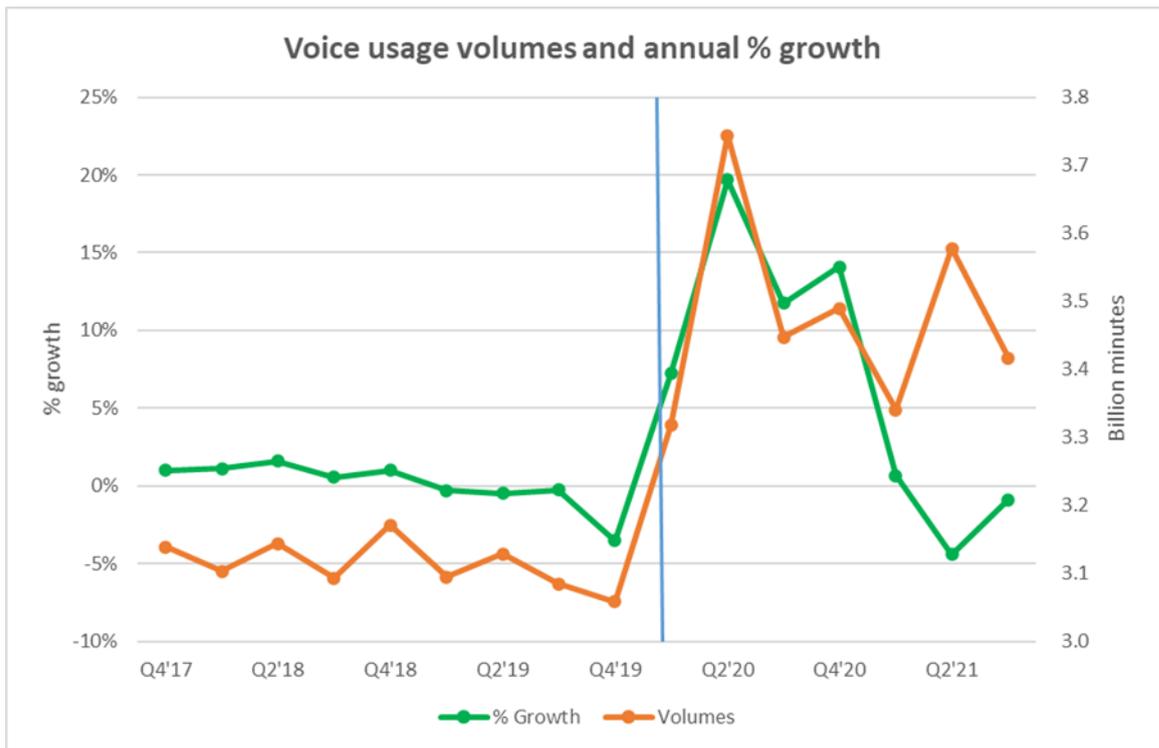
**Figure 2: Mobile data volumes and annual percentage growth**

2.17 Figure 2 shows the growth in mobile data for each quarter in terms of volume and the rate of growth over the past four years and allows for comparison of mobile data growth evolution before and after the introduction of COVID-19 measures. In summary:

- prior to the introduction of COVID-19 measures at the beginning of 2020:
  - mobile data volumes (i.e., each GB uploaded or downloaded) were already increasing significantly; and
  - annual percentage growth rates had stabilised around 30 - 35% for the previous three quarters;

<sup>27</sup> See <https://www.comreg.ie/industry/electronic-communications/data-portal/tabular-information/>  
<sup>28</sup> ComReg Document 21/125, “Quarterly Key Data Report – Q3 2021”, published 9 December 2021, available at <https://www.comreg.ie/>

- each of the four quarters in 2020 show growth rates above pre-COVID-19 levels, with a peak growth rate during COVID-19 of 47% in Q1 2020; and
- rates of growth since that peak have steadily declined in subsequent quarters such that annual percentage data growth rates are comparable to, or somewhat lower than, the 30-35% growth levels experienced pre-COVID-19.



**Figure 3: Mobile voice minutes growth**

2.18 Figure 3 shows the growth in voice minutes for each quarter in terms of volume and rate of growth over the last four years and allows for comparison of mobile voice growth evolution before and after the introduction of COVID-19 measures. In summary:

- prior to the introduction of COVID-19 measures at the beginning of 2020:
  - the volume of minutes on a quarterly basis was around 3.1 billion minutes (aside from some seasonable variability); and
  - there was close to a zero rate of growth for the period in the lead up to COVID-19 (indeed it has been close to zero for the previous 5 years);
- each of the four quarters in 2020 show growth rates and volume of minutes above pre-COVID-19 levels, with peak increases during COVID-19 of around 20% or 3.6 billion minutes in Q2 2020; and

- since that peak in Q2 2020 volumes and the rate of growth have steadily declined, although mobile voice volumes remained above the pre-COVID-19 levels of circa 3.1 billion minutes.

## 2.4 Consumer information: mobile voice and mobile data services

### Document 20/21

2.19 In Document 20/21, ComReg noted the following background information:

- Around half of households do not have a fixed line **voice connection** and would primarily rely on mobile networks (which have close to full population penetration) to make voice calls<sup>29</sup>;
- 10% of households do not have internet access of any kind<sup>30</sup> and such households would be entirely reliant on accessing essential services over the phone during the Temporary Situation; and
- Around 20% of households primarily rely on wireless means to provide **internet access** to the household<sup>31</sup>;
- Reliable data services play an important role in the provision of mobile voice services through the provisions of VoLTE<sup>32</sup>, Native Wi-Fi<sup>33</sup> and VOIP<sup>34</sup> calling which reduces the load on mobile voice networks (see paragraph 4.16 of Document 20/21).

2.20 In Document 20/21, ComReg also set out its view that consumers may have an increased need for mobile voice and data in order to access various essential and non-essential services provided **over the phone** (see paragraph 4.12 of Document 20/21) and **online** (see paragraph 4.18 and 4.19 of Document 20/21) during the Temporary Situation.

2.21 However, in light of the removal of the COVID-19 measures and opening up of society generally, consumers are likely to have a reduced need for accessing these services over the phone or online (see impact on consumers below).

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<sup>29</sup> Mobile Consumer Experience Survey 2019, Document 19/101, slide 22.

<sup>30</sup> CSO, "Information Society Statistics", accessed on 25 August 2021, available at [www.cso.ie](http://www.cso.ie)

<sup>31</sup> ComReg notes that its "2019 Residential Market Research Survey", published in June 2020, showed that at least 18% of households rely on wireless as their means of accessing broadband. See slide 17.

<https://www.comreg.ie/publication/2019-residential-market-research>

<sup>32</sup> Voice over Long-Term Evolution.

<sup>33</sup> Native Wi-Fi technology allows calls and texts to be made on a device utilising a Wi-Fi connection rather than through the mobile network directly.

<sup>34</sup> Voice over internet protocol.

### COVID-19 related consumer surveys

2.22 Research findings from data collected by ComReg<sup>35</sup> on broadband and mobile phone usage since COVID-19 measures were introduced highlight the importance of telecommunications services. For example:

- 95% of respondents value being able to access and use broadband at home during COVID-19<sup>36</sup>;
- 87% of respondents value being able to access and use their mobile phone at home during COVID-19; and

2.23 Consumers also use wireless services to carry out work-related activities while at home. For example:

- Amongst those currently working, 1 in 3 are working from home to some degree. Amongst all currently working:
  - some 85% state they are using their home broadband service to work remotely.
  - 44% of respondents use mobile data to carry out work-related activities while at home during the ongoing COVID-19 pandemic<sup>37</sup>; and
  - 53% of respondents use mobile voice to carry out work-related activities while at home during the on-going COVID-19 pandemic<sup>38</sup>.

2.24 However, in light of the removal of the COVID-19 restriction requiring working from home where possible, it is reasonable to expect that the proportion of broadband and voice usage at home for work-related activities will decline below that experienced during the working from home restrictions.

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<sup>35</sup>ComReg Document 21/42, 'Impact of Covid-19 on Consumer Use and Perception of Telecommunication Services', published January 2021.

<sup>36</sup> Ibid, slide 3.

<sup>37</sup> Ibid, slide 22.

<sup>38</sup> Ibid

## 2.5 MBSA2: Long-term assignment of spectrum rights in the 700 MHz, 2.1 GHz, 2.3 GHz and 2.6 GHz bands

2.25 In parallel with the COVID-19 temporary spectrum rights, ComReg has progressed its MBSA2 project for the long-term assignment of spectrum rights of use in the 700 MHz, 2.1 GHz, 2.3 GHz, and 2.6 GHz bands (the “Award Bands”) and, on 18 December 2020, ComReg published its Decision D11/20<sup>39</sup> (the “MBSA2 Decision”) on same.

### Appeal of the MBSA2 Decision

2.26 On 14 January 2021, Three Ireland (Hutchison) Limited and Three Ireland Services (Hutchison) Limited (collectively “Three”) lodged an appeal against the MBSA2 Decision to the High Court.

2.27 As outlined by ComReg in Information Notice Document 21/04R<sup>40</sup>, Three’s appeal does not of itself affect the taking effect of the MBSA2 Decision or prevent action being taken to implement it and ComReg is opposing the appeal in full.

2.28 The Appeal hearing was held in June 2021, following which two separate sets of Court directions were issued. Parties are awaiting a judgment to be issued on the matter.

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<sup>39</sup> See:

- [ComReg Document No. 20/122, ComReg Decision D11/20](#); *Multi Band Spectrum Award - Response to Consultation and Decision - The 700 MHz Duplex, 2.1 GHz, 2.3 GHz and 2.6 GHz Bands*, published 18 December 2020. Available at: <https://www.comreg.ie/publication/>;
- [ComReg Document No. 20/122a](#); *Multi Band Spectrum Award - DotEcon Report Assessment of responses to consultation on Draft Decision*, published 18 December 2020. Available at: [www.comreg.ie/publication/](http://www.comreg.ie/publication/);
- [ComReg Document No. 20/122b](#); *Multi Band Spectrum Award - A Report by Plum Consulting London LLP*, published 18 December 2020. Available at: [www.comreg.ie/publication/](http://www.comreg.ie/publication/); and
- [ComReg Document No. 20/122s](#); *Multi Band Spectrum Award - Updated Versions of Non-confidential Submissions to Document 19/124, 20/32 and 20/56*, published 18 December 2020. Available at: [www.comreg.ie/publication/](http://www.comreg.ie/publication/).

<sup>40</sup> ComReg Document [21/04R](#), “*Appeal by Three in relation to Multi Band Spectrum Award – The 700 MHz Duplex, 2.1 GHz, 2.3 GHz and 2.6 GHz Bands*” published 20 January 2021 and revised on 29 January 2021, available at [www.comreg.ie](http://www.comreg.ie).

## Implementation of the MBSA2 Decision

2.29 On 16 April 2021, the award process formally commenced with the publication of the Information Memorandum (Document 21/40)<sup>41</sup> (“IM”). The IM details the processes and procedures that ComReg is employing to implement Decision 11/20, and an indicative timeline for the steps in the MBSA2 is set out in Table 17 of the IM. ComReg continues to be committed to ensuring the timely delivery of the MBSA2 and, to date, the award has progressed in line with the indicative timeline set out in Table 17 of the IM, albeit that certain adjustments have been made to the timeline in respect of the submission of Phase 2 Application Documentation (given that, at the present time, same may be accommodated within ComReg’s overall commitment to ensuring timely delivery).

2.30 On 28 May 2021, two sets of Wireless Telegraphy (“WT”) regulations associated with the MBSA2 were made by ComReg with the consent of Eamon Ryan, Minister for the Environment, Climate and Communications. These are:

- SI 264 of 2021<sup>42</sup> (Wireless Telegraphy (Liberalised Use and Related Licences in the 700 MHz Duplex, 2.1 GHz, 2.3 GHz and 2.6 GHz Bands) Regulations 2021); and
- S.I 265 of 2021<sup>43</sup> (Wireless Telegraphy (Third Generation and GSM Licence (Amendment) and Interim Licensing) Regulations 2021).

2.31 Among other things, these regulations provide for:

- the granting of “liberalised use” licences in the 2.1 GHz band to existing 3G licensees;
- the granting of “interim licences” in the 2.1 GHz band to Three; and
- the granting of “liberalised use” licences for spectrum rights in the 700 MHz, 2.1 GHz, 2.3 GHz, and 2.6 GHz bands in accordance with the outcome of the MBSA2.

2.32 In June 2021, Three and Vodafone were each granted a 2.1 GHz Band Liberalised Use licence.

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<sup>41</sup> ComReg [Document 21/40](#), “Information Memorandum and Draft Regulations”, 16 April 2021. Available at [www.comreg.ie](http://www.comreg.ie)

<sup>42</sup> Irish Statute Book, [S.I 264 of 2021](#), “Wireless Telegraphy (Liberalised Use and Related Licences in the 700 MHz Duplex, 2.1 GHz, 2.3 GHz and 2.6 GHz Bands) Regulations 2021”, available at [www.irishstatutebook.ie/](http://www.irishstatutebook.ie/)

<sup>43</sup> Irish Statute Book [S.I 265 of 2021](#), “Wireless Telegraphy (Third Generation and GSM Licence (Amendment) and Interim Licensing) Regulations 2021”, available at [www.irishstatutebook.ie/](http://www.irishstatutebook.ie/)

## 2.6 Other supporting actions: spectrum leasing in the 3.6 GHz band

- 2.33 In support of the provision of services to end users during the Temporary Situation and in light of the implementation of COVID-19 temporary spectrum licensing frameworks, ComReg encouraged the MNOs to consider taking other supporting actions including the leasing of spectrum rights to other affected operators.
- 2.34 Following consultation on several notifications received from the MNOs and Dense Air with respect to the leasing of 3.6 GHz spectrum rights to Imagine, ComReg made Spectrum Lease Determinations on same<sup>44</sup> and subsequently issued several 3.6 GHz band spectrum lease licences to Imagine. This enabled the lease of 3.6 GHz band spectrum rights from each of the three MNOs and Dense Air at various locations and each for a three-month period as detailed in Table 2 below.

**Table 2: Time periods of Imagine’s 3.6 GHz band Lease Licences with the three MNOs and Dense Air**

Dense Air	Eir	Three	Vodafone
22 Sept 2020 – 21 Dec 2020	22 June – 21 September 2020	22 June – 21 September 2020	22 June – 21 September 2020
22 Dec 2020 – 21 March 2021	13 Oct 2020 – 12 Jan 2021	13 Oct 2020 – 12 Jan 2021	13 Oct 2020 – 12 Jan 2021
11 May 2021 – 10 Aug 2021	13 Jan 2021 – 12 April 2021	Not extended <sup>45</sup>	13 Jan 2021 – 12 April 2021
11 Aug 2021 – 10 Nov 2021	11 May 2021 – 10 Aug 2021		11 May 2021 – 10 Aug 2021
	11 Aug 2021 – 10 Nov 2021		11 Aug 2021 – 10 Nov 2021
	16 Dec 2021 - 15 Mar 2022		16 Dec 2021 - 15 Mar 2022
	Awaiting views on potential		Awaiting views on potential

<sup>44</sup> See ComReg Documents 20/51, 20/77, 20/87, 20/97, 21/46, and 21/131

<sup>45</sup> As noted on the [3.6 GHz Band Transition webpage](#) of ComReg, on 11 January 2021, Imagine and Three decided not to extend their Spectrum Lease Licence agreement.

Dense Air	Eir	Three	Vodafone
	period of 16 Mar 2022 - 15 June 2022		period of 16 Mar 2022 - 15 June 2022

2.35 Imagine currently holds one 3.6 GHz band spectrum lease licence which expires on **15 March 2022**<sup>46</sup>.

2.36 Noting the context of this consultation and ComReg’s proposals for a further temporary spectrum licensing framework for a period of up to 6 months from 2 April 2022 to 1 October 2022, ComReg would invite the MNOs, Dense Air and Imagine to consider whether it would now be appropriate to agree further spectrum leases and, if so, to promptly notify same for ComReg’s consideration.

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<sup>46</sup> In respect of spectrum leased from each of Eir and Vodafone.

## Chapter 3

# 3 MNOs Request and ComReg's preliminary assessment of same

3.1 In this chapter, ComReg:

- provides some background to the MNO's Request, in particular, by reference to ComReg Document 22/02;
- outlines the MNO's Request (both the common letter and individual supporting information) including by reference to the types of information identified in Document 22/02;
- outlines its preliminary observations of the material received from the MNOs; and
- outlines its preliminary assessment of whether a further licensing framework would, in principle, be appropriate, having regard to the potential impact on competition, consumers, and other relevant statutory objectives.

## 3.1 Document 22/02 – ComReg's information requirements

3.2 In light of the expiry of Further Temporary ECS (No.3) Licences on 1 April 2022, and the potential continuance of the Temporary Situation beyond that date, ComReg published Document 22/02, being an Information Notice setting out:

- guidance regarding the information requirements and next steps in considering any further temporary licensing framework beyond 1 April 2022; and
- a number of observations on various factors to assess in considering any further temporary licensing framework.

### Information requirements and next steps

3.3 ComReg identified that, in considering any further Temporary ECS Licensing framework, the next formal step would be for the MNOs to submit a joint or common request to ComReg by 10 February 2022:

- (i) setting out the specific details of the joint/common request indicating any elements of the existing Temporary ECS Licensing framework that ought to be changed (if any) and the reasons for same; and

- (ii) providing sufficiently detailed information based on the updated and prevailing COVID-19 considerations at that time to support a request for any further Temporary ECS Licensing framework.
- 3.4 To assist the MNOs in making such a submission, paragraph 31 of Document 22/02 set out the following non-exhaustive list of information that ComReg would expect each MNO to submit separately to ComReg in support of any joint or common request.

**A. Network traffic / capacity / performance information**

- (i) Information regarding the traffic (voice and data), capacity /performance of the network considering the extraordinary situation arising from COVID19. In particular, the changes in network traffic (voice and data), capacity / performance since COVID-19 until now;
- (ii) Information on the expected traffic demand and network capacity beyond 1 April 2022; and
- (iii) Observations on how much of the changes in traffic and capacity is due to forecasted annual changes that would be expected on a network in the normal course (accounting for seasonal changes and projected market developments in the absence of COVID-19) and those that can reasonably be considered to be directly related to Government COVID-19 measures.

**B. Ability to make use of existing temporary spectrum assignments in any further Temporary ECS Licensing framework – sites and transmitters**

- (i) Information regarding the number, locations, and deployment dates of sites/transmitters per spectrum band that have actually been used to date using temporary ECS rights of use, indicating the terrestrial system(s) (e.g., LTE) supported; and
- (ii) Information on the number of sites/transmitters per band that would be expected to be used over the duration of any further temporary licensing framework indicating the terrestrial system(s) (e.g., LTE) being supported. Note, where a Licensee has applied for and been granted a 2.1 GHz Band Liberalised Use licence, information for the 2.1 GHz band should not be included.

**C. How temporary rights have assisted with the provision of ECS in the State**

- (i) Information on how existing temporary rights have assisted in alleviating the network capacity/performance constraints to-date. Specifically, please provide information on the percentage of

network traffic (voice and data) carried by temporary spectrum rights for the each of the 700 MHz band and 2.1 GHz bands

- (ii) Information on how temporary rights may materially assist over the duration of any further Temporary ECS Licensing framework, noting that where a Licensee has applied for and been granted a 2.1 GHz Band Liberalised Use licence, information on the 2.1 GHz band should not be included.

#### **D. Managing the risks to the provision and quality of existing ECS given the use of the temporary spectrum rights**

Information regarding the management of risks to the provision and quality of existing ECS and the measures taken to date by the MNO. For example, the key measures taken on foot of Annex 4 of Document 20/27 - 700 MHz Coordination Procedures.

#### **E. Risks where there is no further Temporary ECS Licensing framework.**

The risk of congestion and other disruption to consumer services and the locations where it would most likely arise in the event that there is no further Temporary ECS Licensing framework, identifying if such congestion or disruption would reasonably be considered to be due to COVID-19 matters or mobile market developments / commercial strategy matters.

#### **F. Actions required in relation to no further Temporary ECS Licensing framework.**

Details of the preparations and actions that the MNO has taken and would need to take in the event of no further Temporary ECS Licensing framework.

#### **G. Other Factors:** Any other factors that the MNOs deem relevant to the consideration of any further Temporary ECS Licensing framework.

### **Factors to assess in considering any further temporary licensing framework**

3.5 As set out in paragraph 25 of Document 22/02, ComReg observed that there were various factors to assess in considering any further temporary licensing framework, including.

- i. the likelihood of COVID-19 measures being in place beyond 1 April 2022, including any plans for a phased withdrawal of such COVID-19 measures, and the impact that any such measures would have on network traffic. In this regard, ComReg observes

that in the Government's COVID-19 Plan published in August 2021, the planned withdrawal of the 'work from home' requirement from 22 October 2021 onwards (which was subsequently re-introduced) was to be "on a phased and cautious basis appropriate to each sector";

- ii. the possibility that the Government may have to amend specific aspects of its approach to managing COVID-19. This could be required given uncertainties in the COVID-19 trajectory; and
- iii. reasonable "transition" activities required to be undertaken in advance of the cessation of any temporary spectrum rights.

3.6 Further in paragraph 26 of Document 22/02, ComReg observed that once the Government has removed COVID-19 measures to a significant extent, in particular its policy and recommendations around working from home during the Temporary Situation (noting that this may be on a phased basis), any relative uplift in network traffic would likely thereafter be viewed by ComReg as resulting from market forces and consumer / workforce lifestyle changes rather than being directly related to Government COVID-19 measures. In this scenario, the continuance of a Temporary ECS Licensing framework is less likely to be justified. This is because, in the normal course, network operators would be expected to address such developments through network investment and/or securing additional spectrum rights of use.

3.7 ComReg also observed that the MNOs may need time to undertake reasonable transition activities in advance of the cessation of any temporary spectrum rights.

## 3.2 MNOs Request

### 3.2.1 MNO Common Letter

3.8 The three MNOs each submitted a common letter to ComReg dated 4 February 2022 (see Annex 3).

3.9 In this common letter, the MNOs "*jointly request that the terms of the current Temporary Spectrum Management Measures detailed in ComReg 20/88 (D08/20) are extended unchanged*".

