



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Response to Consultation and decision on Re-opening the Third-Party Business Radio licensing regime

Response to Consultation and decision

Reference: ComReg 25/29

Version: Final

Date: 22/05/2025

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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1 Introduction

- 1.1 In March 2025, the Commission for Communications Regulation ('ComReg') issued a consultation regarding the re-opening of the Third-Party Business Radio ('TPBR') licensing scheme ('Consultation 25/18')¹.
- 1.2 In Consultation 25/18, ComReg set out its proposals for reopening the licensing scheme, which included:
- a) its preliminary view that no additional frequencies should be made available for TPBR in the UHF and VHF bands because the current available channels meet the existing known demand.
 - b) the application and grant process for TPBR licences, which includes:
 - the expiry date of any new TPBR licences; and,
 - the period of time for which ComReg would accept applications for TPBR licences.
- 1.3 ComReg did not receive any responses to Consultation 25/18, therefore ComReg's final position is set out in chapter 2, below.

1.2 Structure of this document

- Chapter 2 sets out ComReg's final decision.
- Chapter 3 outlines the next steps for applicants.

¹https://www.comreg.ie/media/2025/03/Consultation-25_18-Re-Opening-Third-Party-Business-Radio-Regime.pdf

2 ComReg's Final Conclusions

- 2.1 As noted in Consultation 25/18, the reopening of the TPBR licensing regime would facilitate the continuation of services provided under existing TPBR licences until the broader PMR licensing review concludes. ComReg intends on proposing a revised PMR licensing regime which would encompass services provided under the TPBR regime.
- 2.2 ComReg also noted that the broader PMR review would carefully consider any transition arrangements for TPBR licences. ComReg stated that it expected that the migration of all TPBR licences to a new PMR licensing regime would be completed by the 29 September 2030, depending on the outcome of the PMR licensing review consultation.
- 2.3 As no responses were submitted in response to Consultation 25/18, and considering the need to facilitate the continuation of services and migration of such to a future revised PMR licensing regime, ComReg has decided:
- (a) To reopen the TPBR licensing regime² on the 1st of September 2025;
 - (b) That applications will be accepted until 9 June 2027 or until all allocated channels have been assigned. Existing licensees can reapply for their existing channel assignments provided the application is submitted 30 days prior to the expiry of an existing licence;
 - (c) all new TPBR licences will expire in full on midnight of 29 September 2030 and the relevant fee will be calculated on a pro-rata monthly basis;
 - (d) To retain the current number of VHF channels (see Table 1 below); and
 - (e) To retain the current UHF channels (see Table 2 below).

² The specific regulations governing TPBR licences are contained in the Wireless Telegraphy Regulations 2005 (S.I. No. 646/2005) <https://www.irishstatutebook.ie/eli/2005/si/646/made/en/print>

Table 1 - Current VHF channel assignments for TPBR

Ch ID	BTX (MHz)	BRX (MHz)	Current Licensee	Licence expiry
TBV-01	165.5875	170.3875	BP Multipage	05/01/2026
TBV-02	165.3625	170.1625	BP Multipage	05/01/2026
TBV-03	166.1	170.9	RSP	05/01/2026
TBV-04	166.3625	171.1625	DAL Electronics	07/03/2026
TBV-05	166.3875	171.1875	EMR	19/12/2025
TBV-06	166.4125	171.2125	BP Multipage	16/10/2026
TBV-07	166.4625	171.2625	Radiotrader Ltd	29/09/2025
TBV-08	166.475	171.275	Radiotrader Ltd	02/02/2027
TBV-09	166.5375	171.3375	Irish Radio Communications Ltd	26/11/2025
TBV-10	166.55	171.35	Radiotrader Ltd	29/09/2025