3.10 In support of their common request, the MNOs submit that:

- "*The relaxation of public health measures from 21 January 2022 will result in a staggered return to work in the coming months and the networks will need to reconfigure to manage emerging data demand and to support the fully remote, hybrid and office-based demand.*"

- *“[T]he Government calls on employers, in consultation with employees to start to develop long-term arrangements for blended and remote working. There will be a lag effect and we expect it will be some time before stable patterns of network use emerge.”*
- *“The changes to working practice, the move to online education, and the change to social interaction that was forced upon us over the last 2 years have had dramatic effects on the patterns of demand for mobile services in Ireland. Mobile networks continue to contribute strongly towards supporting this change in the quantity and location of offered traffic by rapidly changing our network build plans supporting the changing traffic patterns, often to support traffic in commuter towns and in rural areas.”*
- *“In the coming months we continue to face further uncertain changes in traffic patterns. The national situation is improving, the rate of infection is reducing and key indicators in terms of public health are positive. The more this continues the greater certainty we can have that the true picture of demand is emerging. Supporting customers through this changing demand will only be possible through further investment in networks including mobile networks, including in the rural areas that do not currently have sufficient connectivity. It is impossible to predict where local surges may occur, so service providers must prepare on the basis that they could be anywhere.*
- *The Temporary Spectrum Licences first issued by ComReg in April 2020 have helped in an important way to meet the new demands placed on mobile networks. In mid-March 2020 when measures to prevent the spread of Covid-19 were announced all mobile operators experienced an immediate and significant growth in average and peak throughput for both voice and data. The physical location of the demand also changed – out of city centres to residential areas.*
- *The rapid enactment of the Temporary Spectrum Measures by ComReg has allowed operators to support this traffic at performance measures similar to those achieved pre-Covid. As new infrastructure cannot be built at short notice, and as operators had already adjusted network configuration to the maximum extent, the Temporary Spectrum Measures have been crucial to giving mobile operators flexibility to mitigate significant congestion in voice and data networks.*
- *“As we move forward in the coming months and the next phases of action dealing with Covid, it is important that ComReg should ensure that the current Temporary Spectrum Licences continue past the 30th March date of the current regulation. We ask that Temporary Licensing Scheme is extended on the same basis as previously, allowing for renewable three-month licences.”*

- *“This will enable operators to build capacity in the different locations required and, importantly, to invest efficiently. Building new sites to cope with any short-term demand in advance of the planned Spectrum auction would be extremely inefficient.”*

3.11 Regarding their interactions with interested parties in relation to the temporary spectrum rights, the MNOs submit that:

*“The mobile operators have worked closely with ComReg and Government in supplying ongoing information on network stability and traffic. In using the temporary rights, we have also carefully managed the risks to the provision and quality of existing ECS through careful co-ordination with other radio spectrum users and cable companies. We are confident that we can maintain this high level of cooperation through an extended Temporary Licence period.”*

3.12 Regarding the MBSA2 (see section 2.5 above), the MNOs:

*“...acknowledge that ComReg has stressed that any temporary licensing framework is intended solely to address the exceptional and extraordinary situation presented by COVID-19 and that it is entirely without prejudice to the award of long-term rights of use in these spectrum bands in its proposed multi-band spectrum award.”*

### 3.2.2 Individual MNO supporting information

3.13 In support of their common request, each MNO subsequently submitted supporting information of the kind identified in paragraph 31 of Document 22/02. Non-confidential versions of these submissions are included in Annex 3.

3.14 ComReg outlines below the key points submitted using the same structure as outlined at paragraph 31 of Document 22/02.

#### Paragraph 31 (A): Network traffic information

3.15 **In relation to 32 A (i)** *“changes in network traffic (voice and data), capacity / performance since COVID-19 until now”*:

- Eir submits that it has seen *“very significant”* voice and data traffic growth since the emergence of the Temporary Situation in March 2020:
  - For **mobile data traffic**, Eir submits that data traffic growth in particular has continued since the initial national lockdown and there has been sustained growth throughout 2020 and 2021. Eir indicated that its average growth of monthly data volumes YoY in 2021 was [X █████ X] submitting that the

COVID-19 step change seen in 2020 has not receded notwithstanding that the trendline for 2021 is not quite as steep as 2020's. Eir also submits that with the return to home-based working, the locations of the traffic has also changed and so the traffic profile per cell and site has altered as a result of COVID-19.

- For **mobile voice traffic**, Eir submits that this has been flat for recent years but in March 2020 a step change occurred. While this surge fell back somewhat, Eir submits that mobile voice traffic is still above pre-COVID-19 levels, and that 2021 traffic volumes are largely in line with the additional voice traffic attributed to COVID-19 in 2020.
- Three submits that:
  - its daily **voice traffic** volumes are returning to pre-COVID-19 levels and notes that voice call volume tends to peak at times coinciding with changes in the level of COVID-19 measures;
  - in relation to its **data network**, the impact of the COVID-19 measures is much more significant with sustained increases in both busy hour and total daily traffic throughout the different levels of restrictions. As of 2 January 2022, Three's daily busy hour data network throughput was [ ✂ █████ ✂ ] above its baseline forecast<sup>47</sup> while its daily network volume was [ ✂ █████ ✂ ] above its baseline;
- Vodafone submits that it has experienced “*very significant*” increases in both traffic since January 2020, as detailed in Table 3 below. For example, it notes that for the period January 2020 to June 2021 its 4G downlink (“DL”) traffic volume increase of [ ✂ █████ ✂ ] is approximately double the increase planned pre-COVID-19. Vodafone also submits that there has been a marked movement in traffic from city centre areas to suburban and rural areas and to time-of-day traffic patterns in these areas.

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<sup>47</sup> Baseline forecast here refers to the forecasted data increase on its network across the year before the Temporary Situation.

**Table 3: Vodafone’s voice and data traffic increases since January 2020**  
**[REDACTED]**

	Change Jan 2020 to Nov 2020	Change Nov 2020 to June 2021	Change Jan 2020 to June 2021
<b>3G Voice Traffic</b>	[REDACTED]	[REDACTED]	[REDACTED]
<b>4G DL Traffic Volume</b>	[REDACTED]	[REDACTED]	[REDACTED]
<b>4G UL Traffic Volume</b>	[REDACTED]	[REDACTED]	[REDACTED]

3.16 **In relation to 32 A (ii) information on the expected traffic demand and network capacity beyond 1 April 2022; and 32 A (iii) observations on how much of the changes in traffic and capacity is due to forecasted annual changes that would be expected on a network in the normal course (accounting for seasonal changes and projected market developments in the absence of COVID-19) and those that would be related to Government COVID-19 measures:**

- Eir submits that it expects data traffic to continue on the same growth trajectory considering a slow adoption of the return to office post Covid.
- In relation to how much traffic growth would be attributable to COVID-19, Eir submits that the very significant growth in 2020 is very evident versus the prior year growth trajectory and 2021 figures follow slightly behind 2020 but well above pre covid growth rates. Eir submits that data traffic growth during 2021 averaged [REDACTED] as compared with [REDACTED] in 2020.
- Three submits that in the coming 6-month period the trend in growth of baseline traffic will continue as it has over the past 9 months and its expects that the COVID-19 uplift [REDACTED] is somewhat volatile and will be sustained for a number of months.
- Three also submits that while normal network investment should meet baseline growth, the effect of any future restrictions in demand or geography is not known and is likely to drive demand that would negatively impact on quality of service.

- Vodafone estimates that over the past year the change in network traffic is approximately double 'normal' growth. Noting its comparison of November 2020 versus June 2021 traffic, Vodafone submits that data traffic is continuing to grow in excess of old/normal patterns, and that it is becoming apparent that the post-COVID-19 traffic profile and patterns cannot be expected to return to or mirror pre-COVID-19 patterns. In this regard, it notes that the acceleration of remote working and access to online services is a growing reality.
- In relation to future growth, Vodafone expects traffic growth to considerably exceed its pre-COVID-19 plan. In addition, it notes that while there is uncertainty in overall traffic volume there is also uncertainty in where traffic will be delivered as it is unclear how quickly workers will return partially or fully to office environments and how demand will change as a result.

**Para 31 (B): Ability to make use of existing temporary spectrum assignments in any further Temporary ECS Licensing framework – sites and transmitters**

3.17 **In relation to 31 B (i)** *“information regarding the number, locations and deployment dates of sites/transmitters per spectrum band that have been used to date using temporary ECS rights of use, indicating the terrestrial system(s) (e.g. LTE) supported”*; **and 31 B (ii)** *“Information on the number of sites/transmitters per band that would be expected to be used over the duration of any further temporary licensing framework indicating the terrestrial system(s) (e.g. LTE) being supported”*, Table 4 below shows the number of sites and cells deployed by each operator using temporary spectrum rights as of February 2022, and the intentions of each operator should a further temporary ECS licensing framework be put in place.

**Table 4: Total sites and cells deployed and planned using temporary spectrum [REDACTED]**

	700 MHz			2.1 GHz		
	Sites Deployed	Cells Deployed	Sites Planned	Sites Deployed	Cells Deployed	Sites Planned
Eir	[REDACTED] (February 2022)	[REDACTED] (February 2022)	[REDACTED] (April 2022) [REDACTED] (July 2022)	[REDACTED] (February 2022)	[REDACTED] (February 2022)	[REDACTED] (April 2022); [REDACTED] (July 2022)
Three	[REDACTED] (February 2022)		Deployment significantly slowed down now. Further deployment on a tactical basis.	N/A	N/A	N/A
Vodafone	[REDACTED] (January 2022)	[REDACTED] (December 2021)		N/A	N/A	N/A

3.18 As noted in Table 4 above, each of the MNOs has deployed sites in the 700 MHz band and plans to deploy further sites in this band should a further temporary ECS licensing framework be put in place.

3.19 In relation to the 2.1 GHz band, Eir is the only MNO using temporary spectrum rights and, should a further temporary ECS licensing framework be put in place, it plans to deploy further sites in this band.

**Para 31 (C): How temporary rights have assisted with the provision of ECS in the State**

**31 C (i) How existing temporary rights have assisted in alleviating the network capacity/performance constraints to-date. Specifically, please provide information on the percentage of network traffic (voice and data) carried by temporary spectrum rights for the each of the 700 MHz band and 2.1 GHz bands.**

**31 C (ii) How temporary rights may materially assist over the duration of any further Temporary ECS Licensing framework.**

3.20 All three MNOs submit that:

- to date, the temporary spectrum rights have been used to provide additional network capacity which supports, and improves in some cases, the provision of voice and data services in light of the increased traffic demands arising from the COVID-19 measures; and
- should a further temporary spectrum licensing framework be put in place, the MNOs would continue to use this spectrum to provide additional capacity to meet the increased traffic demands on their network. In particular:

3.21 Eir:

- estimates that in 2021, around [X ██████ X] of total data traffic has been supported by the 700 MHz and 2100 MHz bands respectively noting that the 700 MHz band carried [X ██████ X] of the low band traffic and that the 2100 MHz band carried [X ██████ X] of the high band traffic.
- submits that the LTE700 and LTE2100 bands carry [X ██████ ██████ X] respectively of the total network voice traffic.
- states that it has activated VoLTE to complement its existing voice over Wi-Fi service, thus enabling the refarming of some of its 2.1 GHz rights for LTE (LTE2100); and
- notes that it is difficult to predict where and when demand will shift and considers that having temporary rights available nationally allows contingent capacity to be made available which can help absorb the impacts.

3.22 Three:

- submits that it currently covers [X ██████ X] of the population with 700 MHz and it conservatively estimates that the use of the 700 MHz band on Three's network has significantly increased quality of service to over [X ██████ X] customers of Three, Virgin Media, Tesco Mobile, and LycaMobile. Three also provided a 700 MHz coverage map as set out in Figure 4 below.

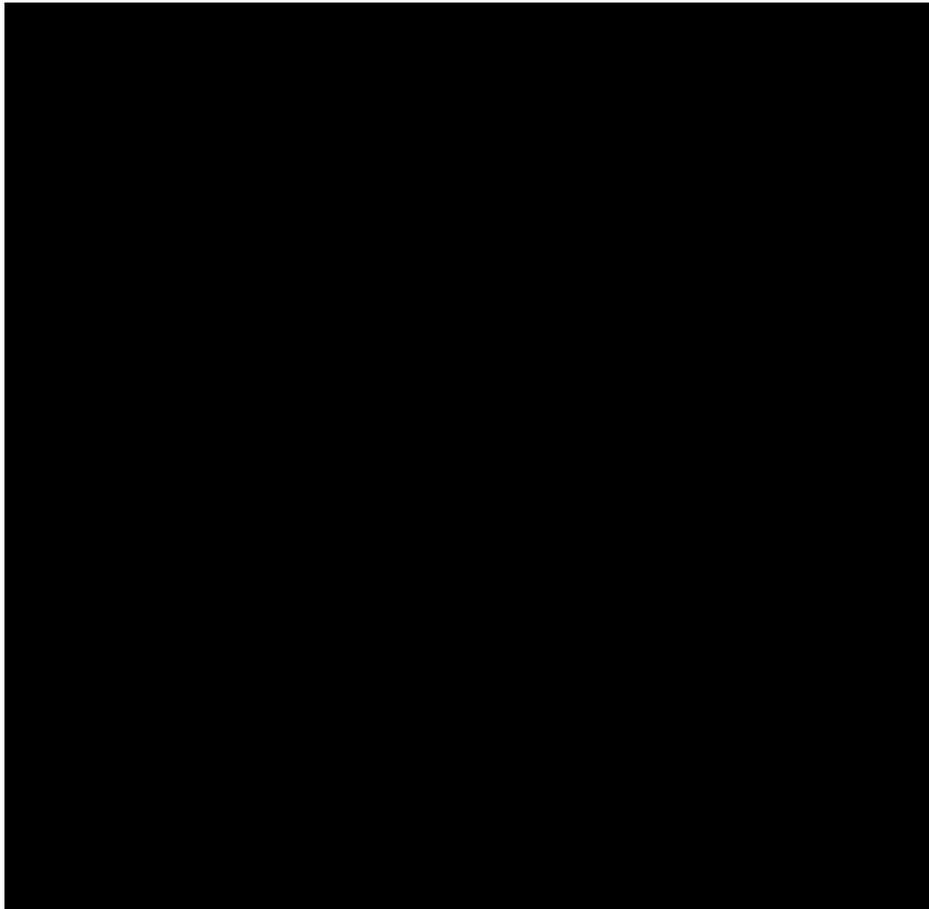


Figure 4: Three's 700 MHz coverage map [REDACTED]

**Para 31 (D): *Managing the risks to the provision and quality of existing ECS given the use of the temporary spectrum rights, e.g., key measures taken on foot of the 700 MHz Coordination Procedures (Annex 4 of Document 20/27)***

3.23 All three MNOs submit that the co-ordination procedures of the existing Temporary ECS Licensing Framework have worked well and that no adverse effects on other services have been reported. In addition:

- Eir submits that it has had extensive engagement with Virgin Media regarding 700 MHz site activation to enable testing pre/post activation and to mitigate the risk of interference to Virgin Media's CATV services during the first phase of LTE 700 MHz activation, and it has continued to maintain very close co-ordination week-to-week with Virgin Media and the other MNOs; and
- Vodafone notes that the increase in capacity resulting from the temporary spectrum rights has facilitated the lease of spectrum in the 3.6 GHz band to FWA operators.

**Para 31 (E): Risks where there is no further Temporary ECS Licensing framework - The risk of congestion and other disruption to consumer services and the locations where it would most likely arise in the event of no further Temporary ECS Licensing framework, identifying if such congestion or disruption would reasonably be considered to be due to COVID-19 matters or mobile market developments / commercial strategy matters**

3.24 All three MNOs note that, in the event of no further temporary spectrum rights, there is a risk of congestion or degraded service. For example:

- Eir submits that the risk of congestion or degraded service is very real throughout Ireland noting that the voice and traffic growth is network wide;
- Three estimates that this would materially affect connectivity for approximately [ ✂ [REDACTED] ✂ ] users. Three also notes that it would be unable to respond to any future restrictions that might be required (whether local or national).
- Vodafone notes that the capacity of many of its most busy network sites would be reduced significantly and its customers would unfortunately experience extensive congestion, as it could not build new sites to replace this capacity quickly enough and it may not be economic to do it.
- Vodafone also notes that the 700 MHz layer has and continues to be particularly important in offloading/serving congested areas in rural/suburban Ireland. Without the 700 MHz layer in particular, Vodafone submits that remote workers in congested areas of rural Ireland would face significant service issues; and
- Vodafone also states that [ ✂ [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] ✂ ]

**Para 31 (F): Actions required in relation to no further Temporary ECS Licensing framework - Details of the preparations and actions that the MNOs have taken and would need to take in the event of no further Temporary ECS Licensing framework**

3.25 Eir states that it “continues to transform its network, building new infill and capacity sites, increase 5G network sites and deploy VoLTE”. These programmes have continued throughout the emergency and will continue through 2022 but are complemented by the Temporary ECS Licensing framework. If there is a discontinuation of the Temporary Licensing framework Eir submits that this will result in service degradation where traffic growth continues at elevated levels due to the impact of the COVID-19 measures.

3.26 Three submits that, if a further temporary spectrum framework is not implemented, there would be an immediate reduction in capacity, causing some currently well performing cells to become congested and others to suffer reduced quality. In particular, Three submits that:

- there are no quick remedies to this congestion as existing sites are already optimised for normal traffic patterns;
- in some cases, it might be feasible to build new sites, but this is generally a slow and expensive process and is not feasible in the short term or for short-lived traffic demand; and
- that most harm would be in rural areas where Three has been able to introduce 700 MHz relatively quickly to meet the increased demand.

3.27 Vodafone submits that [redacted]  
 [redacted]  
 [redacted]  
 [redacted]  
 [redacted]  
 [redacted]  
 [redacted] ]

**Para 31 (G): Other Factors - Any other factors that the MNOs deem relevant to the consideration of any further Temporary ECS Licensing framework**

3.28 Eir stresses that extending the temporary licensing regime will not negatively impact ComReg’s longer term plans for the next spectrum award, and it notes the positive short-term benefits that accrue to citizens and society from extending the temporary licensing framework.

3.29 Vodafone submits that:

- [ <span style="background-color: yellow; color: black;">[REDACTED] ] of mobile data in rural areas is now catered for by the 700 MHz layer. This layer is providing enhanced accessibility and data services to customers who would be seriously challenged in terms of data services in hard-to-reach rural locations without access to this 700 MHz layer;
- in terms of Customer Numbers, approximately [ <span style="background-color: yellow; color: black;">[REDACTED] ] subscribers are now benefitting from the 700 MHz layer. Up to [ <span style="background-color: yellow; color: black;">[REDACTED] ] of these subscribers in rural Ireland would either be in severe congestion or unable to access sufficient data services without the 700 MHz Layer; and
- currently, it is estimated that up to [ <span style="background-color: yellow; color: black;">[REDACTED] ] subscribers can experience performance issues on either download or upload speeds at very busy periods on the network when working remotely. Deploying additional carriers on 700 MHz and 2100 MHz is seen as a big factor in the resolution of the capacity/performance issues over the medium period.

### 3.3 ComReg’s observations on the common request

3.30 Based on current information, ComReg observes that **the Temporary Situation would appear to have ended with the removal of most COVID-19 measures from 28 February 2022.**

3.31 Notwithstanding this, ComReg observes that there remain various other factors to assess in considering any further licensing framework arising from the Temporary Situation, including:

- i. the possibility that the Government may have to amend specific aspects of its approach to managing COVID-19 and re-introduce significant COVID-19 measures. This could be required given uncertainties in the COVID-19 trajectory;
- ii. the lag effect between the withdrawal of COVID-19 measures and the emergence of stable traffic patterns, noting, among other things, that the return to work in offices is proceeding on a phased basis depending on the circumstances of individual workplaces; and
- iii. the need to provide the MNOs a reasonable time period to undertake transition activities in advance of the cessation of any temporary spectrum rights.

3.32 In relation to (i) above, ComReg notes that it has no evidence before it at this point in time to suggest that COVID-19 restrictions might be re-introduced in the future in any meaningful way. In any event, ComReg observes that a temporary licensing framework for up to six months would provide a lengthy “safeguard” period to cater for the impact of any potential amendments to the Government approach to managing COVID-19 including the re-introduction of COVID-19 measures.

3.33 In relation to factors (ii) and (iii) above, ComReg observes that the following would appear to support a further temporary spectrum licensing framework:

- a) While network traffic levels have stabilised<sup>48</sup> considerably since March 2020 (when the networks experienced a sharp rise in both voice and data traffic levels), the MNOs submit that their networks are still carrying traffic directly attributable to the COVID-19 measures.
- b) Over the coming months, the MNOs anticipate further data traffic growth and further uncertain changes in traffic patterns given the lag effect following the removal of COVID-19 measures. With the staggered return to work in offices in the coming months, the MNOs note that networks will need to reconfigure to manage emerging data demand and to support the fully remote, hybrid and office-based demand. In that regard, the MNOs submit that the temporary spectrum rights allow operators to build and maintain capacity in the different locations required and to invest efficiently.
- c) With the deployment of temporary spectrum rights, the MNOs have been able to rapidly add capacity to support the provision of mobile voice and data services given the increased traffic demands of the Temporary Situation. In this regard, ComReg notes the total sites and cells deployed by the MNOs as set out in Table 4 above and the MNOs’ estimates on the current levels of traffic carried by the temporary spectrum rights and its coverage:

- i. Eir’s estimate that, in 2021, [ < [REDACTED] > ] of data traffic has been supported by the 700 MHz Duplex and 2.1 GHz bands respectively, and that the LTE700 and LTE2100 bands carry [ < [REDACTED] > ] respectively of the total network voice traffic;
- i. Three estimates that it provides [ < [REDACTED] > ] population and [ < [REDACTED] > ] geographic coverage with 700 MHz spectrum; and
- ii. Vodafone’s submission that [ < [REDACTED] > ]  
[REDACTED]  
[REDACTED]  
[REDACTED]

<sup>48</sup> See Section 2.3 of this document.

[REDACTED]  
 [REDACTED] < ]. Vodafone also estimates that [ < [REDACTED] < ] of mobile data in rural areas is now catered for by the 700 MHz layer.

- d) The MNOs submit that the removal of temporary spectrum rights would cause congestion and service degradation throughout Ireland:
- i. Eir submits that the risk of congestion or degraded service is very real throughout Ireland noting that the voice and traffic growth is network wide;
  - ii. Three estimates that this would materially affect connectivity for approximately [ < [REDACTED] < ] customers of Three, Virgin Media, Tesco Mobile, and LycaMobile. Three also notes that it would be unable to respond to any future restrictions that might be required (whether local or national); and
  - iii. Vodafone estimates that approximately [ < [REDACTED] < ] subscribers are now benefitting from the 700 MHz layer and up to [ < [REDACTED] < ] of these subscribers in rural Ireland would either be in severe congestion or unable to access sufficient data services without the 700 MHz layer.
  - iv. Further, Vodafone estimates that up to [ < [REDACTED] < ] subscribers can experience performance issues on either download or upload speeds at very busy periods on the network when working remotely. Deploying additional carriers on 700 MHz and 2100 MHz is seen as a big factor in the resolution of the capacity/performance issues over the medium period; and
- e) In the MNOs' view, building new sites to cope with any short-term demand in advance of the planned spectrum award would be inefficient,.