Table 2 - Current UHF channel assignments for TPBR

Ch ID	BTX (MHz)	BRX (MHz)	Licensee	Licence expiry
TBU-01	453.85	460.35	RSP	25/11/2025
TBU-02	453.8625	460.3625	RSP	25/11/2025
TBU-03	453.875	460.375	RSP	25/11/2025
TBU-04	453.8875	460.3875	RSP	09/05/2027
TBU-05	453.9	460.4	RSP	09/05/2027
TBU-06	453.9125	460.4125	Mobile Radio Links	30/11/2025
TBU-07	461.2875	467.7875	Mongey Communications	03/06/2026
TBU-08	453.9875	460.4875	Mongey Communications	16/12/2025
TBU-09	454.2	468.2	BP Multipage	05/01/2026
TBU-10	454.2125	468.2125	BP Multipage	05/01/2026
TBU-11	454.325	468.325	RSP	05/01/2026
TBU-12	454.3375	468.3375	RSP	05/01/2026
TBU-13	454.3875	468.3875	Kestrel Communications	05/01/2026
TBU-14	454.4	468.4	Kestrel Communications	05/01/2026
TBU-15	454.45	468.45	EMR	05/01/2026
TBU-16	454.675	468.675	EMR	05/01/2026
TBU-17	454.6875	468.6875	Mongey Communications	09/01/2026
TBU-18	454.9375	468.9375	Mongey Communications	09/01/2026
TBU-19	461.3	467.8	Mongey Communications	03/06/2026
TBU-20	454.9625	468.9625	Mobile Radio Links	05/01/2026
TBU-21	454.9875	468.9875	DAL Electronics	07/03/2026
TBU-22	457.775	463.275	Mongey Communications	03/06/2026
TBU-23	457.8	463.3	BP Multipage	25/04/2026

Ch ID	BTX (MHz)	BRX (MHz)	Licensee	Licence expiry
TBU-24	457.8125	463.3125	EMR	19/07/2026
TBU-25	457.8875	463.3875	EMR	19/07/2026
TBU-26	461.3125	467.8125	Radiotrader Ltd	29/09/2025
TBU-27	461.325	467.825	Mongey Communications	03/06/2026
TBU-28	457.925	463.425	Mercury Wireless Ltd	29/11/2025
TBU-29	457.9375	463.4375	Cully Automation	19/12/2025
TBU-30	461.3375	467.8375	Mongey Communications	03/06/2026
TBU-31	458.025	463.525	RSP	19/12/2025
TBU-32	458.0375	463.5375	EMR	19/12/2025
TBU-33	458.05	463.55	BP Multipage	20/12/2025
TBU-34	458.075	463.575	BP Multipage	20/12/2025
TBU-35	458.0875	463.5875	Cully Automation	04/01/2026
TBU-36	458.1875	463.6875	Mobile Radio Links	21/12/2025
TBU-37	458.2	463.7	BP Multipage	26/11/2025
TBU-38	458.2125	463.7125	BP Multipage	26/11/2025
TBU-39	458.4125	463.9125	Mobile Radio Links	05/01/2026
TBU-40	458.425	463.925	Apex Radio Systems Ltd	27/06/2026
TBU-41	461.4	467.9	Irish Radio Communications Ltd	26/11/2025
TBU-42	461.4125	467.9125	Irish Radio Communications Ltd	26/11/2025
TBU-43	461.45	467.95	Lynn Communications Ltd	05/10/2025
TBU-44	461.475	467.975	Radiotrader Ltd	29/09/2025
TBU-45	461.2	467.7	ECN Technologies Ltd	05/05/2027
TBU-46	461.2125	467.7125	DAL Electronics	28/11/2026
TBU-47	461.225	467.725	Lynn Communications Ltd	19/01/2027
TBU-48	461.2375	467.7375	Radiotrader Ltd	02/02/2027
TBU-49	461.25	467.75	Radiotrader Ltd	02/02/2027
TBU-50	461.2625	467.7625	Irish Rail	03/04/2027
TBU-51	461.275	467.775	Irish Rail	03/04/2027

3 Next Steps

- 3.1 ComReg will publish an updated and revised version of Document 05/82R5³, the “Guidelines for Third Party Business Radio Applicants” in July 2025 ahead of the expiry of existing licences which will expire between September 2025 and May 2027.