3.34 Noting the above context, and that temporary spectrum licences have always been justified on the basis of prevailing Government COVID-19 measures<sup>49</sup>, ComReg observes that a further temporary licensing framework for up to six months would provide a reasonable time period to account for:

- the lag effect between the withdrawal of COVID-19 measures and the emergence of stable traffic patterns (factor (ii) in paragraph 3.31 above); and

<sup>49</sup> For example in the Application Declaration Form, (See Part 6 of the Application Form Document 20/24a) Applicants confirm the following in applying for a temporary spectrum licence.  
 "I confirm that the Applicant is fully aware that the Licences are being made available solely to accommodate the claimed unanticipated spike in demand arising from the extraordinary situation relating to COVID-19, that all Licences granted or renewed under the Regulations will expire 3 months after." (Emphasis Added)

- the MNOs need to undertake transition activities in advance of the cessation of any temporary spectrum rights (factor (iii) in paragraph 3.31 above). In this regard, ComReg observes that **the MNOs should now begin to make transition plans and take actions in advance of the end of the presently proposed temporary spectrum licences.**

3.35 ComReg reiterates that any proposed Temporary ECS Licensing Framework is entirely without prejudice to the MBSA2, and stresses (as it has repeatedly on previous occasions) that any temporary licensing framework should not be construed as an alternative to same. In that connection, ComReg observes that the MBSA2 award process continues to progress and that it is possible that long-term rights of use will be issued in the 700 MHz and 2.1 GHz bands before the end of any further licensing framework.

### 3.4 ComReg's preliminary assessment of whether a further licensing framework would be appropriate in principle

#### 3.4.1 Background and analytical framework

- 3.36 In Chapter 4 of Document 20/21, ComReg set out its framework for assessing whether the first proposed temporary licensing framework would be in the best interests of competition and consumers and be otherwise appropriate having regard to ComReg's functions, objectives, and duties, including being objectively justified and proportionate.
- 3.37 In Chapter 4 of Document 20/27, ComReg finalised its assessment having regard to the views of interested parties received in response to Document 20/21.
- 3.38 Rather than reiterate the entirety of the above analysis when considering whether the further temporary framework would be required, in Documents 20/86R and 20/88, ComReg updated its assessment having regard to subsequent developments and available information.
- 3.39 ComReg adopts the same approach in the present case and, in this section, updates the above assessments in the context of:
- Impact on consumers;
  - Impact on competition; and
  - Other relevant functions, objectives, and duties.

### 3.4.2 Impact on consumers

- 3.40 In Chapter 2, ComReg noted that consumers' requirement for access to a variety of essential and non-essential services through voice and data services is likely to decline in line with the opening up of society. The various data and voice usage statistics presented in Section 2.3 clearly illustrate that the rate of growth has slowed and is now more consistent with pre-COVID-19 levels. ComReg expects this trend to continue in the coming quarters.
- 3.41 Further, as noted above, the Temporary Situation would appear to have ended with the removal of most COVID-19 measures from 28 February 2022. In that regard, ComReg notes that:
- the need to rely on voice and data services to access essential and non-essential services has consequently been removed and consumers will gradually revert to pre-covid behaviours in the period following 28 February; and
  - 99% of all employers that are currently working remotely plan to return onsite to some degree following the relaxation of COVID-19 restrictions<sup>50</sup> and the situation where a large majority of the working population are working fully remotely clearly will not apply in the coming months. Instead, hybrid working or working full time in the office is likely to occur.
- 3.42 With that in mind, consumers would likely prefer some further temporary rights to account for the fact that consumers will likely need a short period of time to adjust work and social patterns in response to the removal of restrictions, and this may delay the emergence of stabilised traffic patterns for this short period.
- 3.43 Further, an uncoordinated cessation of temporary rights of use may cause unnecessary consumer disruption if networks have not been dimensioned in line with traffic patterns consistent with the removal of the Government's COVID-19 measures from 28 February.
- 3.44 Therefore, on balance, consumers will likely benefit from the Proposed Approach.
- 3.45 However, this would be predicated on rights of use expiring in a short period with long term rights of use to be assigned in an open competitive award in the MBSA2, including because the latter would provide long-term regulatory certainty for all operators and the consumer benefits arising from same.

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<sup>50</sup> IBEC HR Update 2021 Workplace trends & insights - [https://www.ibec.ie/-/media/documents/connect-and-learn/research/hr-update-survey/hr\\_update\\_report\\_2021.pdf](https://www.ibec.ie/-/media/documents/connect-and-learn/research/hr-update-survey/hr_update_report_2021.pdf)

### 3.4.3 Impact on Competition

3.46 In Section 4.3.1 of Document 20/21, ComReg stated that the temporary assignment of spectrum rights was unlikely to confer a material advantage on any operator or distort downstream competition over the period of the Temporary Situation because, in summary:

- any temporary assignment of rights of use would be based on a justified need to alleviate capacity concerns<sup>51</sup> on existing infrastructure over a short period (paragraph 4.39 of Document 20/21); and
- an MNO would be unlikely to be able to obtain a material advantage over rivals through the temporary assignment of liberalised rights (paragraph 4.40 of Document 20/21).

3.47 In light of the latest common request received from each of the MNOs to, effectively, extend the terms of the existing temporary licensing framework unchanged, ComReg assumes that the MNOs are satisfied that any further licensing framework implemented on such basis would be unlikely to materially distort competition between them.

3.48 In relation to the MBSA2, ComReg notes that the MNOs *“acknowledge that ComReg has stressed that any temporary licensing framework is intended solely to address the exceptional and extraordinary situation presented by COVID-19 and that it is entirely without prejudice to the award of long-term rights of use in these spectrum bands in its proposed multi-band spectrum award.”* ComReg would also envisage the same/similar text to that currently appearing at paragraph 4 of Part 6 of previous Application Forms in any future application form in relation to the Proposed Approach.<sup>52</sup>

3.49 In relation to the potential impact on competition outside of the MNOs (such as other 3.6 GHz Band licensees), ComReg:

- notes that Dense Air did not provide a response to Documents 20/21, 20/86R, 21/16, 21/87 or 22/02 and Imagine expressed support for the current licensing framework in its response to

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<sup>51</sup> Such needs being identified by applicants in the application form to be used.

<sup>52</sup> See, for example, Document 20/24a Part 6 paragraph 4:

*“I confirm that the Applicant is fully aware that the Licences are being made available solely to accommodate the claimed unanticipated spike in demand arising from the extraordinary situation relating to COVID-19, that all Licences granted or renewed under the Regulations will expire 3 months after commencement or on 1 October 2021 (whichever is the earliest) and that the longer term questions of assignment of spectrum rights of use in the 700MHz Duplex and 2.6 GHz Band, liberalisation of rights of use in the 2.1 GHz Band and assignment of new rights of use in that band will be determined through such an award process as ComReg shall determine to be appropriate. I further confirm that the Applicant identified herein will take full account of this in making any investment or marketing decisions and will not seek to argue that any such decisions made as a result of the grant of a Licence give it any expectation of favourable treatment with regards to access to liberalised rights of use in those bands.”*

Document 20/21, 20/86R, 21/16 and 21/87;

- recalls that it approved subsequent leases of 3.6 GHz Band spectrum rights by each of the MNOs and Dense Air to Imagine (see Section 2.6 above). Indeed, in its response to previous consultations, Documents 20/86R, 21/16 and 21/87, and in its MNO-specific information provided for the purpose of informing this consultation (see Section 3.2.2 above) Vodafone notes that the increase in capacity resulting from the temporary spectrum rights has facilitated its lease of 3.6 GHz band spectrum to Imagine;
- remains open to assessing any lease notifications it may receive in a timely manner in light of the circumstances discussed in this document; and
- observes that, by way of this consultation, interested parties may provide views on the potential competition impacts of any further licensing framework.

#### **3.4.4 Assessment of the Proposed Approach against ComReg's relevant functions, objectives, and duties**

3.50 Annex 2 of this Document summarises the relevant statutory framework informing ComReg's consideration of the Proposed Approach.

3.51 Based on the information provided by the MNOs and other available information, ComReg is of the preliminary view that the Proposed Approach would be appropriate in the context of ComReg's functions, objectives, and duties, including being objectively justified, non-discriminatory and proportionate.

3.52 In light of the above, ComReg is of the preliminary view that it would, in principle, be appropriate to implement a fourth further temporary licensing framework

## Chapter 4

# 4 ComReg's licensing proposals

4.1 In this chapter, ComReg:

- provides a summary of the key licensing elements in the previous and current Temporary ECS Licensing Framework;
- sets out relevant information from the MNO requests on the licensing proposals for a further temporary licensing framework; and
- outlines its preliminary assessment on the material received from the MNOs and its preliminary view on the licensing proposals for any second further temporary licensing framework.

## 4.1 Summary of the key elements of ComReg's first four Temporary ECS Licensing Frameworks

4.2 In Chapter 3 of Documents 20/21 and 20/27, and Chapter 4 of Documents 20/86R, 20/88, 21/16 and 21/24 ComReg set out its proposals and final positions, respectively, regarding the following key elements of the Temporary ECS Licensing frameworks implemented to date:

- spectrum bands, assignments, and compatibility considerations;
- applicant eligibility and the supporting information requirements;
- licence duration;
- fees; and
- coverage obligations.

4.3 These remain key considerations in connection with any further temporary licensing framework (No. 3) and, along with other matters, are summarised below.

### 4.1.1 Spectrum bands, assignments, and compatibility considerations

4.4 The bands made available in the Temporary ECS Licensing frameworks implemented to date were the 700 MHz Duplex, 2.1 GHz and 2.6 GHz Bands. The 700 MHz Duplex and 2.6 GHz Band (subject to certain restrictions to protect IAA radars) were available for licensing, while "liberalised" 2.1 GHz rights were made available to existing 2.1 GHz licensees.

4.5 For deployments in the 700 MHz Duplex, the following potential compatibility issues were identified:

- mobile deployments in the 800 and 900 MHz Bands;
- broadcasting services below 694 MHz; and
- cable networks that also use frequencies on their closed networks in the 700 MHz Band.

4.6 While the likelihood of compatibility issues arising varied in each case, it was important that appropriate mechanisms were put in place to address any issues that might arise.

4.7 First, and in relation to managing inter-MNO interference, the assignment of the blocks to the MNOs in the 700 MHz Duplex was made<sup>53</sup> in the same order as those assigned in the 800 MHz Band as follows:

- **Eir:** 703 to 713 MHz paired with 758 to 768 MHz;
- **Three:** 713 to 723 MHz paired with 768 to 778 MHz; and
- **Vodafone:** 723 to 733 MHz paired with 778 to 788 MHz.

4.8 Second, and in relation to managing any risk to existing networks, an inter-operator 700 MHz Coordination Agreement was established between the three MNOs, 2RN and Virgin Media (as set out in Annex 4 of Document 20/27) and reflected as a licence condition in any Temporary ECS Licence issued.

4.9 Spectrum rights in the 2.6 GHz Band were also made available but subject to certain geographic restrictions (or “exclusion zones”)<sup>54</sup> to ensure compatibility between any MFCN<sup>55</sup> deployment and the IAA’s primary radar systems. However, as noted in Section 2.1 above, temporary spectrum licences for spectrum rights in the 2.6 GHz band have not been issued, and no applications have been received for same, during the current and previous COVID-19 temporary spectrum licensing frameworks.

#### 4.1.2 Applicant eligibility and supporting information requirements

4.10 In previous consultation documents<sup>56</sup> ComReg outlined that the underlying intention of the Temporary ECS Licensing framework(s) was to facilitate

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<sup>53</sup> Subject to completing the relevant Application Form and satisfying the eligibility and appropriate evidence requirements.

<sup>54</sup> As set out in Document “2.6 GHz Band Exclusion Zones.zip” as published on ComReg’s COVID 19: Temporary Spectrum Measures webpage. <https://www.comreg.ie/industry/radio-spectrum/spectrum-awards/covid-19-temporary-spectrum-management-measures/>

<sup>55</sup> Mobile or Fixed Communications Network

<sup>56</sup> See ComReg Documents 20/21, 20/27, 20/86R, 20/88, 21/16, 21/24, 21/87 and 21/96.

operators that can readily utilise the 700 MHz Duplex, 2.1 GHz and/or 2.6 GHz bands. In this regard, ComReg noted that operators:

- should use existing infrastructure to meet the demand of consumers during the Temporary Situation noting that operators should only apply for rights of use they can readily use and be in a position to demonstrate same to ComReg;
- should not use the (Further) Temporary ECS Licences for large-scale network rollout not previously planned; and
- should have some flexibility to install or redeploy equipment as needed by consumers during the Temporary Situation and to continue with existing network upgrade plans.

4.11 The following applicant eligibility requirements were set out in S.I. 122 of 2020<sup>57</sup>, S.I. 407 of 2020<sup>58</sup>, S.I. 137 of 2021<sup>59</sup> and S.I. 501 of 2021<sup>60</sup>:

*“(2) The Commission may grant a Licence, following payment by the applicant of the relevant fee prescribed in Regulation 8, in accordance with the Authorisation Regulations and having regard to, among other things:*

- (a) available information regarding the extraordinary situation arising from COVID-19 and, in particular, as it may reasonably affect Electronic Communications Networks and the provision of relevant Electronic Communications Services in the State;*
- (b) available information regarding the impact of the extraordinary situation arising from COVID-19 upon the capacity of the Electronic Communications Network operated by the Undertaking, including the locations in the State where any capacity constraints are occurring or are likely to occur;*
- (c) available information regarding how the rights of use of radio frequencies applied for by the Undertaking would reasonably and materially assist in alleviating the capacity constraints identified in sub-paragraph (b), including the lead time for the Undertaking to effectively make use of such rights of use of radio frequencies;*
- (d) available information regarding the risks to the provision of existing Electronic Communications Services, and the quality of such existing provision, by the Undertaking in making changes to its*

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<sup>57</sup> The Wireless Telegraphy (Temporary Electronic Communications Services Licences) Regulations 2020, Regulation 4(2).

<sup>58</sup> The Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) Regulations 2020.

<sup>59</sup> The Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) (No.2) Regulations 2021

<sup>60</sup> The Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) (No.3) Regulations 2021

*Electronic Communications Network to effectively make use of the rights of use of radio frequencies applied for;*

*(e) the need to encourage the efficient use and ensure the effective management of the radio frequency spectrum; and*

*(f) the Commission’s obligations and objectives in relation to competition for the provision of Electronic Communications Networks and Electronic Communications Services.”*

4.12 These information requirements were reflected in part 2 of the respective Application Forms<sup>61</sup>.

### 4.1.3 Licence duration

4.13 In Document 20/27, ComReg:

- noted that any Temporary ECS Licences issued should be short-term and only for the duration of the Temporary Situation; and
- decided that the initial licence duration would be up to 3 calendar months, with the possibility of a renewal of up to a further 3 calendar months, but where all licences granted or renewed would expire no later than 6 months from the making of the licensing regulations.

4.14 The key reasons informing the above were set out in Section 3.3.2 of Document 20/21.

4.15 In Document 20/86R and 20/88, and having considered views submitted by the MNOs that the duration of any further temporary licences would run until the completion of the MBSA2 award, ComReg was of the view that this would not be appropriate and among other things, noted that:

- *“the current licensing framework, and indeed any further framework, is a novel intervention intended solely to address the exceptional and extraordinary situation presented by COVID-19 in an objectively justified and proportionate manner in accordance with its statutory obligations”.*
- *“[i]t would clearly not be objectively justified or proportionate to determine the expiry of any further temporary licences by reference to a factor unrelated to the Temporary Situation, i.e. by reference to completion of the Proposed MBSA<sup>62</sup>”; and*

<sup>61</sup> See Documents [20/27a](#), [20/27aR](#), [20/88a](#), [20/88aR](#), [21/24a](#), [21/24aR](#) and [21/96a](#)

<sup>62</sup> Footnote 62 of Document 20/86R. *“Save of course that the assignment of long-term rights of use should not be delayed by any temporary licences.”*

- *“ComReg’s current and proposed approach allows for the carrying out of a regular and orderly review of the relevant facts and circumstances underpinning the licensing framework”.*

4.16 In addition, ComReg stated that it would, of course, continue to monitor the situation over the term of any further licensing framework, to inform its approach to any licensing beyond this period.

#### 4.1.4 Fees

4.17 In Documents 20/27, 20/88, 21/24 and 21/96 ComReg set out its final position that a nominal, non-refundable fee of €100 would apply to both the grant of a Temporary ECS Licence, and for any renewal of same. The reasons informing same were set out in Section 3.4 of Document 20/21, Section 4.3 of Document 20/86R, Section 4.3 of Document 21/16 and Section 4.3 of Document 21/96.

#### 4.1.5 Coverage at specific locations

4.18 In the joint MNO request of 24 March 2020, operators requested that they be able to utilise the spectrum to assist in relieving congestion in targeted areas which could include temporary medical facilities. Following consultation in Document 20/21, ComReg decided to include a licence obligation that requires licensees to provide coverage at specific locations related to the Temporary Situation as detailed in Table 5 below.

4.19 In Documents 20/86R, 20/88, 21/16, 21/24, 21/87 and 21/96 ComReg noted that the existing licensing framework is working as expected for the purposes of the Temporary Situation and maintained the same coverage obligation as detailed in Table 5 below.

**Table 5: Outdoor coverage obligations at specific locations in relation to the extraordinary situation arising from COVID-19**

Coverage	Location	Obligation
Outdoors	Specific locations in relation to the extraordinary situation arising from COVID-19 as may be determined from time to time by the Government and communicated to the Commission by the Department of the Environment, Climate and Communications.	Best efforts using all rights of use available to the Licensee

#### 4.1.6 Other actions that could be taken

4.20 In previous consultations regarding temporary spectrum rights, ComReg

noted that the Temporary Spectrum Management Measures may allow MNOs to temporarily offer consumers flexibility in accessing services over the period through a variety of measures (e.g., increase data caps / call minute allowances etc.) and ComReg encouraged MNOs to consider same.

- 4.21 ComReg also encouraged and welcomed leasing arrangements, particularly in relation to the 3.6 GHz band.
- 4.22 ComReg further noted the possibility of assigning temporary rights of use in the 2.3 GHz Band and queried whether the 2.3 GHz Band could be of use to operators during the Temporary Situation. Respondents to earlier consultations however, noted that there was a lack of readily available equipment for both operator and consumers and thus this would likely be an ineffective solution for the Temporary Situation.

## 4.2 Current MNO request

- 4.23 As discussed in Section 3.2, the MNOs *“jointly request that the terms of the current Temporary Spectrum Management Measures detailed in ComReg 20/88 (D08/20) are extended unchanged”*.

## 4.3 Views of other stakeholders

- 4.24 In relation to the 700 MHz Duplex, Virgin Media and 2RN continue to provide their respective support for a further framework subject to the inter-operator 700 MHz Coordination Agreement established between the three MNOs, 2RN and Virgin Media (as set out in Annex 4 of Document 20/27) 700 MHz agreement<sup>63</sup>.

## 4.4 ComReg assessment and preliminary view

- 4.25 First, ComReg observes that the current further temporary licensing framework is generally operating as expected for the purposes of the Temporary Situation. In particular:
- MNOs have been able to utilise the 700 MHz Duplex where they have existing equipment and Eir has been able to use the 2.1 GHz Band for 4G use at certain sites to assist in dealing with the impact on its network due to Government COVID-19 measures;
  - as discussed in Chapters 2 and 3 above, while indications are that data traffic volumes are now returning to a stable level of growth and voice traffic volumes are at pre COVID-19 levels, MNOs have over the course of the Temporary Situation seen a notable increase in voice and data traffic and a changed traffic profile, beyond what they

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<sup>63</sup> See recent correspondence with Virgin Media and 2RN in Annex 3.

previously forecasted, and the MNOs have used the temporary spectrum rights in combination with other actions to alleviate congestion and provide additional capacity to support the provision of ECS services during the period of the Government's COVID-19 measures;

- establishing the Temporary ECS licensing Frameworks has encouraged licensees in the 3.6 GHz band (the three MNOs and Dense Air) to lease spectrum to Imagine (see Section 2.6 above), which has helped Imagine in managing increases in data traffic on its network; and
- the 700 MHz Coordination procedure appears to be working well to adequately manage the risk of any impact on existing networks. Having considered the information submitted by the MNOs and also correspondence with Virgin Media and 2RN<sup>64</sup>, ComReg observes that the MNOs indicate that there has been engagement between the various parties (the three MNOs, Virgin Media and 2RN), and that no issues have been reported by any party.

4.26 Secondly, in relation to the duration of any further temporary licensing framework, ComReg observes that:

- the MNOs have indicated their support for an up to 6-month overall duration, consisting of an initial licence of up to 3 months with the possibility of a renewal of up to a further 3 calendar months; and
- ComReg has set out its observations and preliminary assessment of this proposal in Sections 3.3 and 3.4 above where, among other things, ComReg notes that the overall duration of up to 6 months, made up of an up to 3-month initial licence and the potential for an up to 3-month renewal would be appropriate as:
  - it would provide a lengthy “safeguard” period to cater for the impact of any amendments to the Government approach to managing COVID-19 including the re-introduction of COVID-19 measures;
  - it would provide a reasonable time period to account for the lag effect between the withdrawal of COVID-19 measures and the emergence of stable traffic patterns;
  - it would provide a reasonable time period to account for the MNOs need to undertake transition activities in advance of the cessation of any temporary spectrum rights. In this regard, **ComReg observes that network operators now should begin**

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<sup>64</sup> Annex 3 sets out non-confidential ComReg correspondence with Virgin Media and 2RN in this regard.

**to make transition plans and take actions in advance of the end of the presently proposed temporary spectrum licences;**  
and

- the renewal process would provide an opportunity for ComReg to assess the prevailing circumstances at that time and whether it would be appropriate to issue any further up to three-month renewal licence.
- 4.27 Thirdly, in light of the fact that no temporary spectrum licences have been issued for spectrum rights in the 2.6 GHz band, and no applications have been received for same, ComReg is of the view that it is no longer appropriate to include the 2.6 GHz band in the proposed licensing framework.
- 4.28 Considering the above, the MNOs' support for the current terms to remain unchanged, and the latest views of 2RN and Virgin Media on 700 MHz Coordination<sup>65</sup> and ComReg's observations and preliminary assessment of the MNOs' proposal as set out in Sections 3.3 and 3.4 above, ComReg proposes to implement the same licensing framework as set out in Document 21/96 and S.I. 501 of 2021<sup>66</sup> for the period 2 April 2022 to 1 October 2022, with the exception that the 2.6 GHz band would not be included.
- 4.29 In relation to any renewal process, should initial temporary licences be issued with an expiry date of 1 July 2022, ComReg proposes to contact licensees towards the end of May 2022 reminding them that a completed Application Form and the necessary supporting information can be submitted to ComReg by 1 June 2022. The submission of complete information by this date should facilitate ComReg making its licence renewal assessment in early June 2022, allowing for any new renewal licences to be issued shortly thereafter should that be appropriate.
- 4.30 As discussed earlier, and based on current information, **ComReg expects that this will be the final temporary ECS licensing framework on the basis of the Temporary Situation.**
- 4.31 Accordingly, and in summary, ComReg's preliminary view is that any further temporary ECS licencing framework should have the same licensing conditions (as summarised in Section 4.1 above) as used in the current Temporary ECS Licensing Framework with the exception that the licence conditions associated with the 2.6 GHz band would not be included. Details of these licensing proposals are set out in the draft Further Temporary ECS (No.4) Licence Regulations attached in Annex 4.