³ Current version available here: <https://www.comreg.ie/publication/third-party-business-radio-guidelines>

Annex 1: Relevant Legal Framework

- A 1.1 The Communications Regulation Act 2002 (as amended) (the “2002 Act”), the European Electronic Communications Code (which has repealed the EU Common Regulatory Framework, namely the Framework and Authorisation Directives)⁴, as transposed by S.I. No. 444 of 2022, the European Union (Electronic Communications Code) Regulations 2022 (the “ECC Regulations”) and the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (the “2023 Act”), and the Wireless Telegraphy Acts 1926 to 2009⁵ set out, amongst other things, ComReg’s functions and objectives that are relevant to the management of the radio frequency spectrum in Ireland and to this Response to Consultation and Decision document including Regulations.
- A 1.2 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, and Regulation 4 of S.I. No. 444 of 2022.
- A 1.3 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 functions, objectives powers, and duties 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. All references in this annex to enactments are to the enactment as amended at the date hereof, unless the context otherwise requires.

The European Electronic Communications Code

- A 1.1 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.
- A 1.2 It is important to note that further to Article 125 (“Repeal”) of the EECC, with effect from 21 December 2020, the EECC replaced the EU Common Regulatory Framework adopted in 2002 (and amended in 2009) under which ComReg has

⁴ Directive 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code.

⁵ The Wireless Telegraphy Acts 1926 to 1988 and Sections 181 (1) to (7) and (9) and Section 182 of the Broadcasting Act 2009.

regulated electronic communications since 2003⁶.

- A 1.3 With some limited exceptions (see Article 124 of the EECC), Member States had until 21 December 2020 to transpose the EECC into national law⁷. The statutory instrument transposing key provisions of the EECC has been published as S.I. No. 444 of 2022⁸ and has been commenced by the Minister⁹. Other provisions of the EECC have been transposed in the Communications Regulation and Digital Hub Agency (Amendment) Act 2023, which has also been commenced¹⁰.
- A 1.4 All references in this annex to enactments are to the enactment as amended at the date hereof unless the context otherwise requires.

Primary Functions and Objectives and Regulatory Principles under the 2002 Act and EECC as transposed.

- A 1.1 ComReg's relevant functions pursuant to Section 10 of the Communications Regulation Act 2002, as amended, include the management of the radio frequency spectrum and the national numbering resource. ComReg's primary objectives in carrying out its statutory functions in the context of electronic communications are to:
- 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;
 - Promote competition¹¹;
 - Contribute to the development of the internal market¹²; and
 - Promote the interests of users within the Community¹³.
- A 1.2 ComReg, in carrying out its regulatory tasks specified in S.I. No. 444, shall take all reasonable measures which are necessary and proportionate for achieving the objectives set out in Regulation 4(3), including the objective to promote connectivity and access to, and take-up of, very high-capacity networks, including fixed, mobile and wireless networks, by all consumers and businesses in the

⁶ For the correlation table between relevant articles of the repealed Directives and the EECC, please see Annex XIII of the EECC available here- [EUR-Lex - 02018L1972-20181217 - EN - EUR-Lex \(europa.eu\)](#)

⁷ With the exception of Articles 53(2), (3) and (4), and Article 54 (See Article 124).

⁸ S.I. No. 444 of 2022, The European Union (Electronic Communications Code) Regulations 2022.

⁹ By virtue of S.I. No. 300 of 2023, the European Union (Electronic Communications Code) (Amendment) Regulations 2023.

¹⁰ By virtue of S.I. No. 299 of 2023, the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (Commencement) (No.2) Order 2023.

¹¹ Section 12 (1)(a)(i) of the 2002 Act.

¹² Section 12 (1)(a)(ii) of the 2002 Act.

¹³ Section 12(1)(a)(iii) of the 2002 Act.

State¹⁴.