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<sup>65</sup> Recent correspondence with 2RN and Virgin Media is contained in Annex 3

<sup>66</sup> The Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) (No.3) Regulations 2021 ([S.I. No. 501 of 2021](#)).

- 4.32 ComReg reiterates that the proposed Temporary ECS Licensing Framework is entirely without prejudice to the MBSA2, and ComReg stresses (as it has on previous occasions) that any temporary licensing framework should not be construed as an alternative to same.
- 4.33 Finally, in relation to the duration of any new temporary framework, as noted in Section 2.5 above, ComReg would remind interested parties that it is progressing the MBSA2 award process, and it is possible that some spectrum rights could be assigned via the MBSA2 within the duration of the further temporary licensing framework proposed in this document.
- 4.34 In that regard, ComReg observes that once the MBSA2 award process is completed, any temporary rights in existence at that time would expire in advance of the commencement date of spectrum rights issued under the MBSA2, and MNOs should plan for same.

## Chapter 5

# 5 Draft Decision

This chapter sets out ComReg's draft decision document based on the views expressed by ComReg in the preceding chapters and their supporting annexes.

## Decision

### 1. DEFINITIONS AND INTERPRETATION

1. In this Decision, save where the context otherwise admits or requires:

**“2.1 GHz Band”** means radio frequency spectrum in the range 1920 to 1980 MHz paired with radio frequency spectrum in the range 2110 to 2170 MHz;

**“2.1 GHz Band Block”** means a 5 MHz paired block of radio frequency spectrum in the 2.1 GHz Band;

**“2.1 GHz Band EC Decision”** means European Commission Decision 2012/688/EC<sup>67</sup> as amended by European Commission Decision 2020/667<sup>68</sup>;

**“700 MHz Duplex”** means radio frequency spectrum in the range 703 – 733 MHz paired with 758 – 788 MHz;

**“700 MHz Duplex Block”** means a right of use in respect of a 2 x 5 MHz block of spectrum in the 700 MHz Duplex;

**“700 MHz EC Decision”** means Decision (EU) 2016/687<sup>69</sup>;

**“Authorisation Regulations”** means the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations, 2011 (S.I. No. 335 of 2011);

**“Communications Regulation Act 2002”** means the Communications Regulation Act, 2002, (No. 20 of 2002), as amended;

**“ComReg”** means the Commission for Communications Regulation, established under section 6 of the Communications Regulation Act 2002;

**“Electronic Communications Network”** and **“Electronic Communications Service”** have the meanings assigned to them in the Framework Regulations;

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<sup>67</sup> Commission Implementing Decision of 5 November 2012 on the harmonisation of the frequency bands 1920 - 1980 MHz and 2110 - 2170 MHz for terrestrial systems capable of providing electronic communications services in the Union.

<sup>68</sup> Commission Implementing Decision (EU) 2020/667 of 6 May 2020 amending Decision 2012/688/EU as regards an update of relevant technical conditions applicable to the frequency bands 1920 – 1980 MHz and 2110 – 2170 MHz.

<sup>69</sup> Commission Implementing Decision of 28 April 2016 on the harmonisation of the 694-790 MHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services and for flexible national use in the Union.

**“Framework Regulations”** means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011, (S.I. No. 333 of 2011);

**“Further Temporary ECS Licence (No. 4)”** means a licence of the type set out in draft form in Schedule 1 to the Further Temporary ECS Licence Regulations (No.4);

**“Further Temporary ECS Licence Regulations (No. 4)”** means the Wireless Telegraphy (FURTHER TEMPORARY ELECTRONIC COMMUNICATIONS SERVICES LICENCES) (No. 4) Regulations, 2022, as set out in draft form in Annex 4 to this document ComReg Document 21/17;

**“Minister”** means the Minister for the Environment, Climate and Communications;

**“MNO”** means a mobile network operator with an existing network in Ireland;

**“Relevant Spectrum”** means 700 MHz Duplex Blocks and 2.1 GHz Band Blocks;

**“Undertaking”** has the same meaning set out in the Framework Regulations; and

**“Wireless Telegraphy Act 1926”** means the Wireless Telegraphy Act, 1926 (No. 45 of 1926), as amended.

## 2. DECISION-MAKING CONSIDERATIONS

2. In arriving at its decisions in this document, ComReg has had regard to:

- i. the contents of, and the materials and reasoning referred to in, as well as the materials provided by respondents in connection with, the below-listed ComReg documents:
  - a) 18/60, 19/59R, 19/124, 20/122 and 21/40 (insofar as they are relevant to the present decisions and, in particular, concerning the technical licence conditions for the Relevant Spectrum);
  - b) 20/21;
  - c) 20/23;
  - d) 20/27;
  - e) 20/64;
  - f) 20/86R;
  - g) 20/88;
  - h) 21/05;
  - i) 21/16;
  - j) 21/24;
  - k) 21/74;

- l) 21/87;
  - m) 21/96;
  - n) 22/02;
  - o) 22/17; and
  - p) 22/[YY] [document to which the final decision will be attached]
- ii. the consultants' reports commissioned, and the advice obtained by ComReg, in relation to the subject-matter of the documents and materials listed above (insofar as they are relevant to the present decisions and, in particular, concerning the technical licence conditions for the Relevant Spectrum);
  - iii. the powers, functions, objectives, and duties of ComReg, including, without limitation those under and by virtue of:
    - a) the Communications Regulation Act 2002, and, in particular, sections 10, 12 and 13 thereof;
    - b) the Framework Regulations, and, in particular, Regulations 13, 16 and 17 thereof;
    - c) the Authorisation Regulations, and, in particular, Regulations 9, 10, 11, 12, 15, 16, 17, 18(1)(c) and 19 thereof;
    - d) the 2.1 GHz Band EC Decision;
    - e) the 700 MHz EC Decision;
    - f) Sections 5 and 6 of the Wireless Telegraphy Act, 1926; and
    - g) the applicable Policy Directions made by the Minister under section 13 of the Communications Regulation Act 2002,

and, noting that it has:

- h) given all interested parties the opportunity to express their views and make their submissions in accordance with Regulation 11 of the Authorisation Regulations and Regulation 12 of the Framework Regulations,

as set out in the various chapters of Document 22/[YY] [document to which the final decision will be attached] and their supporting annexes.

### 3. DECISIONS

3. Having had regard to the above considerations, ComReg has decided:

- i. subject to obtaining the consent of the Minister to the making by it of the Further Temporary ECS Licence Regulations (No. 4), to make those regulations under section 6 of the Wireless Telegraphy Act 1926,

prescribing relevant matters in relation to Further Temporary ECS Licences (No. 4), including prescribing the form of the licences concerned, their duration and the conditions and restrictions subject to which they are granted;

### **700MHz Duplex and 2.1GHz Bands**

- ii. upon application properly being made to it by MNOs for Further Temporary ECS Licences (No. 4) with rights of use in the 700 MHz Duplex and 2.1 GHz Bands;
  - a) to select which MNOs will be granted Further Temporary ECS Licences (No. 4) in the 700 MHz Duplex and 2.1 GHz bands having regard to the principles generally described in Chapter 4 of Document 22/17 and further particularised in the Further Temporary ECS Licence Regulations (No. 3), as made, and the material provided by applicants in support of their respective application, including the ability of the applicant to deliver services expeditiously using those rights of use; to assign 2 × 10 MHz of 700 MHz Duplex to each MNO<sup>70</sup>, but where ComReg reserves the right to make alternative assignments in line with its statutory objectives and duties;
  - b) to grant Further Temporary ECS Licences (No. 4), under section 5 of the Wireless Telegraphy Act 1926 to such MNOs for the periods, and subject to the conditions and restrictions (including conditions as to suspension and withdrawal), prescribed in the Further Temporary ECS Licence Regulations (No. 4), including the schedule to Further Temporary ECS Licences (No. 4) as currently set out in Annex 4 of Document 21/17 ;

### **Licence Duration**

- iii. to make the duration of a Further Temporary ECS Licence (No. 4) up to but no longer than 3 calendar months;
- iv. upon application properly being made to it, having regard to the principles generally described in Chapter 4 of Document 21/17 and further particularised in the Further Temporary ECS Licence Regulations (No. 4), and the material provided by applicants in support of their renewal, to renew a Further Temporary ECS Licence (No. 4) for a further period of up to but no longer than 3 calendar months; and

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<sup>70</sup> Specifically:

- Eir: 703 to 713 MHz paired with 758 to 768 MHz;
- Three: 713 to 723 paired with 768 to 778 MHz; and
- Vodafone: 723 to 733 paired with 778 to 788 MHz.

- v. that any Further Temporary ECS Licence (No. 4) granted or renewed shall in any event expire no later than 1 October 2022.

#### **4. STATUTORY POWERS NOT AFFECTED**

- 4. Nothing in this document shall operate to limit ComReg in the exercise of its discretions or powers, or the performance of its functions or duties, or the attainment of objectives under any laws applicable to ComReg from time to time.

## Chapter 6

# 6 Submitting comments and next steps

## 6.1 Submitting Comments

- 6.1 Considering the urgency of the issue and as per previous consultations on temporary spectrum licences, ComReg has set a shorter period compared to the normal four weeks identified in ComReg's Consultation Procedures<sup>71</sup>, and invites input from interested parties by close of business **Wednesday 9 March 2022**.
- 6.2 It would make the task of analysing responses easier if comments were referenced to the relevant section / paragraph number in each chapter and annex in this document.
- 6.3 Please also set out your reasoning and all supporting information for any views expressed.
- 6.4 Responses must be submitted in written form (e-mail) to the following recipient, clearly marked — Submissions to ComReg 22/17:
- Mr. Joseph Coughlan
- Email: [marketframeworkconsult@comreg.ie](mailto:marketframeworkconsult@comreg.ie)
- 6.5 We request that electronic submissions be submitted in an unprotected format so that they can be readily included in the ComReg submissions document for electronic publication.
- 6.6 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 consultation, 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).
- 6.7 In this regard, respondents should submit views in accordance with the instructions set out below. When submitting a response to this consultation that contains confidential information, respondents must choose one of the following options:

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<sup>71</sup> See Document 11/34.

- A. Preferably, 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 and include the reasons as to why they consider any particular material to be confidential. 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 the reasons as to why they consider any particular material to be confidential, 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.

6.8 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.

6.9 For example, “Redtelecom has a market share of [✂ 25% ✂].”

## 6.2 Next Steps

6.10 Following receipt and consideration of submissions in response to this consultation, and other relevant material, ComReg intends to publish a response to consultation together with its final decision.

- 6.11 While ComReg cannot provide further clarity on the overall timelines at this juncture, as this will depend, among other things, on the nature of responses received to this consultation, ComReg endeavours to issue the response to consultation and decision in sufficient time to allow for the making of the regulations and issuing of licences by 1 April 2022 if a further temporary framework is considered appropriate.

# Annex: 1 Glossary

## A1.1 Definitions

- A 1.1 The definitions in this glossary shall apply to this document as a whole.
- A 1.2 Where a term in this glossary is defined by reference to a definition in a section or paragraph and an explanation of that term is provided in this glossary, the latter explanation is for convenience only and reference should be made to the appropriate part of the document for the definitive meaning of that term in its appropriate context.
- A 1.3 Any reference to any provision of any legislation shall include any modification re-enactment or extension thereof.
- A 1.4 Terms defined in this consultation paper shall, unless the context otherwise requires or admits, have the meaning set out below:

3.6 GHz Band	The radio frequency spectrum in the range 3400 MHz to 3800 MHz.
700 MHz Duplex	The frequency range 703-733 MHz paired with 758-788 MHz.
2.1 GHz Band	The frequency ranges 1920-1980 MHz paired with 2110-2170 MHz
2.6 GHz Band	The frequency range 2500 – 2690 MHz.
Aeronautical Primary Radars	Means apparatus (including “Star 2000” and “TA10” models) providing primary aircraft detection used in airport surveillance networks at Dublin, Cork, and Shannon airports.
Application Form	ComReg Document 22/[YY]a [document to which the final decision will be attached].
COVID-19	COVID-19 is an illness that can affect your lungs and airways and is caused by a virus called SARS-CoV-2 (2019-nCoV) coronavirus.
Temporary ECS Licensing Framework	Means the Wireless Telegraphy (Temporary Electronic Communications Services Licences) Regulations 2020 (S.I. No. 122 of 2020).

Further Temporary Licensing Framework ECS	Means the Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) Regulations 2020 (S.I. No. 407 of 2020).
Further Temporary Licence Regulations (No.2) ECS	Means the regulations as set out in S.I 137 of 2021.
Further Temporary Licence Regulations (No.3) ECS	Means the regulations as set out in S.I 501 of 2021.
Further Temporary Licence Regulations (No.4) ECS	Means the draft regulations as set out in Annex 4 of this document
IM	The Information Memorandum ComReg published in Document 21/40 (as may be amended) detailing the processes and procedures ComReg is employing in conducting the MBSA2.
MBSA2	ComReg’s Multi-Band Spectrum Award project for the long-term assignment of spectrum rights of use in the 700 MHz Duplex, 2.1 GHz, 2.3 GHz, and 2.6 GHz bands  Further information is available on ComReg’s Spectrum Awards webpage at <a href="http://www.comreg.ie">www.comreg.ie</a>
MBSA2 Decision	Decision D11/20 as published in Document 20/122.
Proposed Approach	ComReg’s consideration of the approach as set out in this Document.
SAF	Spectrum Access Fee.
SUF	Spectrum Usage Fee.

Temporary Situation	Means the temporary impact upon electronic communications networks and services from the extraordinary situation arising from the spread of the disease known as COVID-19.
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## A1.2 European and Governmental Bodies, Regulatory and Standardisation Organisations

ComReg	Commission for Communications Regulation
DECC	Department of the Environment, Climate and Communications
EC	European Commission
EU	European Union
IAA	Irish Aviation Authority
ITU	International Telecommunication Union

## A1.4 Glossary of Technical Terms

3G	Third Generation Mobile System (e.g., UMTS)
ECS	Electronic Communications Service as defined under the Framework Regulations
GHz	Gigahertz (1 000 000 000 Hertz)
Hertz	Unit of Frequency
kHz	Kilohertz (1 000 Hertz)
LTE	Long Term Evolution of 3G
MHz	Megahertz (1 000 000 Hertz)
MNO	Mobile Network Operator

UMTS	Universal Mobile Telecommunications System.
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## Annex: 2 Legal Framework and Statutory Objectives

- A 2.1 The Communications Regulation Act 2002 (as amended by the Communications Regulation (Amendment) Act 2007) (the “2002 Act”), the EU Common Regulatory Framework (including the Framework and Authorisation Directives<sup>72</sup> as transposed into Irish law by the corresponding Framework and Authorisation Regulations<sup>73</sup>), and the Wireless Telegraphy Acts 1926 to 2009<sup>74</sup> set out, amongst other things, powers, functions, duties and objectives of ComReg that are relevant to the management of the radio frequency spectrum in Ireland and to this consultation document.
- A 2.2 Apart from licensing and making regulations in relation to licences, ComReg’s functions include the management of Ireland’s radio frequency spectrum in accordance with ministerial Policy Directions under section 13 of the 2002 Act, having regard to its objectives under section 12 of the 2002 Act, Regulation 16 of the Framework Regulations, and the provisions of Article 8a of the Framework Directive. ComReg is to carry out its functions effectively, and in a manner serving to ensure that the allocation and assignment of radio frequencies is based on objective, transparent, non-discriminatory, and proportionate criteria.
- A 2.3 This annex is intended as a general guide as to ComReg’s role in this area, and not as a definitive or exhaustive legal exposition of that role. Further, this annex restricts itself to consideration of those powers, functions, duties and objectives of ComReg that appear most relevant to the matters at hand and generally excludes those not considered relevant (for example, in relation to postal services, premium rate services or market analysis). For the avoidance of doubt, however, the inclusion of particular material in this annex does not necessarily mean that ComReg considers same to be of specific relevance to the matters at hand.
- A 2.4 All references in this annex to enactments are to the enactment as amended

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<sup>72</sup> Directive No. 2002/21/EC of the European Parliament and of the Council of 7 March 2002 (as amended by Regulation (EC) No. 717/2007 of 27 June 2007, Regulation (EC) No. 544/2009 of 18 June 2009 and Directive 2009/140/EC of the European Parliament and Council of 25 November 2009) (the “Framework Directive”) and Directive No. 2002/20/EC of the European Parliament and of the Council of 7 March 2002 (as amended by Directive 2009/140/EC) (the “Authorisation Directive”).

<sup>73</sup> The European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011) and the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011 (S.I. No. 335 of 2011) respectively.

<sup>74</sup> The Wireless Telegraphy Acts 1926 to 1988 and Sections 181 (1) to (7) and (9) and Section 182 of the Broadcasting Act 2009.

at the date hereof, unless the context otherwise requires.

## New European Electronic Communications Code

- A 2.5 On 20 December 2018, Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (“EECC”) entered into force. The EECC replaces the EU Common Regulatory Framework adopted in 2002 (and amended in 2009) under which ComReg has regulated electronic communications since 2003. It is important to note that further to Article 125 (“Repeal”) of the EECC, with effect from 21 December 2020, the EECC has replaced the EU Common Regulatory Framework.
- A 2.6 With some limited exceptions (see Article 124 of the EECC), Member States had until 21 December 2020 to transpose the EECC into national law<sup>75</sup>. The DECC is responsible for the transposition of the EECC and ComReg has assisted the DECC in that regard as appropriate.
- A 2.7 ComReg understands that the EECC is unlikely to be transposed into national law until mid-2022. However, for the avoidance of doubt, electronic communications providers must continue to comply with their obligations, ComReg will continue to regulate the electronic communications sector under its existing powers, and redress mechanisms for customers will continue unchanged until new legislation is introduced.
- A 2.8 Notwithstanding, and for the avoidance of doubt, ComReg is satisfied that, to the best of its knowledge, the granting of Temporary ECS Licences for the purposes of the Temporary Situation, and under the conditions described in this document, would not conflict with the objectives of the EECC or the obligations likely to be imposed on ComReg under national legislation implementing same.

### A2.1 Primary Objectives and Regulatory Principles under the 2002 Act and Common Regulatory Framework

- A 2.9 ComReg’s primary objectives in carrying out its statutory functions in the context of electronic communications are to:
- promote competition<sup>76</sup>;
  - contribute to the development of the internal market<sup>77</sup>;

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<sup>75</sup> With the exception of Articles 53(2), (3) and (4), and Article 54 (See Article 124).

<sup>76</sup> Section 12 (1)(a)(i) of the 2002 Act.

<sup>77</sup> Section 12 (1)(a)(ii) of the 2002 Act.

- promote the interests of users within the Community<sup>78</sup>;
- ensure the efficient management and use of the radio frequency spectrum in Ireland in accordance with a direction under section 13 of the 2002 Act<sup>79</sup>; and
- unless otherwise provided for in Regulation 17 of the Framework Regulations, take the utmost account of the desirability of technological neutrality in complying with the requirements of the Specific Regulations<sup>80</sup> in particular those designed to ensure effective competition<sup>81</sup>.

### A2.1.1 Promotion of Competition

A 2.10 Section 12(2)(a) of the 2002 Act requires ComReg to take all reasonable measures which are aimed at the promotion of competition, including:

- ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality;
- ensuring that there is no distortion or restriction of competition in the electronic communications sector; and
- encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources.

A 2.11 In so far as the promotion of competition is concerned, Regulation 16(1)(b) of the Framework Regulations also requires ComReg to:

- ensure that elderly users and users with special social needs derive maximum benefit in terms of choice, price and quality, and
- ensure that, in the transmission of content, there is no distortion or restriction of competition in the electronic communications sector.

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<sup>78</sup> Section 12(1)(a)(iii) of the 2002 Act.

<sup>79</sup> Section 12(1)(b) of the 2002 Act. Whilst this objective would appear to be a separate and distinct objective in the 2002 Act, it is noted that, for the purposes of ComReg’s activities in relation to electronic communications networks and services (“ECN” and “ECS”), Article 8 of the Framework Directive identifies “*encouraging efficient use and ensuring the effective management of radio frequencies (and numbering resources)*” as a sub-objective of the broader objective of the promotion of competition.

<sup>80</sup> The ‘Specific Regulations’ comprise collectively the Framework Regulations, the Authorisation Regulations, the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 (S.I. No. 334 of 2011), the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (S.I. 337 of 2011) and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011).

<sup>81</sup> Regulation 16(1)(a) of the Framework Regulations.

A 2.12 Regulation 9(11) of the Authorisation Regulations also provides that ComReg must ensure that radio frequencies are efficiently and effectively used having regard to section 12(2)(a) of the 2002 Act and Regulations 16(1) and 17(1) of the Framework Regulations. Regulation 9(11) further provides that ComReg must ensure that competition is not distorted by any transfer or accumulation of rights of use for radio frequencies and, for this purpose, ComReg may take appropriate measures such as mandating the sale or the lease of rights of use for radio frequencies.

### **A2.1.2 Contributing to the Development of the Internal Market**

A 2.13 Section 12(2)(b) of the 2002 Act requires ComReg to take all reasonable measures which are aimed at contributing to the development of the internal market, including:

- removing remaining obstacles to the provision of ECN, ECS and associated facilities at Community level;
- encouraging the establishment and development of trans-European networks and the interoperability of transnational services and end-to-end connectivity; and
- co-operating with electronic communications national regulatory authorities in other Member States of the Community and with the Commission of the Community in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of Community law in this field.

A 2.14 In so far as contributing to the development of the internal market is concerned, Regulation 16(1)(c) of the Framework Regulations also requires ComReg to co-operate with the Body of European Regulators for Electronic Communications (“BEREC”) in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of EU law in the field of electronic communications.

### **A2.1.3 Promotion of Interests of Users**

A 2.15 Section 12(2)(c) of the 2002 Act requires ComReg, when exercising its functions in relation to the provision of electronic communications networks and services, to take all reasonable measures which are aimed at the promotion of the interests of users within the Community, including:

- ensuring that all users have access to a universal service;
- ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved;

- contributing to ensuring a high level of protection of personal data and privacy;
- promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available ECS;
- encouraging access to the internet at reasonable cost to users;
- addressing the needs of specific social groups, in particular disabled users; and
- ensuring that the integrity and security of public communications networks are maintained.

A 2.16 In so far as promotion of the interests of users within the EU is concerned, Regulation 16(1)(d) of the Framework Regulations also requires ComReg to:

- address the needs of specific social groups, in particular, elderly users and users with special social needs, and
- promote the ability of end-users to access and distribute information or use applications and services of their choice.