Management of radio spectrum

A 1.1 Regulation 27 of S.I. No. 444 of 2022 governs the management of radio spectrum. Regulation 27(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, Regulation 4 of S.I. No. 444 of 2022, and Article 4 of the Directive, ensure:

- (a) the effective management of radio frequencies for ECN and ECS;
- (b) that the allocation of, the issuing of general authorisations in respect of, and the granting of individual rights of use for radio spectrum for ECN and ECS are based on objective, transparent, pro-competitive, non-discriminatory and proportionate criteria; and
- (c) ensure that harmonisation of the use of radio frequency spectrum by ECN and ECS 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 competition, economies of scale and interoperability of networks and 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 EU (namely the Radio Spectrum Decision).

A 1.2 Regulation 27(3) provides that, without prejudice to Regulation 27(4), ComReg must ensure that all types of technology used for the provisions of ECN or ECS may be used in the radio spectrum declared available for ECSs in the Radio Frequency Plan published under Section 35 of the 2002 Act in accordance with EU law.

A 1.3 Regulation 27(4) provides that, notwithstanding Regulation 17(3), 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:

- (a) avoid harmful interference;
- (b) protect public health against electromagnetic fields;
- (c) ensure technical quality of service;
- (d) ensure maximisation of radio frequency sharing

¹⁴ Regulation 4(3)(a) of S.I. No. 444 of 2022.

- (e) safeguard the efficient use of spectrum; or
- (f) 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 27(7).

- A 1.4 Regulation 27(5) provides that without prejudice to Regulation 27(7), ComReg must ensure that all types of ECS may be provided in the radio spectrum, declared available for ECS in the Radio Frequency Plan published under Section 35 of the Act of 2002 in accordance with EU law.
- A 1.5 Regulation 27(6) 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 1.6 Regulation 27(7) requires that measures that require an ECS to be provided in a specific band available for ECS shall be justified in order to ensure the fulfilment of a general interest objective as laid down by or on behalf of the Government or a Minister of the Government in accordance with EU law including, but not limited to:
- (a) safety of life;
 - (b) the promotion of social, regional or territorial cohesion;
 - (c) the avoidance of inefficient use of radio frequencies; or
 - (d) the promotion of cultural and linguistic diversity and media pluralism, for example, by the provision of radio and television broadcasting services.
- A 1.7 Regulation 27(8) 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 laid down by or on behalf of the Government or a Minister of the Government in accordance with European law.
- A 1.8 Regulation 27(9) provides that ComReg shall regularly review the necessity of any restrictions imposed under Regulation 27 and shall make the results of such reviews publicly available.
- A 1.9 Regulation 27(10) requires ComReg to, in the fulfilment of its obligations under Regulation 27, respect relevant international agreements, including the ITU-RR and other agreements adopted in the framework of the ITU applicable to radio spectrum, any public policy considerations brought to its attention by the Minister.

Authorisation of use of radio spectrum

- A 1.1 Regulation 28(1) of S.I. No. 444 of 2022 provides that ComReg shall facilitate the use of radio spectrum, including shared use, under a general authorisation under Regulation S.I. No. 444 of 2022 and limit the granting of individual rights of use for radio spectrum where such rights are necessary to maximise efficient use in light of demand and taking into account the criteria set out in Regulation 28(2).
- A 1.2 Regulation 28(2) of S.I. No. 444 of 2022 provides that ComReg may decide to grant individual rights of use for radio frequencies by way of a licence taking account of:
- (a) the specific characteristics of the radio spectrum concerned;
 - (b) the need to protect against harmful interference;
 - (c) the development of reliable conditions for radio spectrum sharing, where appropriate;
 - (d) the need to ensure technical quality of communications or service;
 - (e) objectives of general interest as laid down by or on behalf of the Government or a Minister of the Government in conformity with EU law; and
 - (f) the need to safeguard the efficient use of spectrum.
- A 1.3 Regulation 28(3) provides that when considering whether to issue general authorisations or to grant individual rights of use for the harmonised radio spectrum, taking into account technical implementing measures adopted in accordance with Article 4 of the Radio Spectrum Decision, ComReg shall seek to minimise problems of harmful interference, including in cases of shared use of radio spectrum on the basis of a combination of general authorisation and individual rights of use.
- A 1.4 Regulation 29(1) of S.I. No. 444 of 2022 provides that ComReg shall attach conditions to individual rights of use for radio spectrum in accordance with Regulation 9(1) in such a way as to ensure optimal and the most effective and efficient use of radio spectrum. Regulation 29(7) provides that Regulation 29 is without prejudice to the Act of 1926.