#### **A2.1.4 Regulatory Principles**

A 2.17 In pursuit of its objectives under Regulation 16(1) of the Framework Regulations and section 12 of the 2002 Act, ComReg must apply objective, transparent, non-discriminatory and proportionate regulatory principles by, amongst other things:

- promoting regulatory predictability by ensuring a consistent regulatory approach over appropriate review periods;
- ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing ECN and ECS;
- safeguarding competition to the benefit of consumers and promoting, where appropriate, infrastructure-based competition;
- promoting efficient investment and innovation in new and enhanced infrastructures, including by ensuring that any access obligation takes appropriate account of the risk incurred by the investing undertakings and by permitting various cooperative arrangements between investors and parties seeking access to diversify the risk of investment, while ensuring that competition in the market and the principle of non-discrimination are preserved;

- taking due account of the variety of conditions relating to competition and consumers that exist in the various geographic areas within the State; and
- imposing ex-ante regulatory obligations only where there is no effective and sustainable competition and relaxing or lifting such obligations as soon as that condition is fulfilled.

## **A2.1.5 Other Obligations under the 2002 Act** **A2.1.6 Other Obligations under the 2002 Act**

A 2.18 In carrying out its functions, ComReg is required, amongst other things, to:

- seek to ensure that any measures taken by it are proportionate having regard to the objectives set out in section 12 of the 2002 Act;<sup>82</sup>
- have regard to international developments with regard to the radio frequency spectrum<sup>83</sup>; and
- take the utmost account of the desirability that the exercise of its functions aimed at achieving its radio frequency management objectives does not result in discrimination in favour of or against particular types of technology for the provision of ECS.<sup>84</sup>

## **A2.1.6 Policy Directions<sup>85</sup>**

A 2.19 Section 12(4) of the 2002 Act provides that, in carrying out its functions, ComReg must have appropriate regard to policy statements, published by or on behalf of the Government or a Minister of the Government and notified to the Commission, in relation to the economic and social development of the State. Section 13(1) of the 2002 Act requires ComReg to comply with any policy direction given to ComReg by the Minister for Communications, Energy and Natural Resources (“the Minister”) as he or she considers appropriate, in the interests of the proper and effective regulation of the electronic communications market, the management of the radio frequency spectrum in the State and the formulation of policy applicable to such proper and effective regulation and management, to be followed by ComReg in the exercise of its functions. Section 10(1)(b) of the 2002 Act also requires ComReg, in managing the radio frequency spectrum, to do so in accordance with a direction of the Minister under section 13 of the 2002 Act, while

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<sup>82</sup> Section 12(3) of the 2002 Act.

<sup>83</sup> Section 12(5) of the 2002 Act.

<sup>84</sup> Section 12(6) of the 2002 Act.

<sup>85</sup> ComReg also notes, and takes due account of, the Spectrum Policy Statement issued by the Department of Communications Energy and Natural Resources in September 2010.

Section 12(1)(b) requires ComReg to ensure the efficient management and use of the radio frequency spectrum in accordance with a direction under Section 13.

A 2.20 The Policy Directions which are most relevant in this regard include the following:

#### **Policy Direction No.3 on Broadband Electronic Communication Networks**

A 2.21 ComReg shall in the exercise of its functions, take into account the national objective regarding broadband rollout, viz, the Government wishes to ensure the widespread availability of open-access, affordable, always-on broadband infrastructure and services for businesses and citizens on a balanced regional basis within three years, on the basis of utilisation of a range of existing and emerging technologies and broadband speeds appropriate to specific categories of service and customers.

#### **Policy Direction No.4 on Industry Sustainability**

A 2.22 ComReg shall ensure that in making regulatory decisions in relation to the electronic communications market, it takes account of the state of the industry and in particular the industry's position in the business cycle and the impact of such decisions on the sustainability of the business of undertakings affected.

#### **Policy Direction No.5 on Regulation only where necessary**

A 2.23 Where ComReg has discretion as to whether to impose regulatory obligations, it shall, before deciding to impose such regulatory obligations on undertakings, examine whether the objectives of such regulatory obligations would be better achieved by forbearance from imposition of such obligations and reliance instead on market forces.

#### **Policy Direction No.6 on Regulatory Impact Assessment**

A 2.24 ComReg, before deciding to impose regulatory obligations on undertakings in the market for electronic communications or for the purposes of the management and use of the radio frequency spectrum or for the purposes of the regulation of the postal sector, shall conduct a Regulatory Impact Assessment in accordance with European and International best practice and otherwise in accordance with measures that may be adopted under the Government's Better Regulation programme.

#### **Policy Direction No.7 on Consistency with other Member States**

A 2.25 ComReg shall ensure that, where market circumstances are equivalent, the regulatory obligations imposed on undertakings in the electronic communications market in Ireland should be equivalent to those imposed on

undertakings in equivalent positions in other Member States of the European Community.

### **Policy Direction No.11 on the Management of the Radio Frequency Spectrum**

A 2.26 ComReg shall ensure that, in its management of the radio frequency spectrum, it takes account of the interests of all users of the radio frequency spectrum.

### **General Policy Direction No.1 on Competition (2004)**

A 2.27 ComReg shall focus on the promotion of competition as a key objective. Where necessary, ComReg shall implement remedies which counteract or remove barriers to market entry and shall support entry by new players to the market and entry into new sectors by existing players. ComReg shall have a particular focus on:

- market share of new entrants;
- ensuring that the applicable margin attributable to a product at the wholesale level is sufficient to promote and sustain competition;
- price level to the end user;
- competition in the fixed and mobile markets; and
- the potential of alternative technology delivery platforms to support competition

## **A2.2 Other Relevant Obligations under the Framework and Authorisation Regulations**

### **A2.2.1 Framework Regulations**

#### **Regulation 17**

A 2.28 Regulation 17 of the Framework Regulations governs the management of radio frequencies for ECS. Regulation 17(1) requires that ComReg, subject to any directions issued by the Minister pursuant to Section 13 of the 2002 Act and having regard to its objectives under Section 12 of the 2002 Act and Regulation 16 of the Framework Regulations and the provisions of Article 8a of the Framework Directive, ensure:

- the effective management of radio frequencies for ECS;
- that spectrum allocation used for ECS and issuing of general authorisations or individual rights of use for such radio frequencies

are based on objective, transparent, non-discriminatory and proportionate criteria; and

- ensure that harmonisation of the use of radio frequency spectrum across the EU is promoted, consistent with the need to ensure its effective and efficient use and in pursuit of benefits for the consumer such as economies of scale and interoperability of services, having regard to all decisions and measures adopted by the European Commission in accordance with Decision No. 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the EU.

A 2.29 Regulation 17(2) provides that, unless otherwise provided in Regulation 17(3), ComReg must ensure that all types of technology used for ECS may be used in the radio frequency bands that are declared available for ECS in the Radio Frequency Plan published under Section 35 of the 2002 Act in accordance with EU law.

A 2.30 Regulation 17(3) provides that, notwithstanding Regulation 17(2), ComReg may, through licence conditions or otherwise, provide for proportionate and non-discriminatory restrictions to the types of radio network or wireless access technology used for ECS where this is necessary to:

- avoid harmful interference;
- protect public health against electromagnetic fields;
- ensure technical quality of service;
- ensure maximisation of radio frequency sharing;
- safeguard the efficient use of spectrum; or
- ensure the fulfilment of a general interest objective as defined by or on behalf of the Government or a Minister of the Government in accordance with Regulation 17(6).

A 2.31 Regulation 17(4) requires that, unless otherwise provided in Regulation 17(5), ComReg must ensure that all types of ECS may be provided in the radio frequency bands, declared available for ECS in the Radio Frequency Plan published under Section 35 of the Act of 2002 in accordance with EU law.

A 2.32 Regulation 17(5) provides that, notwithstanding Regulation 17(4), ComReg may provide for proportionate and non-discriminatory restrictions to the types of ECS to be provided, including where necessary, to fulfil a requirement under the International Telecommunication Union Radio

Regulations (“ITU-RR”).

- A 2.33 Regulation 17(6) requires that measures that require an ECS to be provided in a specific band available for ECS must be justified in order to ensure the fulfilment of a general interest objective as defined by or on behalf of the Government or a Minister of the Government in conformity with EU law such as, but not limited to:
- safety of life;
  - the promotion of social, regional or territorial cohesion;
  - the avoidance of inefficient use of radio frequencies; or
  - the promotion of cultural and linguistic diversity and media pluralism, for example, by the provision of radio and television broadcasting services.
- A 2.34 Regulation 17(7) provides that ComReg may only prohibit the provision of any other ECS in a specific radio spectrum frequency band where such a prohibition is justified by the need to protect safety of life services. ComReg may, on an exceptional basis, extend such a measure in order to fulfil other general interest objectives as defined by or on behalf of the Government or a Minister of the Government.
- A 2.35 Regulation 17(8) provides that ComReg must, in accordance with Regulation 18, regularly review the necessity of the restrictions referred to in Regulations 17(3) and 17(5) and must make the results of such reviews publicly available.
- A 2.36 Regulation 17(9) provides that Regulations 17(2) to (7) only apply to spectrum allocated to be used for ECS, general authorisations issued and individual rights of use for radio frequencies granted after 1 July 2011. Spectrum allocations, general authorisations and individual rights of use which already existed on 1 July 2011 are subject to Regulation 18 of the Framework Regulations.
- A 2.37 Regulation 17(10) provides that ComReg may, having regard to its objectives under Section 12 of the 2002 Act and Regulation 16 and its functions under the Specific Regulations, lay down rules in order to prevent spectrum hoarding, in particular by setting out strict deadlines for the effective exploitation of the rights of use by the holder of rights and by withdrawing the rights of use in cases of non-compliance with the deadlines. Any rules laid down under this Regulation must be applied in a proportionate, non-discriminatory and transparent manner.
- A 2.38 Regulation 17(11) requires ComReg to, in the fulfilment of its obligations under that Regulation, respect relevant international agreements, including

the ITU-RR and any public policy considerations brought to its attention by the Minister.

## A2.2.2 Authorisation Regulations

### Decision to limit rights of use for radio frequencies

A 2.39 Regulation 9(2) of the Authorisation Regulations provides that ComReg may grant individual rights of use for radio frequencies by way of a licence where it considers that one or more of the following criteria are applicable:

- it is necessary to avoid harmful interference;
- it is necessary to ensure technical quality of service;
- it is necessary to safeguard the efficient use of spectrum; or
- it is necessary to fulfil other objectives of general interest as defined by or on behalf of the Government or a Minister of the Government in conformity with EU law.

A 2.40 Regulation 9(10) of the Authorisation Regulations provides that ComReg must not limit the number of rights of use for radio frequencies to be granted except where this is necessary to ensure the efficient use of radio frequencies in accordance with Regulation 11.

A 2.41 Regulation 9(7) also provides that:

- where individual rights of use for radio frequencies are granted for a period of 10 years or more and such rights may not be transferred or leased between undertakings in accordance with Regulation 19 of the Framework Regulations, ComReg must ensure that criteria set out in Regulation 9(2) apply for the duration of the rights of use, in particular upon a justified request from the holder of the right.
- where ComReg determines that the criteria referred to in Regulation 9(2) are no longer applicable to a right of use for radio frequencies, ComReg must, after a reasonable period and having notified the holder of the individual rights of use, change the individual rights of use into a general authorisation or must ensure that the individual rights of use are made transferable or leasable between undertakings in accordance with Regulation 19 of the Framework Regulations.

### Publication of procedures

A 2.42 Regulation 9(4)(a) of the Authorisation Regulations requires that ComReg, having regard to the provisions of Regulation 17 of the Framework Regulations, establish open, objective, transparent, non-discriminatory and

proportionate procedures for the granting of rights of use for radio frequencies and cause any such procedures to be made publicly available.

### **Duration of rights of use for radio frequencies**

A 2.43 Regulation 9(6) of the Authorisation Regulations provides that rights of use for radio frequencies must be in force for such period as ComReg considers appropriate having regard to the network or service concerned in view of the objective pursued taking due account of the need to allow for an appropriate period for investment amortisation.

### **Conditions attached to rights of use for radio frequencies**

A 2.44 Regulation 9(5) of the Authorisation Regulations provides that, when granting rights of use for radio frequencies, ComReg must, having regard to the provisions of Regulations 17 and 19 of the Framework Regulations, specify whether such rights may be transferred by the holder of the rights and under what conditions such a transfer may take place.

A 2.45 Regulation 10(1) of the Authorisation Regulations provides that, notwithstanding Section 5 of the Wireless Telegraphy Act, 1926, but subject to any regulations under Section 6 of that Act, ComReg may only attach those conditions listed in Part B of the Schedule to the Authorisation Regulations. Part B lists the following conditions which may be attached to rights of use:

- Obligation to provide a service or to use a type of technology for which the rights of use for the frequency has been granted including, where appropriate, coverage and quality requirements.
- Effective and efficient use of frequencies in conformity with the Framework Directive and Framework Regulations.
- Technical and operational conditions necessary for the avoidance of harmful interference and for the limitation of exposure of the general public to electromagnetic fields, where such conditions are different from those included in the general authorisation.
- Maximum duration in conformity with Regulation 9, subject to any changes in the national frequency plan.
- Transfer of rights at the initiative of the rights holder and conditions of such transfer in conformity with the Framework Directive.
- Usage fees in accordance with Regulation 19.
- Any commitments which the undertaking obtaining the usage right has made in the course of a competitive or comparative selection procedure.

- Obligations under relevant international agreements relating to the use of frequencies.
- Obligations specific to an experimental use of radio frequencies.

A 2.46 Regulation 10(2) also requires that any attachment of conditions under Regulation 10(1) to rights of use for radio frequencies must be non-discriminatory, proportionate and transparent and in accordance with Regulation 17 of the Framework Regulations.

### **Procedures for limiting the number of rights of use to be granted for radio frequencies**

A 2.47 Regulation 11(1) of the Authorisation Regulations provides that, where ComReg considers that the number of rights of use to be granted for radio frequencies should be limited it must, without prejudice to Sections 13 and 37 of the 2002 Act:

- give due weight to the need to maximise benefits for users and to facilitate the development of competition, and
- give all interested parties, including users and consumers, the opportunity to express their views in accordance with Regulation 12 of the Framework Regulations.

A 2.48 Regulation 11(2) of the Authorisation Regulations requires that, when granting the limited number of rights of use for radio frequencies it has decided upon, ComReg does so “...on the basis of selection criteria which are objective, transparent, non-discriminatory and proportionate and which give due weight to the achievement of the objectives set out in Section 12 of the 2002 Act and Regulations 16 and 17 of the Framework Regulations.”

A 2.49 Regulation 11(4) provides that where it decides to use competitive or comparative selection procedures, ComReg must, inter alia, ensure that such procedures are fair, reasonable, open and transparent to all interested parties.

### **Fees for spectrum rights of use**

A 2.50 Regulation 19 of the Authorisation Regulations permits ComReg to impose fees for rights of use which reflect the need to ensure the optimal use of the radio frequency spectrum.

A 2.51 ComReg is required to ensure that any such fees are objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and take into account the objectives of ComReg as set out in Section 12 of the 2002 Act and Regulation 16 of the Framework Regulations.

### Amendment of rights and obligations

A 2.52 Regulation 15 of the Authorisation Regulations permits ComReg to amend rights and conditions concerning rights of use, provided that any such amendments may only be made in objectively justified cases and in a proportionate manner, following the process set down in Regulation 15(4).

## A2.3 Other Relevant Provisions

### Wireless Telegraphy Act, 1926 (the “1926 Act”)

A 2.53 Under Section 5(1) of the 1926 Act, ComReg may, subject to that Act, and on payment of the prescribed fees (if any), grant to any person a licence to keep and have possession of apparatus for wireless telegraphy in any specified place in the State.

A 2.54 Section 5(2) provides that, such a licence shall be in such form, continue in force for such period and be subject to such conditions and restrictions (including conditions as to suspension and revocation) as may be prescribed in regard to it by regulations made by ComReg under Section 6.

A 2.55 Section 5(3) also provides that, where it appears appropriate to ComReg, it may, in the interests of the efficient and orderly use of wireless telegraphy, limit the number of licences for any particular class or classes of apparatus for wireless telegraphy granted under Section 5.

A 2.56 Section 6 provides that ComReg may make regulations prescribing in relation to all licences granted by it under Section 5, or any particular class or classes of such licences, all or any of the following matters:

- the form of such licences;
- the period during which such licences continue in force;
- the manner in which, the terms on which, and the period or periods for which such licences may be renewed;
- the circumstances in which or the terms under which such licences are granted;
- the circumstances and manner in which such licences may be suspended or revoked by ComReg;
- the terms and conditions to be observed by the holders of such licences and subject to which such licences are deemed to be granted;
- the fees to be paid on the application, grant or renewal of such licences or classes of such licences, subject to such exceptions as

ComReg may prescribe, and the time and manner at and in which such fees are to be paid; and

- matters which such licences do not entitle or authorise the holder to do.

A 2.57 Section 6(2) provides that Regulations made by ComReg under Regulation 6 may authorise and provide for the granting of a licence under Section 5 subject to special terms, conditions, and restrictions to persons who satisfy it that they require the licences solely for the purpose of conducting experiments in wireless telegraphy.

A 2.58 Regulation 10(1) of the Authorisation Regulations provides that, notwithstanding section 5 of the Act of 1926 but subject to any regulations made under section 6 of that Act, where ComReg attaches conditions to rights of use for radio frequencies, it may only attach such conditions as are listed in Part B of the Schedule to the Authorisation Regulations.

### **Article 4 of Directive 2002/77/EC (Competition Directive)**

A 2.59 Article 4 of the Competition Directive provides that:

*“Without prejudice to specific criteria and procedures adopted by Member States to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Community law:*

- *Member States shall not grant exclusive or special rights of use of radio frequencies for the provision of electronic communications services.*
- *The assignment of radio frequencies for electronic communication services shall be based on objective, transparent, non-discriminatory and proportionate criteria.”*

## **Annex: 3 Request from operators including supporting information and correspondence from other interested parties**

# **1 Eircom Limited and Meteor Mobile Communication Limited (trading as ‘eir’ and ‘open eir’), collectively referred to as ‘eir Group’ or ‘eir’**



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T +353 1 671 4444  
eir.ie

Robert Mourik  
Commissioner  
Commission for Communications Regulation  
1 Dockland Central  
Guild Street  
Dublin 1  
D01 E4X0

By email only: [REDACTED]

Cc: [REDACTED]

4<sup>th</sup> February 2022

**Re: Extension of Temporary Spectrum Assignments (Covid-19)**

Dear Robert,

This common letter is sent from the CEOs of Ireland's three mobile network operators and is a follow-up to the previous letters from March 2020, September 2020, February 2021 and July 2021 requesting ComReg to assign spectrum to the mobile networks on a temporary basis. ComReg responded positively to those requests by assigning spectrum on a temporary basis and all three network operators have been able to use the resulting temporary licences to the benefit of their customers. In the face of the ongoing uncertainty regarding the exceptional circumstances arising from the Covid-19 pandemic, the purpose of this letter is to request further extension of the temporary licences in accordance with ComReg 22/02.

**Introduction**

Just like many countries around the world, Ireland has experienced a massive shock. The measures necessary to prevent spread of Covid-19 forced us all to change our home life and work life massively and the position remains uncertain. We have been reminded of the importance of modern communications networks and they have played a pivotal role in allowing people to continue work while staying at home but also to maintain vital connectivity for social purposes.

Since the previous temporary assignment Ireland has made considerable progress in administering vaccines, and has experienced an emergence of new variants of Covid which has created challenges, preventing us from returning to our pre covid patterns of work, education, and social lives. Throughout this period of uncertainty the networks continue to adapt to support shifting demand for services. The relaxation of public health measures from 21 January 2022 will result in a staggered return to work in the coming months and the



networks will need to reconfigure to manage emerging data demand and to support the fully remote, hybrid and office based demand. In its document, published on 1 January 2022, “Transitional protocol – Good Practice Guidance for Continuing to Prevent the Spread of COVID-19”, the Government calls on employers, in consultation with employees to start to develop long-term arrangements for blended and remote working. It is clear that there will be a lag effect and we expect it will be some time before stable patterns of network use emerge.

### **Changed Practices**

The changes to working practice, the move to online education, and the change to social interaction that was forced upon us over the last 2 years have had dramatic effects on the patterns of demand for mobile services in Ireland. Mobile networks continue to contribute strongly towards supporting this change in the quantity and location of offered traffic by rapidly changing our network build plans supporting the changing traffic patterns, often to support traffic in commuter towns and in rural areas.

In the coming months we continue to face further uncertain changes in traffic patterns. The national situation is improving, the rate of infection is reducing and key indicators in terms of public health are positive. The more this continues the greater certainty we can have that the true picture of demand is emerging. Supporting customers through this changing demand will only be possible through further investment in networks including mobile networks, including in the rural areas that do not currently have sufficient connectivity. It is impossible to predict where local surges may occur, so service providers must prepare on the basis that they could be anywhere.

### **Spectrum Licensing is Critical**

The Temporary Spectrum Licences first issued by ComReg in April 2020 have helped in an important way to meet the new demands placed on mobile networks. In mid-March 2020 when measures to prevent the spread of Covid-19 were announced all mobile operators experienced an immediate and significant growth in average and peak throughput for both voice and data. The physical location of the demand also changed – out of city centres to residential areas.

The rapid enactment of the Temporary Spectrum Measures by ComReg has allowed operators to support this traffic at performance measures similar to those achieved pre-Covid. As new infrastructure cannot be built at short notice, and as operators had already adjusted network configuration to the maximum extent, the Temporary Spectrum Measures have been crucial to giving mobile operators flexibility to mitigate significant congestion in voice and data networks.

As we move forward in the coming months and the next phases of action dealing with Covid, it is important that ComReg should ensure that the current Temporary Spectrum Licences continue past the 30th March date of the current regulation. We ask that Temporary Licensing Scheme is extended on the same basis as previously, allowing for renewable three-month licences.



This will enable operators to build and maintain capacity in the different locations required and, importantly, to invest efficiently. Building new sites to cope with any short-term demand in advance of the planned Spectrum auction would be extremely inefficient.

We acknowledge that ComReg has stressed that any temporary licensing framework is intended solely to address the exceptional and extraordinary situation presented by COVID-19 and that it is entirely without prejudice to the award of long-term rights of use in these spectrum bands in its proposed multi-band spectrum award.

The mobile operators have worked closely with ComReg and Government in supplying ongoing information on network stability and traffic. In using the temporary rights we have also carefully managed the risks to the provision and quality of existing ECS through careful co-ordination with other radio spectrum users and cable companies. We are confident that we can maintain this high level of cooperation through an extended Temporary Licence period.

Noting ComReg's request in document 22/02 for a joint submission from Operators setting out the specific details of the joint/common request, we now wish to jointly request that the terms of the current Temporary Spectrum Management Measures detailed in ComReg 20/88 (D08/20) are extended unchanged.

Each Operator will in addition make a separate submission to ComReg giving the details of their network traffic etc., supplying the information detailed in ComReg 22/02 paragraphs 31 A-G.

We will continue to work closely with ComReg through your ongoing network industry forum and through the supply of any required information. We assure you of our ongoing commitment to supporting the changed economy in Ireland and request that you proceed to consider our application as soon as possible.

Yours sincerely,

A handwritten signature in blue ink that reads "Oliver Loomes".

Oliver Loomes  
CEO

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**Meteor Mobile Communications Ltd (MMC) material in support of request to extend the Covid-19 Temporary ECS Licensing regime**

**A. Network traffic / capacity / performance information**

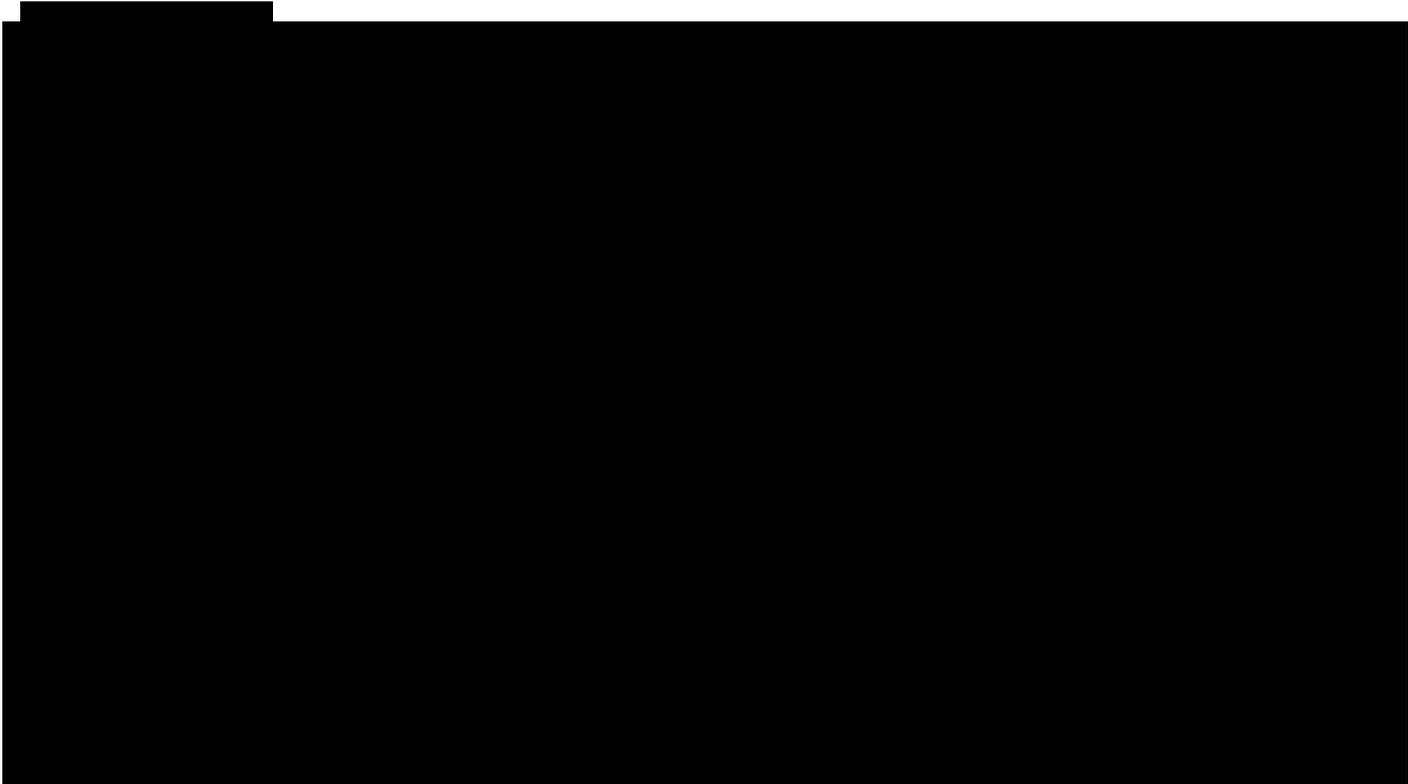
**(i) Information regarding the traffic (voice and data), capacity / performance of the network considering the extraordinary situation arising from COVID-19. In particular, the changes in network traffic (voice and data), capacity / performance from pre-COVID-19 until now.**

**MMC:** We have seen very significant Voice and Data Traffic growth since the emergence of this extraordinary situation arising from Covid-19.

Data traffic growth in particular has continued since the initial national lockdown and sustained such growth throughout 2020 and 2021. While the data traffic in the network has been growing over recent years however, the trend line shown in Figure 1 below indicates an inflection point in the 2020 data traffic growth starting in March coinciding with the commencement of Covid 19 movement restrictions which have continued with some variation in the restrictive measures. It should also be noted with the return to home based working the locations of the traffic has also changed and so the traffic profile per cell and site has altered as a result of Covid 19. ✂ [REDACTED] so the Covid step change seen in 2020 has not receded notwithstanding the trendline for 2021 is not quite as steep as 2020's.



eir's mobile voice traffic has been flat prior to Covid but in March 2020 a step change occurred due to the first lockdown. Figure 2 below shows clearly that voice traffic is still above pre-Covid 19 levels and the 2021 traffic volumes are largely in line with the additional voice traffic attributed to Covid in 2020.



**(ii) information on the expected traffic demand and network capacity beyond 1 April 2022.**

**MMC:** We expect Data traffic to continue on the same growth trajectory considering a slow adoption of the return to office post Covid.

**(iii) observations on how much of the changes in traffic and capacity is due to forecasted annual changes that would be expected on a network in the normal course (accounting for seasonal changes and projected market developments in the absence of COVID-19) and those that can reasonably be considered to be directly related to Government COVID-19 measures.**

**MMC:** We have provided voice and data trends for the last four years, the very significant growth in 2020 is very evident versus the prior year growth trajectory as noted in response (i) above and 2021 figures following slightly behind 2020 but well above pre covid growth rates. Data traffic growth during 2021 averaged  $\times$  [redacted]  $\times$  as compared with  $\times$  [redacted]  $\times$  in 2020. Voice traffic in 2020 continues to show the presence of the step increase seen post Covid across 2020.

**B. Ability to make use of existing temporary spectrum assignments in any further Temporary ECS Licensing framework – Sites and transmitters**

**(i) information regarding the number, locations and deployment dates of sites/transmitters per spectrum band that have actually been used to date using temporary ECS rights of use, indicating the terrestrial system(s) (e.g. LTE) supported; and**

**MMC:** Please see attached file [redacted] which details sites activated to date. eir mobile has extensively utilised the Temporary ECS licences. eir mobile has utilised the 700Mhz band as an additional capacity layer on the upgraded sites with over [redacted] cells now live using the 700MHz frequency and despite the very significant growth in particular of data traffic has continued to improve data throughputs on these sites.

eir mobile is also activating 2100MHz for LTE with over [REDACTED] LTE cells now live on the 2100MHz band eir continues to balance the support of voice and data service requirements across our network.

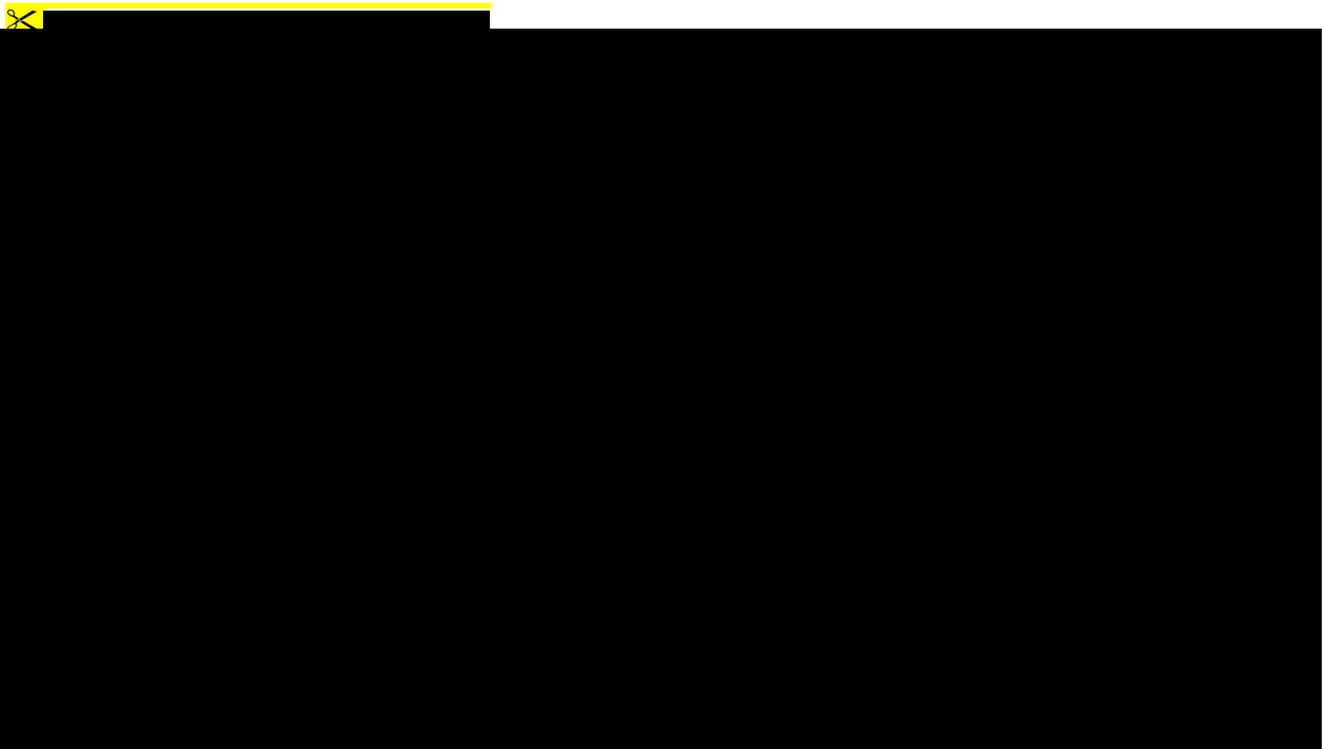
**(ii) Information on the number of sites/transmitters per band that would be expected to be used over the duration of any further temporary ECS Licence renewal indicating the terrestrial system(s) (e.g. LTE) being supported. Note, where a Licensee has applied for and been granted a 2.1 GHz Band Liberalised Use licence, information for the 2.1 GHz band should not be included.**

**MMC:** Over the lifetime of this proposed extension eir plans to bring an approximate total of [REDACTED] sites with 700MHz/2100MHz respectively live by April 2022. The expectation is these figures will rise to [REDACTED] respectively by July 2022.

### C. How temporary rights have assisted with the provision of ECS in the State

**(i) Information on how existing temporary rights have assisted in alleviating the network capacity/performance constraints to-date. Specifically, please provide information on the percentage of network traffic (voice and data) carried by temporary spectrum rights for the 700 MHz band, and for the 2.1 GHz bands;**

**MMC:** It has already been shown above how the total traffic on the network has grown since Covid. It is also worth noting the step change in the traffic per subscriber along with the increased rate of growth that has occurred since Covid-19 arrived. This is seen in Figure 3 below. The addition of LTE700 has helped to accommodate this traffic growth. The migration of UMTS2100 to LTE2100 has also improved the customer experience through increased carrier aggregation capability while allowing UMTS2100 data move to LTE and load sharing with LTE1800. The availability of ECS via the Temporary License Scheme has assisted in the accommodation of this traffic growth on the network.



As illustrated [REDACTED] of total data traffic has been supported by the 700MHz and 2100MHz bands respectively in 2021. As a further breakdown, the 700MHz band has carried [REDACTED] of the low band traffic

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while the 2100MHz band has carried [REDACTED]. In the case of Voice services the LTE700 and LTE2100 bands carry [REDACTED] respectively of the total network voice traffic. eir anticipates a continuation of LTE700 and LTE2100 activation under an extended temporary licence to assist manage continued data traffic growth in the coming months.

[REDACTED]

**(ii) Information on how temporary rights may materially assist over the duration of any further Temporary ECS Licence renewal, noting that where a Licensee has applied for and been granted a 2.1 GHz Band Liberalised Use licence, information on the 2.1 GHz band should not be included.**

**MMC:** The temporary rights will continue to allow mobile network operators to make available additional capacity to meet the increased demand for mobile network services, particularly data, allowing citizens to engage socially and economically. eir has activated VoLTE to complement our existing Voice over WiFi service, thus enabling the refarming of some 2100Mhz for LTE. This further enhances capacity availability on an extensive base of network sites. It is difficult to predict where and when demand will shift. Having the licences available nationally allows contingent capacity to be made available which can help absorb the impacts.

**D. Managing the risks to the provision and quality of existing ECS given the use of the temporary spectrum rights**

**(i) information regarding the management of risks to the provision and quality of existing ECS and the measures taken to date by the MNO. For example, the key measures taken on foot of Annex 4 of Document 20/27 - 700 MHz Coordination procedures.**

**MMC:** eir mobile has worked and co-ordinated extensively with all other operators in planning the activation of 700Mhz, in particular eir mobile had extensive engagement with Virgin Media on site activation to enable their testing pre/post activation and mitigate the risk of interference to their CATV services during the first phase of L700 activation. This has been successful on the basis that no interference was noted by Virgin Media upon eir mobile site activations and eir mobile has continued to maintain very close co-ordination week to week with Virgin Media and the other mobile operators. The coordination procedures are working really well with the other operators

## **5. Risks where there is no further Temporary ECS Licensing framework..**

**The risk of congestion and other disruption to consumer services and the locations where it would most likely arise in the event of no further Temporary ECS Licensing framework identifying, if such congestion or disruption would reasonably be considered to be due to COVID-19 matters or mobile market developments / commercial strategy matters.**

**MMC:** The risk of congestion or degraded service is very real throughout Ireland in the event of no further Temporary ECS Licensing framework, the voice and traffic growth is network wide with a continued guideline to work from home where possible in addition to the implementation of further lockdown measures from time to time such as the temporary closure of schools. As highlighted in the CEO letter *“As new infrastructure cannot be built at short notice, and as operators had already adjusted network configuration to the maximum extent, the Temporary Spectrum Measures have been crucial to giving mobile operators flexibility to mitigate significant congestion in voice and data networks.”* In the scenario where the licenses are not renewed the capacity of the LTE700 band along with the improved customer experience resulting from the refarming of the 2100 band from UMTS to LTE would be removed resulting in lower customer experience and increased congestion impacting the ability of citizens to work, learn, and engage in society.

## **6. Actions required in relation to no further Temporary ECS Licensing framework.**

**Details of the preparations and actions that the MNO has taken and would need to take in the event of no further Temporary ECS Licensing framework**

**MMC:** eir mobile continues to transform its network, building new infill and capacity sites, increase 5G network sites and deploy VoLte. These programmes of work have continued throughout the emergency and assist to enhance service for eir customers and will continue through 2022 but are complimented by the Temporary ECS Licensing framework. A discontinuation of the Temporary Licensing framework will result in service degradation where traffic growth continues at elevated levels due to the impact of Covid 19 restrictions as per trendline year to date.

## **7. Other factors: Any other factors that the MNOs deem relevant to the consideration of a further Temporary ECS Licence Framework**

**MMC:** eir mobile would like to stress that extending the temporary licensing regime will not negatively impact ComReg’s longer term plans for the next spectrum award. eir mobile notes the positive short term benefits that accrue to citizens and society from extending the temporary licensing framework.

## **2 Three Ireland (Hutchison) Limited**



Three Ireland (Hutchison) Limited.  
Registered Office:  
28/29 Sir John Rogerson's Quay,  
Dublin 2, Ireland.

Robert Mourik  
Chairperson  
Commission for Communications Regulation,  
1 Dockland Central,  
Guild Street,  
Dublin 1,  
D01 E4X0

Friday, 4 February 2022

By Email: [REDACTED]  
[REDACTED]

Dear Robert,

### **Extension of Temporary Spectrum Assignments (Covid-19)**

This common letter is sent from the CEOs of Ireland's three mobile network operators and is a follow-up to the previous letters from March 2020, September 2020, February 2021 and July 2021, requesting ComReg to assign spectrum to the mobile networks on a temporary basis. ComReg responded positively to those requests by assigning spectrum on a temporary basis and all three network operators have been able to use the resulting temporary licences to the benefit of their customers. In the face of the ongoing uncertainty regarding the exceptional circumstances arising from the Covid-19 pandemic, the purpose of this letter is to request further extension of the temporary licences in accordance with ComReg 22/02.

#### **Introduction**

Just like many countries around the world, Ireland has experienced a massive shock. The measures necessary to prevent spread of Covid-19 forced us all to change our home life and work life massively and the position remains uncertain. We have been reminded of the importance of modern communications networks and they have played a pivotal role in allowing people to continue work while staying at home but also to maintain vital connectivity for social purposes.

Since the previous temporary assignment Ireland has made considerable progress in administering vaccines and has experienced an emergence of new variants of Covid which has created challenges, preventing us from returning to our pre-covid patterns of work, education, and social lives. Throughout this period of uncertainty the networks continue to adapt to support shifting demand for services. The relaxation of public health measures from 21 January 2022 will result in a staggered return to work in the coming months and the networks will need to reconfigure to manage emerging data demand and to support the fully remote, hybrid and office-based demand.



In its document, published on 1 January 2022, 'Transitional Protocol – Good Practice Guidance for Continuing to Prevent the Spread of COVID-19', the Government calls on employers, in consultation with employees to start to develop long-term arrangements for blended and remote working. There will be a lag effect and we expect it will be some time before stable patterns of network use emerge.

### **Changed Practices**

The changes to working practice, the move to online education, and the change to social interaction that was forced upon us over the last 2 years have had dramatic effects on the patterns of demand for mobile services in Ireland. Mobile networks continue to contribute strongly towards supporting this change in the quantity and location of offered traffic by rapidly changing our network build plans supporting the changing traffic patterns, often to support traffic in commuter towns and in rural areas.

In the coming months we continue to face further uncertain changes in traffic patterns. The national situation is improving, the rate of infection is reducing and key indicators in terms of public health are positive. The more this continues the greater certainty we can have that the true picture of demand is emerging. Supporting customers through this changing demand will only be possible through further investment in networks including mobile networks, including in the rural areas that do not currently have sufficient connectivity. It is impossible to predict where local surges may occur, so service providers must prepare on the basis that they could be anywhere.

### **Spectrum Licensing is Critical**

The Temporary Spectrum Licences first issued by ComReg in April 2020 have helped in an important way to meet the new demands placed on mobile networks. In mid-March 2020 when measures to prevent the spread of Covid-19 were announced all mobile operators experienced an immediate and significant growth in average and peak throughput for both voice and data. The physical location of the demand also changed – out of city centres to residential areas.

The rapid enactment of the Temporary Spectrum Measures by ComReg has allowed operators to support this traffic at performance measures similar to those achieved pre-Covid. As new infrastructure cannot be built at short notice, and as operators had already adjusted network configuration to the maximum extent, the Temporary Spectrum Measures have been crucial to giving mobile operators flexibility to mitigate significant congestion in voice and data networks.

As we move forward in the coming months and the next phases of action dealing with Covid, it is important that ComReg should ensure that the current Temporary Spectrum Licences continue past the 30<sup>th</sup> March date of the current regulation. We ask that Temporary Licensing Scheme is extended on the same basis as previously, allowing for renewable three-month licences.



Three Ireland (Hutchison) Limited.  
Registered Office:  
28/29 Sir John Rogerson's Quay,  
Dublin 2, Ireland.

This will enable operators to build and maintain capacity in the different locations required and, importantly, to invest efficiently. Building new sites to cope with any short-term demand in advance of the planned Spectrum auction would be extremely inefficient.

We acknowledge that ComReg has stressed that any temporary licensing framework is intended solely to address the exceptional and extraordinary situation presented by COVID-19 and that it is entirely without prejudice to the award of long-term rights of use in these spectrum bands in its proposed multi-band spectrum award.

The mobile operators have worked closely with ComReg and Government in supplying ongoing information on network stability and traffic. In using the temporary rights we have also carefully managed the risks to the provision and quality of existing ECS through careful co-ordination with other radio spectrum users and cable companies. We are confident that we can maintain this high level of cooperation through an extended Temporary Licence period.

Noting ComReg's request in document 22/02 for a joint submission from Operators setting out the specific details of the joint/common request, we now wish to jointly request that the terms of the current Temporary Spectrum Management Measures detailed in ComReg 20/88 (D08/20) are extended unchanged.

Each Operator will in addition make a separate submission to ComReg giving the details of their network traffic etc., supplying the information detailed in ComReg 22/02 paragraphs 31 A-G.

We will continue to work closely with ComReg through your ongoing network industry forum and through the supply of any required information. We assure you of our ongoing commitment to supporting the changed economy in Ireland and request that you proceed to consider our application as soon as possible.

Sincerely,

---

Robert Finnegan, CEO, Three Ireland & UK  
CC: Garrett Blaney, Commissioner, ComReg



Three Ireland (Hutchison) Limited.  
Registered Office:  
28/29 Sir John Rogerson's Quay,  
Dublin 2, Ireland.

7<sup>th</sup> February 2021

Joseph Coughlan  
Commission for Communications Regulation  
One Dockland Central  
Guild Street  
Dublin 1

Dear Joseph

### **ComReg 22/02 - Temporary Spectrum Licence**

In the above document ComReg outlines the background to the current Temporary Spectrum Licences, and requests input from interested parties including the mobile network operators on the next steps that should be taken. The three mobile network operators have submitted a common letter to ComReg in response to this consultation and the purpose of this document is to provide supporting information from Three, some of which is confidential.

For the first time in almost two years, we are in a positive and confident position in relation to Covid-19 right now. Most of the restrictions which were imposed to prevent spread of the disease have been lifted and workers are gradually returning to their central offices, though some do so under new hybrid working arrangements. It seems that we are heading into a trough following the Omicron wave of this pandemic. While remaining optimistic, we would caution though that there may be some further waves or outbreaks before we can say that we are over Covid-19. Speaking on RTE radio 1 on 21<sup>st</sup> January, Dr. David Nabarro from the WHO said that we can expect the trajectory back to normal to be "bumpy", that we can expect further mutations, and that there might be a need for further restrictions, perhaps in specific locations.

Against this backdrop, we should be cautious about prematurely dismantling the infrastructure that has helped us to continue to function through the various waves of Covid-19 and the restrictions that were necessary to limit it. While we hope never to see this kind of restriction again, we are of the view that it would be prudent for the framework for Temporary Spectrum Licences to be extended for a further period on the same terms as the current scheme. This will allow for maintenance of the current service/coverage until we are confident that Covid-19 restrictions are a thing of the past and we can transition to normal times again.

Yours Sincerely

---

Tom Hickey

## **Extension to Temporary Spectrum - Part 2 Information**

### **1. Network and Capacity Information**

Taking a look at the graph below, we can see that overall voice call volumes are returning to pre-Covid-19 levels. We would note though that voice call volume has been more reactive than data to the announcement of individual changes in national restrictions. The peaks tend to be short-lived but coincide with national announcements of these changes.