Publication of procedures

- A 1.1 Regulation 30(2)(a) of S.I. No. 444 of 2022 requires that ComReg shall, having regard to the provisions of Regulation 27 of the S.I. No. 444 of 2022, establish open, objective, transparent, non-discriminatory and proportionate procedures for the granting of individual rights of use for radio spectrum and cause any such procedures to be made publicly available.

Duration of rights

- A 1.1 Regulation 31(1) of S.I. No. 444 of 2022 provides that rights of use for radio spectrum shall be in force for such period as ComReg considers appropriate in light of the objectives pursued in accordance with Regulation 36(2) and (3), taking due account of the need to ensure competition, as well, as in particular, effective and efficient use of radio spectrum, and to promote innovation and efficient investments, including by allowing for an appropriate period for investment amortisation.
- A 1.2 Regulation 31(2) provides that where ComReg decides to grant individual rights of use for radio spectrum for which harmonised conditions have been set by technical implementing measures in accordance with the Radio Spectrum Decision in order to enable its use for wireless broadband electronic communications services for a limited period, it shall ensure regulatory predictability for the holders of the rights over a period of at least 20 years regarding conditions for investment in infrastructure which relies on the use of such radio spectrum, taking account of the requirements referred to in Regulation 31(1).

Conditions attached to rights of use for radio spectrum

- A 1.1 Regulation 9(1) of S.I. No. 444 of 2022 provides that, notwithstanding Section 5 of the Wireless Telegraphy Act, 1926, but subject to any regulations under Section 6 of that Act, where ComReg specifies conditions to be attached to rights of use for radio spectrum, it may only attach such conditions as are listed in Part D of the Schedule 1. Part D lists the following conditions which may be attached to rights of use:
- Obligation to provide a service or to use a type of technology within the limits of Regulation 27, including, where appropriate, coverage and quality of service requirements.
 - Effective and efficient use of radio spectrum in conformity with the Regulations.
 - Technical and operational conditions necessary for the avoidance of harmful interference and for the protection of public health against electromagnetic fields, taking utmost account of Recommendation 1999/519/EC where such conditions are different from those included in the general authorisation.
 - Maximum duration in conformity with Regulation 31, subject to any changes in the National Frequency Allocation Plan.
 - Transfer or leasing of rights at the initiative of the holder of the rights and conditions of such transfer in conformity with these Regulations.
 - Fees for rights of use in accordance with Regulation 24.

- Any commitments which the undertaking obtaining the rights of use has made in the framework of an authorisation or authorisation renewal process prior to the authorisation being granted or, where applicable, to the invitation for application of rights of use.
- Obligations to pool or share radio spectrum or allow access to radio spectrum for other uses in specific regions or at national level.
- Obligations under relevant international agreements relating to the use of radio spectrum bands.
- Obligations specific to an experimental use of radio frequencies.

A 1.2 Regulation 9(2) provides that (a) any attachment of conditions under Regulation 1) or (b) non-application under paragraph (1) of conditions to undertakings of a class or type as may be determined by ComReg, to rights of use for radio spectrum shall be non-discriminatory, proportionate and transparent and in accordance with Regulation 27.

A 1.3 Pursuant to Regulation 9(3) of S.I. No. 444 of 2022, an undertaking shall comply with the conditions attaching to rights of use for radio spectrum applicable to it.

Procedures for limiting the number of rights of use to be granted for radio spectrum

A 1.1 Regulation 36(1) of S.I. No. 444 of 2022 provides that, without prejudice to Regulation 35, where ComReg concludes that a right to use radio spectrum cannot be subject to a general authorisation and where it considers whether to limit the number of rights of use to be granted for radio spectrum, it shall, inter alia, without prejudice to Sections 13 and 37 of the 2002 Act:

- clearly state the reasons for limiting the rights of use, in particular by giving due weight to the need to maximise benefits for users and to facilitate the development of competition and review the limitation at intervals which it considers reasonable or at the reasonable request of any undertaking affected as appropriate; and
- give all interested parties, including users and consumers, the opportunity to express their views in accordance with Regulation 101.