[§< Confidential section

end confidential section]

For data traffic, the impact of Covid-19 restrictions is much more significant and durable. As can be seen in the following two graphs, the increase in both busy hour and total daily traffic has been sustained throughout the different levels of restriction.

[§< Confidential section

end confidential section]

In the coming 6-month period, we forecast the trend in growth of baseline traffic will continue as it has over the past 9 months. In addition we expect that the uplift which emerged from Covid-19 measures [§< Confidential )] is somewhat volatile and will be sustained for a number of months. While normal network investment should meet the baseline growth, the effect of any future restrictions in demand or geography is not known, however any restriction (even localised) is likely to drive demand that would negatively impact on quality of service.

### **2. Sites and transmitters**

At this time, we have deployed 700MHz spectrum on [§<Confidential ]. Our deployment will be significantly slowed down now and further deployment is likely to be on a tactical basis.

### **3. How temporary rights have assisted with the provision of ECS in the state**

The temporary spectrum licence has allowed Three to rapidly increase its network capacity in many of the areas that have experienced increased congestion arising from the changed demands brought about by Covid-19. When the Temporary Licences were first issued, we were able to immediately deliver extra capacity to an important but limited number of sites, and we have been

able to continually expand the number of sites that use 700MHz since then. The map below shows the coverage Three currently provides using the 700MHz spectrum.

[§< Confidential section

end confidential section]

We currently cover [§<Confidential ] of the population using 700MHz and conservatively estimate that the Temporary Spectrum Licence on Three's network has significantly increased quality of service to over [§<Confidential ] customers of Three, but also Virgin Media, Tesco Mobile, and LycaMobile.

#### **4. Risks to the provision and quality of existing ECS**

There is a coordination procedure in place between the mobile networks, and also including Virgin Media and other operators where appropriate. Overall, our experience has been that the coordination procedure is working well and there are no issues have been raised in recent months.

#### **5. Risks in relation to non-renewal**

Even though the Covid-19 restrictions have for the most part been removed for the past 2 weeks, we have not yet seen a full return to normal data network traffic. It remains to be seen if this is just a gradual return to normal or a more permanent adjustment to behaviour. If the temporary licences are not extended, we estimate that this would materially affect connectivity for approximately [§<Confidential ] users. We would also be unable to respond any future restrictions that might be required (whether local or national).

#### **6. Actions required in relation to non-renewal**

If the licences are not renewed, there will be an immediate reduction in capacity, causing some currently well performing cells to become congested and others to suffer reduced quality. There are no quick remedies to this congestion as existing sites are already optimised for normal traffic patterns. In some cases it might be feasible to build new sites but this is generally a slow and expensive process and is not feasible in the short term or for short-lived traffic demand. If the licences are not extended Three would be required to again re-focus its effort away from its 5G service roll-out to try to mitigate network issues where that is possible. This would have a negative impact overall on the development of 5G service in Ireland. As this application is for 700MHz only, most harm would be in rural areas where we have been able to introduce 700MHz relatively quickly to meet the increased demand.

If the Temporary Licences cease to be available or if Three finds it no longer has access to 700MHz spectrum, then it will be necessary to transition the network to meet the demand in some other way. The connectivity that is currently provided using 700MHz could not be easily or quickly replaced though and there would inevitably be some loss of service coverage and/or quality.

## **3 Vodafone Ireland Limited**



4 February 2022

By Email: [REDACTED]

[REDACTED]

Robert Mourik  
Chairperson  
Commission for Communications Regulation,  
1 Dockland Central,  
Guild Street,  
Dublin 1,  
D01 E4X0

Dear Robert,

### **Extension of Temporary Spectrum Assignments (Covid-19)**

This common letter is sent from the CEOs of Ireland's three mobile network operators and is a follow-up to the previous letters from March 2020, September 2020, February 2021 and July 2021 requesting ComReg to assign spectrum to the mobile networks on a temporary basis. ComReg responded positively to those requests by assigning spectrum on a temporary basis and all three network operators have been able to use the resulting temporary licences to the benefit of their customers. In the face of the ongoing uncertainty regarding the exceptional circumstances arising from the Covid-19 pandemic, the purpose of this letter is to request further extension of the temporary licences in accordance with ComReg 22/02.

#### **Introduction**

Just like many countries around the world, Ireland has experienced a massive shock. The measures necessary to prevent spread of Covid-19 forced us all to change our home life and work life massively and the position remains uncertain. We have been reminded of the importance of modern communications networks and they have played a pivotal role in allowing people to continue work while staying at home but also to maintain vital connectivity for social purposes.

Since the previous temporary assignment Ireland has made considerable progress in administering vaccines, and has experienced an emergence of new variants of Covid which has created challenges, preventing us from returning to our pre-covid patterns of work, education, and social lives. Throughout this period of uncertainty the networks continue to adapt to support shifting demand for services. The relaxation of public health measures from 21 January 2022 will result in a staggered return to work in the coming months and the

#### **Vodafone Ireland Limited**

MountainView, Leopardstown, Dublin, D18 XN97, Ireland  
T - +353 (0)1 203 7777 W - [www.vodafone.ie](http://www.vodafone.ie)

Registered Office: MountainView, Leopardstown, Dublin, D18 XN97. Registered in Ireland No. 326967.  
Directors: Anne O'Leary (CEO), Liam O'Brien & Brice Evin (France)

networks will need to reconfigure to manage emerging data demand and to support the fully remote, hybrid and office based demand. In its document, published on 1 January 2022, 'Transitional protocol – Good Practice Guidance for Continuing to Prevent the Spread of COVID-19', the Government calls on employers, in consultation with employees to start to develop long-term arrangements for blended and remote working. There will be a lag effect and we expect it will be some time before stable patterns of network use emerge.

## **Changed Practices**

The changes to working practice, the move to online education, and the change to social interaction that was forced upon us over the last 2 years have had dramatic effects on the patterns of demand for mobile services in Ireland. Mobile networks continue to contribute strongly towards supporting this change in the quantity and location of offered traffic by rapidly changing our network build plans supporting the changing traffic patterns, often to support traffic in commuter towns and in rural areas.

In the coming months we continue to face further uncertain changes in traffic patterns. The national situation is improving, the rate of infection is reducing and key indicators in terms of public health are positive. The more this continues the greater certainty we can have that the true picture of demand is emerging. Supporting customers through this changing demand will only be possible through further investment in networks including mobile networks, including in the rural areas that do not currently have sufficient connectivity. It is impossible to predict where local surges may occur, so service providers must prepare on the basis that they could be anywhere.

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The rapid enactment of the Temporary Spectrum Measures by ComReg has allowed operators to support this traffic at performance measures similar to those achieved pre-Covid. As new infrastructure cannot be built at short notice, and as operators had already adjusted network configuration to the maximum extent, the Temporary Spectrum Measures have been crucial to giving mobile operators flexibility to mitigate significant congestion in voice and data networks.

As we move forward in the coming months and the next phases of action dealing with Covid, it is important that ComReg should ensure that the current Temporary Spectrum Licences continue past the 30<sup>th</sup> March date of the current regulation. We ask that Temporary Licensing Scheme is extended on the same basis as previously, allowing for renewable three-month licences.

This will enable operators to build and maintain capacity in the different locations required and, importantly, to invest efficiently. Building new sites to cope with any short-term demand in advance of the planned Spectrum auction would be extremely inefficient.

We acknowledge that ComReg has stressed that any temporary licensing framework is intended solely to address the exceptional and extraordinary situation presented by COVID-19 and that it is entirely without prejudice to the award of long-term rights of use in these spectrum bands in its proposed multi-band spectrum award.

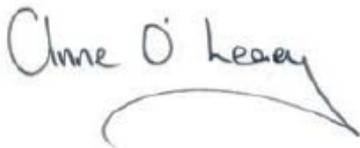
The mobile operators have worked closely with ComReg and Government in supplying ongoing information on network stability and traffic. In using the temporary rights we have also carefully managed the risks to the provision and quality of existing ECS through careful co-ordination with other radio spectrum users and cable companies. We are confident that we can maintain this high level of cooperation through an extended Temporary Licence period.

Noting ComReg's request in document 22/02 for a joint submission from Operators setting out the specific details of the joint/common request, we now wish to jointly request that the terms of the current Temporary Spectrum Management Measures detailed in ComReg 20/88 (D08/20) are extended unchanged.

Each Operator will in addition make a separate submission to ComReg giving the details of their network traffic etc., supplying the information detailed in ComReg 22/02 paragraphs 31 A-G.

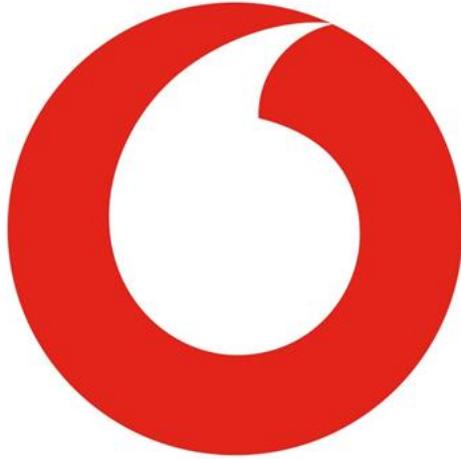
We will continue to work closely with ComReg through your ongoing network industry forum and through the supply of any required information. We assure you of our ongoing commitment to supporting the changed economy in Ireland and request that you proceed to consider our application as soon as possible.

Yours Sincerely

A handwritten signature in blue ink that reads "Anne O'Leary". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

**Anne O Leary**  
**CEO**

Vodafone Ireland Limited



Vodafone Specific Response to Information

Covid-19 Potential Further Temporary ECS Licensing (ComReg Doc 22/02)

Version: [Non-Confidential]

Date: 8/02/22

## Introduction

Please find below and in the accompanying document<sup>1</sup> the Vodafone response to ComReg 2202. This is separate material, provided alongside the joint/common request letter.

Changes in work, educational, and social use of Telecommunication brought about by COVID-19 continue to have an exceptional impact on the traffic carried in the Vodafone Mobile Network.

Despite the relaxation of Covid measures future growth will very difficult to predict as there is considerable uncertainty about the effect of re-opening of society, and return to work plans which are going to be gradual and mixed between fully remote, hybrid and return to office. These changes will naturally effect both the volume of traffic and the locations where traffic demand will vary. It will be some time before a stable post-Covid demand pattern is clear.

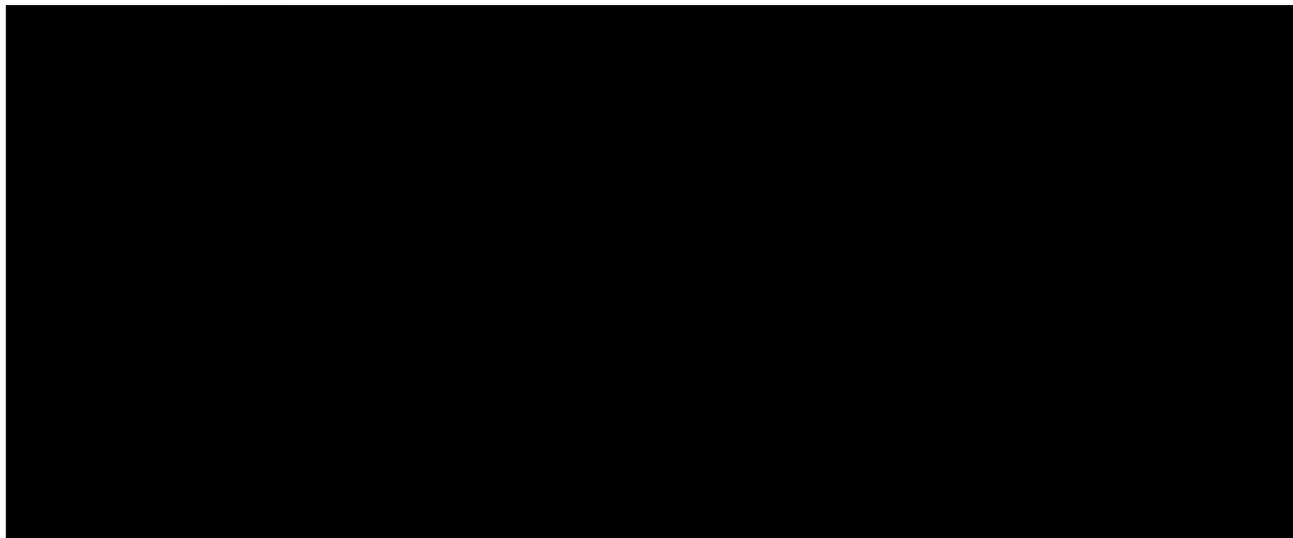
The availability of 700MHz and 2100MHz Carrier Upgrades has played a significant part in addressing key data congestion hot spots and helping us bring congestion back into manageable levels of customer experience

This additional Spectrum will greatly help us deal with the ongoing changes in Data Traffic demands of VF IE customers as we go through the early stages of adjustment to post lockdown recovery.

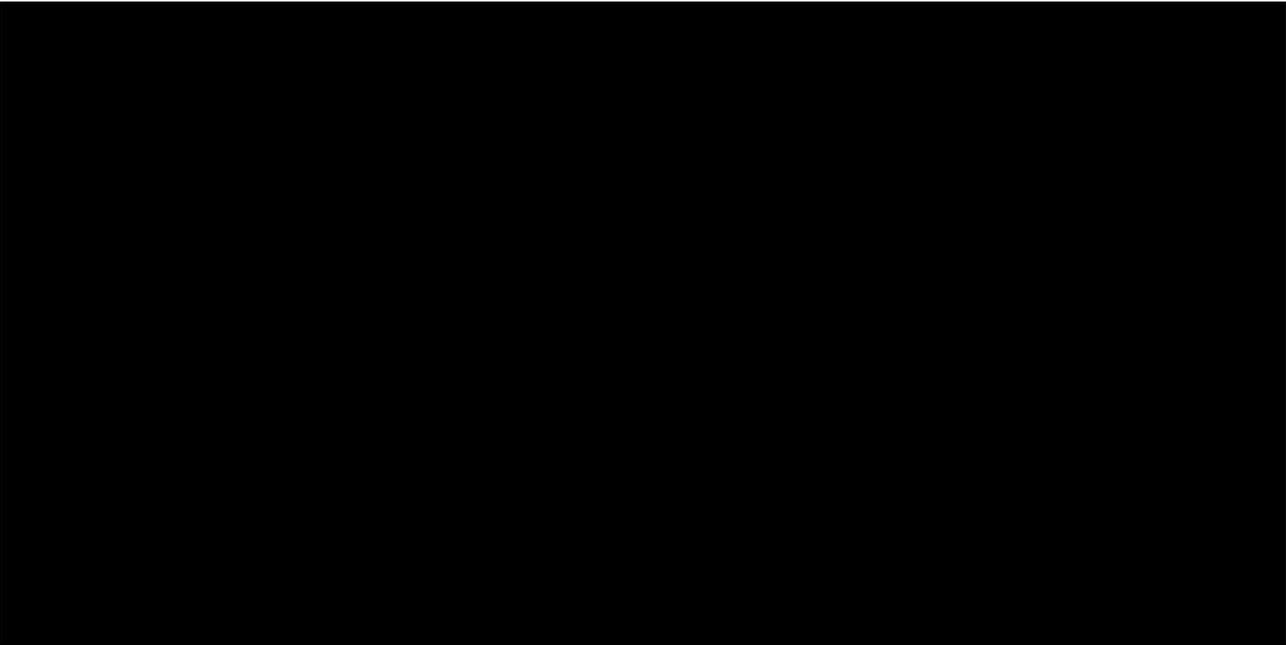
### A. Network traffic/ capacity/ performance information

(i) Information regarding the traffic (voice and data), capacity /performance of the network considering the extraordinary situation arising from COVID19. In particular, the changes in network traffic (voice and data), capacity / performance since COVID-19 until now;

Changes in work, educational, and social use of Telecommunication brought about by COVID-19 continue to have an exceptional impact on the traffic carried in the Vodafone Mobile Network. The table below shows clearly the very significant increase in traffic experience since Jan 2020. For example, the 4G downlink traffic has increased by [REDACTED]. This is approx. double the increase we planned for pre-Covid.



<sup>1</sup> Excel document ComReg 22\_02 Vodafone PartB2022 confidential



It is important to note also that the key metrics measuring network capacity and performance have remained stable over the period, indicating that by using these additional Measures effectively we have maintained excellent network quality while coping with this increased unanticipated demand.

In addition to this overall increase figure, and despite recent announcements there continues to be a marked movement in traffic from city centre area to suburban and rural areas and to time-of-day traffic patterns in these areas.

- (ii) Information on the expected traffic demand and network capacity beyond 1 April 2022; and
- (iii) Observations on how much of the changes in traffic and capacity is due to forecasted annual changes that would be expected on a network in the normal course (accounting for seasonal changes and projected market developments in the absence of COVID-19) and those that can reasonably be considered to be directly related to Government COVID-19 measures.

We have estimated that over the past year the change in network traffic is approximately double 'normal' growth.

As per previous submission it is important to take into account that data traffic has continued to grow strongly in this period . From the table above, it is apparent that data traffic is continuing to grow in excess of old /normal patterns. It is also becoming apparent that post-Covid traffic profile and patterns cannot be expected to return to or mirror pre-Covid patterns. The acceleration of Remote /Hybrid working and access to online services is a growing reality that needs to be managed by Mobile Network Operators. There will be a lag effect as we navigate through the coming months where, assuming the current direction of travel for public health remains positive working and social life establishes the new normal and a more predictable network use pattern emerges.

While it is very difficult to predict how a change in Covid measures might affect future growth we continue to see traffic growth considerably in excess of our pre Covid plan. In addition to uncertainty in overall traffic

volume there is uncertainty in where traffic will be delivered as it is now unclear how quickly the number of workers will return partially or fully to office environments and how demand will change as a result.

## B. Ability to make use of existing temporary spectrum assignments in any further Temporary ECS Licensing framework – sites and transmitters

- (i) Information regarding the number, locations and deployment dates of sites/transmitters per spectrum band that have actually been used to date using temporary ECS rights of use, indicating the terrestrial system(s) (e.g., LTE) supported; and
- (ii) Information on the number of sites/transmitters per band that would be expected to be used over the duration of any further temporary licensing framework indicating the terrestrial system(s) (e.g. LTE) being supported. Note, where a Licensee has applied for and been granted a 2.1 GHz Band Liberalised Use licence, information for the 2.1 GHz band should not be included.

Please see separate spreadsheet for details

## C. How temporary rights have assisted with the provision of ECS in the State

- (i) Information on how existing temporary rights have assisted in alleviating the network capacity/performance constraints to-date. Specifically, please provide information on the percentage of network traffic (voice and data) carried by temporary spectrum rights for the each of the 700 MHz band and 2.1 GHz bands
- (ii) Information on how temporary rights may materially assist over the duration of any further Temporary ECS Licensing framework, noting that where a Licensee has applied for and been granted a 2.1 GHz Band Liberalised Use licence, information on the 2.1 GHz band should not be included.

The Covid emergency has driven demand for added capacity in hundreds of sites where we did not expect to have to build capacity. The additional spectrum, and liberalisation of 2100MHz band, has enabled us to add this capacity without the addition of new sites. Building new sites in this scale would not have been possible.

Covid has also driven changes to our technology plan. We would have expected to build future capacity using 5G, [REDACTED] we have had to build this capacity using 4G. This is evidence that the measure we have taken to increase capacity have worked and that we are not suppressing traffic through lack of capacity.

## D. Managing the risks to the provision and quality of existing ECS given the use of the temporary spectrum rights

- (i) Information regarding the management of risks to the provision and quality of existing ECS and the measures taken to date by the MNO. For example, the key measures taken on foot of Annex 4 of Document 20/27 - 700 MHz Coordination Procedures.

In bringing our first 700MHz sites on-air, we coordinated closely with cable provider Virgin and DTT provider RTE to ensure that we did not affect existing services. Regular communication has continued with these operators and the other MNOs to ensure no interference with one another's services. Separately the additional network capacity released to mobile operators by these measures has also facilitated the leasing of 3.5GHz spectrum to Fixed Wireless operators, improving the services they can provide.

## E. Risks where there is no further Temporary ECS Licensing framework.

- (i) The risk of congestion and other disruption to consumer services and the locations where it would most likely arise in the event that there is no further Temporary ECS Licensing framework, identifying if such congestion or disruption would reasonably be considered to be due to COVID-19 matters or mobile market developments / commercial strategy matters.

If the Temporary measures are not renewed the capacity of many of our most busy network sites would be reduced significantly. Our customers would unfortunately experience extensive congestion, as we could not build new sites to replace this capacity quickly enough and it may not make any economic sense to do so.

In terms of 700 and 2100. LTE Carrier Upgrades on these technologies have played a significant part in addressing key data congestion hot spots and helping us bring congestion back into manageable levels of customer experience.

The 700 layer has and continues to be particularly important in offloading/serving congested areas in Rural/Suburban Ireland. Without the 700 layer in particular, remote workers in congested areas of rural Ireland would face significant service issues.

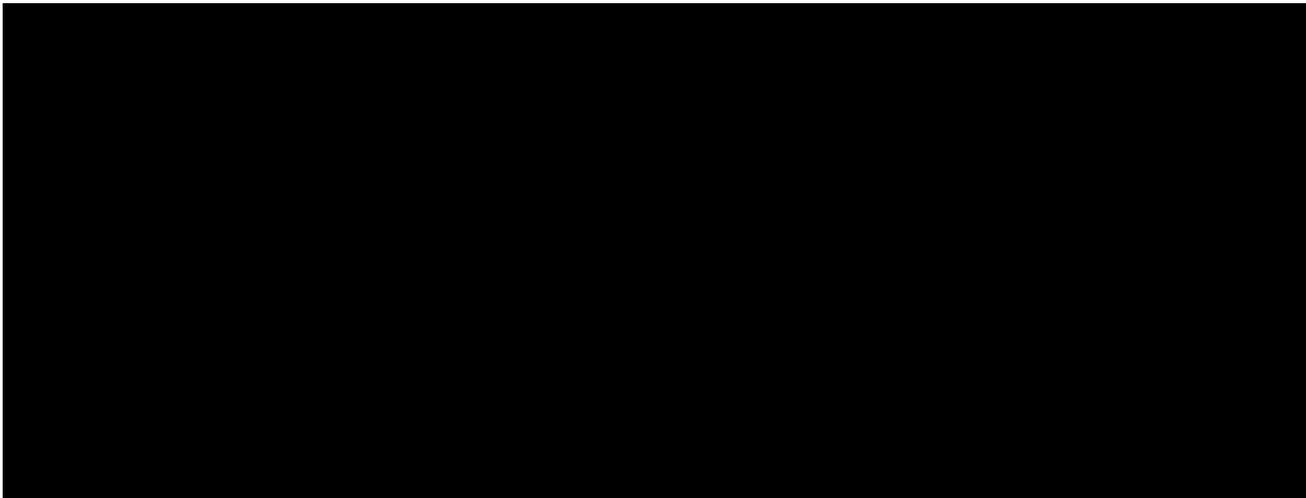
[REDACTED]

These Temporary measures are extremely important in ensuring both Congestion and Service can be maintained for Customers in this new environment caused by the Covid-19 Pandemic.