A 1.2 Regulation 36(2)(a) of S.I. No. 444 of 2022 provides that ComReg may decide, having taken into account the matters referred to in paragraph (1)(a) and (b), that the number of rights of use for radio spectrum referred to in that paragraph ought to be limited and, where the Regulator so decides, it shall clearly establish, and give reasons for, the objectives pursued by means of a competitive or comparative selection procedure under this Regulation, and where possible quantify them, giving due weight to the need to fulfil national and internal market objectives.

- A 1.3 Regulation 36(7) provides that where the granting of rights of use for radio spectrum needs to be limited, ComReg shall grant such rights on the basis of selection criteria and a selection procedure which are objective, transparent, non-discriminatory and proportionate. Any such selection criteria shall give due weight to the achievement of the objectives and requirements of section 12 of the Act of 2002 and Regulations 4, 16 and 27.

Fees for spectrum rights of use

- A 1.1 Regulation 24(1) of S.I. No. 444 of 2022 permits ComReg, subject to sections 13 and 37 of the Act of 2002, to impose fees for rights of use for radio spectrum, which reflect the need to ensure the optimal use of the radio spectrum.
- A 1.2 Pursuant to Regulation 24(2) of S.I. No. 444 of 2022, 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 the general objectives of the Directive and Regulation S.I. No. 444 of 2022. Regulation 23(3) provides that with respect to rights of use for radio spectrum, ComReg shall seek to ensure that applicable fees are set at a level which ensures efficient assignment and use of radio spectrum by: (a) setting reserve prices as minimum fees for rights of use for radio spectrum by having regard to the value of those rights in their possible alternative uses; (b) taking into account costs entailed by conditions attached to those rights; and (c) applying, to the extent possible, payment arrangements linked to the actual availability for use of the radio spectrum.

Amendment of rights and obligations

- A 1.1 Regulation 14(1) of S.I. No. 444 of 2022 permits ComReg to amend rights, conditions and procedures concerning rights of use for radio spectrum, provided that any such amendment may only be made in objectively justified cases and in a proportionate manner, taking into consideration, where appropriate, the specific conditions applicable to transferable rights of use for radio spectrum or for numbering resources.

Other Relevant Legislation and Policy Instruments

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

- A 1.1 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 1.2 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 withdrawal) as may be prescribed in regard to it by regulations made by ComReg under Section 6.
- A 1.3 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 1.4 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 1.5 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 1.6 Regulation 9(1) of S.I. No. 444 of 2022 provides that, notwithstanding section 5 of the Act of 1926 but subject to any regulations made under section 6 of that Act, where ComReg specifies conditions to be attached to rights of use for radio spectrum, it may only attach such conditions as are listed in Part D of Schedule 1 to S.I. No. 444 of 2022.
- A 1.7 Regulation 30(7) of S.I. No. 444 of 2022 provides that for the purpose of Regulation 30, a general authorisation for the use of radio spectrum shall be

facilitated by way of an order made by ComReg under section 3(6) of the 1926 Act, declaring that a particular class or description of apparatus for wireless telegraphy is one to which the licence requirements of section 3 of the 1926 Act do not apply.

Broadcasting Act 2009 (the “2009 Act”)

A 1.1 Section 132 of the 2009 Act relates to the duties of ComReg in respect of the licensing of spectrum for use in establishing digital terrestrial television multiplexes and places an obligation on ComReg to issue:

- two DTT multiplex licences to RTÉ by request (see Sections 132(1) and (2) of the 2009 Act; and
- a minimum of four DTT multiplex licences to the BAI by request (see Sections 132(3) and (4) of the 2009 Act) for the provision of commercial TV content.

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

A 1.1 Article 4 of the Competition Directive¹⁵ 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.”*

Radio Spectrum Policy Programme

A 1.1 On 15 February 2012, the European Parliament adopted, via a Decision, the five-year Radio Spectrum Policy Programme (“RSPP”) which establishes a multi-annual radio spectrum policy programme for the strategic planning and harmonisation of the use of spectrum. The objective is to ensure the functioning of the internal market in the Union policy areas involving the use of spectrum, such as electronic communications, research, technological development and space, transport, energy and audiovisual policies.

¹⁵ Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services.

A 1.1 Among other things, Article 5 of the RSPP, entitled “Competition”, provides:

“1. Member States shall promote effective competition and shall avoid distortions of competition in the internal market for electronic communications services in accordance with Directives 2002/20/EC and 2002/21/EC.

They shall also take into account competition issues when granting rights of use of spectrum to users of private electronic communication networks.”

Policy Directions

A 1.1 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 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 1.2 The Policy Directions which are most relevant in this regard include the following:

Policy Direction No.3 on Broadband Electronic Communication Networks

A 1.1 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 1.1 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 1.1 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 1.1 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 1.1 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 1.1 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 1.1 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.

Promotion of Competition

A 1.1 Section 12(2)(a) of the 2002 Act requires ComReg to take all reasonable measures which are aimed at the promotion of competition, including:

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

A 1.2 Regulation 34(1) of S.I. No. 444 of 2022 provides that ComReg shall promote effective competition and avoid distortions of competition in the internal market when deciding to grant, amend or renew rights of use for radio spectrum for electronic communications networks and services in accordance with these Regulations.

Contributing to the Development of the Internal Market

A 1.1 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:

- (i) removing remaining obstacles to the provision of ECN, ECS and associated facilities at Community level;
- (ii) encouraging the establishment and development of trans-European networks and the interoperability of transnational services and end-to-end connectivity; and
- (iii) 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 1.2 In so far as consolidating the development of the internal market is concerned, Regulation 17(2) of S.I. No. 444 of 2022 provides that in carrying out its tasks under these Regulations, ComReg shall, taking the utmost account of its objectives under section 12 of the Act of 2002 and Regulation 4, contribute to the development of the internal market by working with national regulatory authorities in other Member States, BEREC and the European Commission in a transparent

manner to ensure the consistent application of the Directive.

Promotion of Interests of Users

A 1.1 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.

Technological Neutrality

A 1.1 Further to Regulation 4(5) of S.I. No. 444 of 2022, ComReg, in pursuit of the policy objectives referred to in paragraph (3), shall apply impartial, objective, transparent, non-discriminatory and proportionate regulatory principles by, inter alia —(c) applying European Union law in a technologically neutral fashion, to the extent that this is consistent with the achievement of the objectives set out in paragraph (3).

Regulatory Principles

A 1.1 Further to Regulation 4(5) of S.I. No. 444 of 2022, ComReg, in pursuit of the policy objectives referred to in paragraph (3), shall apply impartial, objective, transparent, non-discriminatory and proportionate regulatory principles by, inter alia: promoting regulatory predictability by ensuring a consistent regulatory approach over appropriate review periods and through cooperation with each other, with BEREC, with the RSPG and with the European Commission:

- ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing ECN and ECS;

- 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 infrastructure, competition, the circumstances of end-users and, in particular, consumers that exist in the various geographic areas within the State, including local infrastructure managed by individuals on a not-for-profit basis, and
- imposing ex-ante regulatory obligations only to the extent necessary to secure effective and sustainable competition in the interest of end-users where there is no effective and sustainable competition and relaxing or lifting such obligations as soon as that condition is fulfilled. BEREC

A 1.2 Under Regulation 4(4) of S.I. No. 444 of 2022, ComReg must:

- having regard to its objectives under section 12 of the 2002 Act and its tasks under these Regulations, actively support the goals of BEREC of promoting greater regulatory coordination and consistency; and
- take the utmost account of guidelines, opinions, recommendations, common positions, best practices and methodologies adopted by BEREC when adopting decisions for the markets in the State.

Other Obligations under the 2002 Act

A 1.1 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;
- have regard to international developments with regard to the radio frequency spectrum ; 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.