Fig1: Growth of L700 Traffic per Traffic Type



Fig2: Utilisation of L700 Air Interface Spectrum in Capacity Hot Spots



## F. Actions required where there is no further Temporary ECS Licensing framework.

- (i) Details of the preparations and actions that the MNO has taken and would need to take in the event of no further Temporary ECS Licensing framework.

[Redacted text block consisting of five horizontal black bars]

## G. Other Factors

(i) Any other factors that the MNOs deem relevant to the consideration of any further Temporary ECS Licensing framework.

■■■■ of Mobile Data in Rural Areas is now catered for by the 700 MHz layer, This layer is providing enhanced accessibility and data services to customers who would be seriously challenged in terms of data services in hard to reach rural locations without access to this 700 Layer,

In terms of Customer Numbers, approximately ■■■■ subscribers are now benefitting from the 700 Layer. Up to ■■■■ of these subscribers in rural Ireland would either be in severe congestion or unable to access sufficient data services without the 700 Layer,

Currently it is estimated that up to ■■■■ subscribers can experience performance issues on either download or Upload speeds at very busy periods on the network when working remotely. Deploying addition carriers on 700 and 2100 MHz is seen as a big factor in the resolution of the capacity/performance issues over the medium period.

ENDS

# **Annex: 4 Draft licensing regulations**



STATUTORY INSTRUMENTS.

S.I. No. \_\_\_\_\_ of 2022

WIRELESS TELEGRAPHY (FURTHER TEMPORARY ELECTRONIC  
COMMUNICATIONS SERVICES LICENCES) (NO. 4)  
REGULATIONS 2022

WIRELESS TELEGRAPHY (FURTHER TEMPORARY ELECTRONIC  
COMMUNICATIONS SERVICES LICENCES) (NO. 4)  
REGULATIONS 2022

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 6(1) of the Wireless Telegraphy Act 1926 (No. 45 of 1926) as substituted by section 182 of the Broadcasting Act 2009 (No. 18 of 2009), and with the consent of the Minister for the Environment, Climate and Communications in accordance with section 37 of the Communications Regulation Act 2002 (No. 20 of 2002), (as adapted by the Communications, Climate Action and Environment (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 373 of 2020)) hereby makes the following Regulations:

*Citation*

1. These Regulations may be cited as the Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) (No. 4) Regulations 2022.

*Interpretation*

2. (1) In these Regulations:
  - “2.1 GHz Band” means radio frequency spectrum in the range 1920 to 1980 MHz paired with radio frequency spectrum in the range 2110 to 2170 MHz;
  - “2.1 GHz Band Block” means a 5 MHz paired block of radio frequency spectrum in the 2.1 GHz Band;
  - “700 MHz Duplex” means radio frequency spectrum in the range 703 to 733 MHz paired with radio frequency spectrum in the range 758 to 788 MHz;
  - “700 MHz Duplex Block” means a 5 MHz paired block of radio frequency spectrum in the 700 MHz Duplex;
  - “Act of 1926” means the Wireless Telegraphy Act 1926 (No. 45 of 1926);
  - “Act of 1972” means the Wireless Telegraphy Act 1972 (No. 5 of 1972);
  - “Act of 2002” means the Communications Regulation Act 2002 (No. 20 of 2002);
  - “Apparatus” in relation to Licences means apparatus for wireless telegraphy as defined in section 2 of the Act of 1926 for terrestrial systems capable of providing Electronic Communications Services;

“Authorisation Regulations” means the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011 (S.I. No. 335 of 2011);

“Commission” means the Commission for Communications Regulation established under the Act of 2002;

“Decision of 2012” means European Commission Implementing Decision (2012/688/EU) of 5 November 2012 on the harmonisation of the frequency bands 1920-1980 MHz and 2110-2170 MHz for terrestrial systems capable of providing electronic communications services in the Union, as amended by European Commission Implementing Decision (EU) 2020/667 of 6 May 2020;

“Decision of 2016” means European Commission Implementing Decision (EU) 2016/687 of 28 April 2016 on the harmonisation of the 694 -790 MHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services and for flexible national use in the Union;

“Electronic Communications Network” (“ECN”) and “Electronic Communications Service” (“ECS”) have the meanings assigned to them in the Framework Regulations;

“Equivalent Isotropically Radiated Power” (“EIRP”) means the product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna;

“FDD” means Frequency Division Duplex;

“Framework Regulations” means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011);

“Further Temporary Electronic Communications Services Licence (No. 4)” means a Licence in the form set out in Schedule 1 to keep and have possession of Apparatus, in accordance with and subject to the terms and conditions set out therein;

“Harmful Interference” has the meaning set out in the Framework Regulations;

“Lease” means the assignment by a Licensee (“the Lessor”) of some or all of a right of use for radio frequencies granted under a Licence for a period less than the remaining duration of the right of use to another party (“the Lessee”), after which the right of use for radio frequencies reverts to the Lessor;

“Licence” means a non-exclusive licence granted under section 5 of the Act of 1926 in accordance with and subject to the matters prescribed in these Regulations to keep and have possession of Apparatus in a specified place in the State, being a Further Temporary Electronic Communications Services Licence (No. 4);

“Licence Commencement Date” means the date, as specified in the Licence, upon which the Licence comes into effect;

“Licensee” means the holder of a Licence;

“Non-exclusive”, in relation to a Licence, means that the Commission is not precluded from authorising the keeping and having possession by persons other than the Licensee, on a Non-Interference and Non-Protected Basis, of apparatus for wireless telegraphy for the radio frequency spectrum specified in the Licence;

“Non-Interference and Non-Protected Basis” means that the use of apparatus for wireless telegraphy is subject to no Harmful Interference being caused to any Radiocommunication Service, and that no claim may be made for the protection of apparatus for wireless telegraphy used on this basis against Harmful Interference originating from Radiocommunication Services;

“Radio Equipment Regulations” means the European Union (Radio Equipment) Regulations 2017 (S.I. No. 248 of 2017);

“Radiocommunication Service” means a service as defined in the Radio Regulations of the International Telecommunication Union involving the transmission, emission or reception of radio waves for specific telecommunication purposes;

“Transfer” has the meaning set out in the Transfer Regulations;

“Transfer Regulations” means the Wireless Telegraphy (Transfer of Spectrum Rights of Use) Regulations 2014 (S.I. No. 34 of 2014); and

“Undertaking” has the same meaning set out in the Framework Regulations.

(2) A word or expression that is used in these Regulations and that is also used in the Act of 1926 has, unless the context otherwise requires, the same meaning in these Regulations that it has in that Act.

(3) A word or expression that is used in these Regulations and that is also used in the Act of 2002 has, unless the context otherwise requires, the same meaning in these Regulations that it has in that Act.

(4) A word or expression that is used in these Regulations and that is also used in the Framework Regulations or in the Authorisation Regulations has, unless the context otherwise requires, the same meaning in these Regulations that it has in those Regulations.

#### *Licences to which these Regulations apply*

3. These Regulations apply to Further Temporary Electronic Communications Services Licences (No. 4).

#### *Application for the Grant and Form of Licences*

4. (1) Application for the grant of a Licence shall be made by an Undertaking to the Commission in writing and in such form as may be determined by the Commission from time to time.

(2) The Commission may grant a Licence, following payment by the

applicant of the relevant fee prescribed in Regulation 8, in accordance with the Authorisation Regulations and having regard to, among other things:

- (a) available information regarding the extraordinary situation arising from COVID-19 and, in particular, as it may reasonably affect Electronic Communications Networks and the provision of relevant Electronic Communications Services in the State;
- (b) available information regarding the impact of the extraordinary situation arising from COVID-19 upon the capacity of the Electronic Communications Network operated by the Undertaking, including the locations in the State where any capacity constraints are occurring or are likely to occur;
- (c) available information regarding how the rights of use of radio frequencies applied for by the Undertaking would reasonably and materially assist in alleviating the capacity constraints identified in connection with sub-paragraph (b), including the lead time for the Undertaking to effectively make use of such rights of use of radio frequencies;
- (d) available information regarding the risks to the provision of existing Electronic Communications Services, and the quality of such existing provision, by the Undertaking in making changes to its Electronic Communications Network to effectively make use of the rights of use of radio frequencies applied for;
- (e) the need to encourage the efficient use and ensure the effective management of the radio frequency spectrum; and
- (f) the Commission's obligations and objectives in relation to competition for the provision of Electronic Communications Networks and Electronic Communications Services.

(3) An Undertaking that applies for the grant of a Licence shall furnish to the Commission such information as the Commission may reasonably require for the purposes of its functions under these Regulations, the Act of 1926, the Framework Regulations and/or the Authorisation Regulations, and if the Undertaking, without reasonable cause, fails to comply with this paragraph, the Commission may refuse to grant the Licence concerned to the Undertaking.

(4) A Licence to which these Regulations apply shall be in the form specified in Schedule 1, with such variation, if any, whether by addition, deletion or alteration as the Commission may determine from time to time or in any particular case in accordance with the Authorisation Regulations.

#### *Duration of Licences*

5. (1) The commencement date and expiry date of a Licence shall be set by the Commission and specified in the Licence.
- (2) The duration of any Licence granted under these Regulations shall be up to but no longer than three calendar months.
- (3) Upon application properly being made in accordance with Regulation 4, the Commission may renew a Licence granted under these Regulations for a

further period of up to but no longer than three calendar months.

(4) Any Licence granted or renewed under these Regulations shall expire no later than 1 October 2022.

#### *Conditions of Licences*

6. Any Licensee that is granted a Licence under these Regulations and to which these Regulations apply shall:

- (a) ensure that it complies with the conditions in its Licence and with these Regulations;
- (b) ensure that any Apparatus in the 700 MHz Duplex complies with the Decision of 2016, any Apparatus in the 2.1 GHz Band complies with the Decision of 2012.
- (c) ensure that all Apparatus installed, maintained, possessed or kept under the Licence is capable of operating within the radio frequency spectrum specified in the Licence;
- (d) ensure that all Apparatus worked or used under the Licence is worked or used only in the radio frequency spectrum specified in the Licence;
- (e) ensure that it makes payment of the fee set out in and in accordance with Regulation 8;
- (f) furnish such information in respect of the Licence as may be requested by the Commission from time to time;
- (g) ensure that all Apparatus, or any part thereof, is installed, maintained, worked and used so as not to cause Harmful Interference;
- (h) ensure that all Apparatus, or any part thereof, complies with the Radio Equipment Regulations;
- (i) comply with any special conditions imposed under section 8 of the Act of 1972;
- (j) upon becoming aware of any event likely to materially affect its ability to comply with these Regulations, or any conditions set out or referred to in any Licence, notify the Commission of that fact in writing no later than 5 Working Days upon becoming aware;
- (k) comply with all obligations under relevant international agreements relating to the use of Apparatus or the frequencies to which they are assigned under a Licence; and
- (l) not Transfer or Lease any rights of use for radio frequencies attaching to a Licence.

#### *Enforcement, Amendment, Suspension and Withdrawal*

7. (1) Enforcement by the Commission of compliance by a Licensee with conditions attached to its Licence shall be in accordance with the Authorisation Regulations.

(2) The Commission may amend a Licence from time to time in accordance with the Authorisation Regulations having regard to, among other things, the factors set out in Regulation 4(2), and by giving the Licensee 5 days' notice in writing.

(3) The Commission may suspend or withdraw a Licence in accordance with the Authorisation Regulations.

#### *Licence Fees*

8. (1) The fee for a Licence, or renewal of a Licence, is €100 and is non - refundable.

(2) Any payment to be paid by a Licensee under this Regulation shall be made by way of banker's draft or such other means and on such other terms, if any, as the Commission may decide.

#### *Licensee to satisfy all legal requirements*

9. Licences granted pursuant to these Regulations do not grant to the Licensee any right, interest or entitlement other than to keep, have possession of, install, maintain, work and use Apparatus at a specified location or locations in the State.

## SCHEDULE 1

### WIRELESS TELEGRAPHY ACT, 1926

#### WIRELESS TELEGRAPHY (FURTHER TEMPORARY ELECTRONIC COMMUNICATIONS SERVICES LICENCES) (NO. 4) REGULATIONS 2022

Further Temporary Licence (No. 4) for terrestrial systems capable of providing Electronic Communications Services

Licence under section 5 of the Act of 1926 to keep and have possession of apparatus for wireless telegraphy for terrestrial systems capable of providing Electronic Communications Services.

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 5 of the Act of 1926 hereby grants the following licence to **[LICENSEE NAME]** of **[LICENSEE ADDRESS]** (“the Licensee”).

The Licensee is hereby authorised to keep and have possession of apparatus for wireless telegraphy for terrestrial systems capable of providing Electronic Communications Services as specified in Part 2 of this Licence, subject to such apparatus being installed, maintained, worked and used in accordance with the terms, conditions and restrictions set out in the Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) (No. 4) Regulations 2022 ( S.I. No. of 2022 ) (“the Regulations”), including but not limited to, the following:

- (1) The Licensee shall ensure that it complies with all of the conditions contained within the Regulations and within Parts 1 to 4 of this Licence; and
- (2) The Licensee shall ensure that it makes payment of the fee detailed in the Regulations.

For the purpose of this Licence, the definitions set out in the Wireless Telegraphy (Further Temporary Electronic Communications Services Licences) (No. 4) Regulations 2022 apply.

This Licence shall come in to effect on **DD/MM/YYYY** (the “Licence Commencement Date”) and, subject to revocation, suspension or withdrawal, expires on **DD/MM/YYYY**.

Signed: \_\_\_\_\_

For and on behalf of the Commission for Communications Regulation

Date of Issue \_\_\_\_\_

### Part 1

Commencement and expiry dates of Spectrum Blocks

Authorised Band	Name of Spectrum Block	Frequency Assigned to Spectrum Block	Commencement Date per Spectrum Block	Expiry Date per Spectrum Block
<i>700 MHz Duplex, 2.1GHz, as appropriate</i>	<i>Block A, B, C etc.</i>	<i>From ——— MHz to ——— MHz</i>	<i>DD Month YYYY</i>	<i>DD Month YYYY</i>

### Part 2

The Apparatus to which this Licence applies

Authorised Band	Equipment Index Reference	Terrestrial System	Equipment Description	Manufacturer	Model
<i>700 MHz Duplex, 2.1 GHz, as appropriate</i>					

### Part 3

Apparatus Location and Details

Authorised Band	Site Identity	Eastings	Northings	Equipment Index Reference	Maximum EIRP/ TRP (dBm/5M Hz)
<i>700 MHz Duplex, 2.1 GHz, as appropriate</i>					

## **Part 4**

### *Licence Conditions*

#### **Section 1: General**

##### *Harmful Interference*

1. In the event of Harmful Interference, the affected Licensees shall exchange information with a view to resolving the Harmful Interference by mutual consent. Where resolution cannot be agreed between the affected Licensees, the Commission may mediate in accordance with its statutory functions, objectives and duties.

#### **Section 2: Technical Conditions**

##### *Definitions*

1. The following additional definitions shall apply to this Licence:

“2RN” means RTÉ Transmission Network DAC (trading as 2rn);

“Active Antenna Systems” or “AAS” means a Base Station and an antenna system where the amplitude and/or phase between antenna elements is continually adjusted resulting in an antenna pattern that varies in response to short term changes in the radio environment. This excludes long-term beam shaping such as fixed electrical down tilt. In AAS Base Stations the antenna system is integrated as part of the Base Station system or product;

“Non-Active Antenna Systems” or “non-AAS” means a Base Station and an antenna system that provides one or more antenna connectors, which are connected to one or more separately designed passive antenna elements to radiate radio waves. The amplitude and phase of the signals to the antenna elements is not continually adjusted in response to short term changes in the radio environment;

“Base Station” means Apparatus connected to a backhaul network which provides a Radiocommunication Service to Terminal Stations using spectrum in the 700 MHz Duplex or 2.1 GHz Band;

“Block Edge Mask” or “BEM” is an emission mask that is defined as a function of frequency in relation to a ‘block edge’, the latter being the frequency boundary of a spectrum block for which rights of use are assigned to a Licensee. The BEM consists of several elements which are defined for certain measurement bandwidths.

“dBm” means decibels of power referenced to one milliwatt;

“Downlink” means transmissions from a Base Station to a Terminal Station;

“MNO” means a mobile network operator with an existing network in Ireland;

“TRP” (total radiated power) is a measure of how much power the antenna actually radiates and is defined as the integral of the power transmitted in different directions over the entire radiation sphere;

“Terminal Station” means mobile user equipment and fixed customer premise equipment which communicates with a Base Station using spectrum in the 700 MHz Duplex or 2.1 GHz Band ;

“Uplink” means transmissions from a Terminal Station to a Base Station; and  
“Virgin Media” means Virgin Media Ireland Limited.

### *Technical Conditions*

#### 2. The 700 MHz Duplex

- (a) Only terrestrial systems compatible with the Decision of 2016 can be worked and used in the 700 MHz Duplex.
- (b) The FDD mode of operation shall be used in the 700 MHz Duplex. The duplex spacing shall be 55 MHz with Terminal Station transmission (FDD uplink) located in the lower frequency band 703-733 MHz and Base Station transmission (FDD downlink) located in the upper frequency band 758 -788MHz.
- (c) The Licensee shall comply with all Memoranda of Understanding (‘MoU’)<sup>1</sup> agreed between the Commission and its neighbouring national regulatory authorities responsible for communications matters, in particular the Office of Communications (“Ofcom”) in the UK, or its successor, in relation to the 700 MHz Duplex.
- (d) The Licensee shall comply with the 700 MHz Coordination Procedures as agreed to by the MNOs, 2RN and Virgin Media on 3 April 2020 and published by the Commission on 7 April 2020 as Annex 4 to Commission Document 20/27.

### *Base Stations*

- (e) Within a 700 MHz Duplex Block assigned to the Licensee, the in-block power from a Base Station must not exceed a maximum mean EIRP of 64 dBm/5 MHz per antenna.
- (f) Outside of the 700 MHz Duplex Block(s) assigned to the Licensee, the Licensee shall comply with the out-of-block BEM as specified in Section B of the Annex of the Decision of 2016.

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<sup>1</sup> Memorandum of Understanding on frequency coordination between Ireland and the United Kingdom concerning the spectrum coordination of Land Mobile Radio Communication Networks in the frequency range 703 MHz to 2690 MHz, available at [www.comreg.ie](http://www.comreg.ie)

### *Terminal Stations*

- (g) The maximum mean in-block power limit of 23 dBm for Terminal Stations shall apply<sup>2</sup>.
- (h) The out-of-block technical conditions set out in Table 10 to Table 12 of the Annex to the Decision of 2016 shall apply.
- (i) Where a Licensee holds more than  $2 \times 10$  MHz in the 700 MHz Duplex and if this assignment is deployed starting at 703 MHz, the licensee shall not deploy a bandwidth greater than 10 MHz for Terminal Stations in order to meet the conditions as set out in Table 12 of the Annex to the Decision of 2016 to provide protection to the frequency range 470 - 694 MHz.

### 3. The 2.1 GHz Band

- (a) Only terrestrial systems compatible with the Decision of 2012 can be worked and used in the 2.1 GHz Band.
- (b) The duplex mode of operation shall be FDD. The duplex spacing shall be 190 MHz with Terminal Station transmission (FDD uplink) located in the lower part of the band starting at 1920 MHz and finishing at 1980 MHz and Base Station transmission (FDD downlink) located in the upper part of the band starting at 2 110 MHz and finishing at 2 170 MHz.
- (c) The Licensee shall comply with all MoU<sup>3</sup> between the Commission and its neighbouring national regulatory authorities responsible for communications matters, in particular the Office of Communications (“Ofcom”) in the UK, or its successor, in relation to the spectrum in the 2.1 GHz Band.

### *Base Stations*

- (d) Within a 2.1 GHz Band Block assigned to the Licensee, the in -block radiated power from a Base Station transmitter in the downlink direction must not exceed:
  - (i) an EIRP of 64 dBm/5 MHz per antenna for non-AAS; and

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<sup>2</sup> This power limit is specified as EIRP for Terminal Stations designed to be fixed or installed and as total radiated power (TRP) for Terminal Stations designed to be mobile or nomadic. This value is subject to a tolerance of up to + 2 dB, to take account of operation under extreme environmental conditions and production spread.

<sup>3</sup> Memorandum of Understanding on frequency coordination between Ireland and the United Kingdom concerning the spectrum coordination of Land Mobile Radio Communication Networks in the frequency range 703 MHz to 2690 MHz, available at [www.comreg.ie](http://www.comreg.ie).

- (ii) a TRP limit of 57 dBm/5MHz per cell for AAS.
- (e) Outside of the 2.1 GHz Band Block(s) assigned to the Licensee, the Licensee shall comply with the out-of-block BEM as specified in Section C of the Annex to the Decision of 2012.

*Terminal Stations*

- (f) The maximum mean in-block power limit over frequencies of FDD Uplink of 24 dBm for Terminal Stations shall apply<sup>4</sup>.

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<sup>4</sup> This power limit is specified as EIRP for terminal stations designed to be fixed or installed and as TRP for terminal stations designed to be mobile or nomadic. EIRP and TRP are equivalent for isotropic antennas. It is recognised that this value may be subject to a tolerance defined in the harmonised standards to take account of operation under extreme environmental conditions and production spread

## Section 4: Coverage Requirements

### 1. Coverage at specific locations in the State

Coverage	Location	Obligation
Outdoors	Specific locations in relation to the extraordinary situation arising from COVID-19 as may be determined from time to time by the Government and communicated to the Commission by the Department of the Environment, Climate and Communications	Best efforts using all rights of use available to the Licensee

**Table 1: Outdoor coverage obligations at specific locations in relation to the extraordinary situation arising from COVID-19**

GIVEN under the official seal of the Commission for Communications Regulation,

day of 2022

For and on behalf of the Commission for Communications Regulation

The Minister for the Environment, Climate and Communications, in accordance with section 37 of the Communications Regulation Act, 2002, (as adapted by the Communications, Climate Action and Environment (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 373 of 2020)) consents to the making of the foregoing Regulations.

GIVEN under the Official Seal of the Minister for the Environment, Climate and Communications,

day of 2022

Minister for the Environment, Climate and Communications

## **EXPLANATORY NOTE**

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations prescribe matters in relation to the further temporary licences (No. 4) for apparatus for wireless telegraphy for terrestrial systems capable of providing Electronic Communications Services in the 700 MHz Duplex and the 2.1 GHz Bands to address the temporary impact upon Electronic Communications Networks and Electronic Communications Services from the extraordinary situation arising from COVID-19.

DRAFT