



**Consultation on the Licensing of Spectrum in the
3.6 GHz Band**

and

**Notice of Proposed Modification to Existing
Licences**

26 March 2015

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Executive summary

The Communications Commission has received a request from an operator for a spectrum allocation in the 3.6 GHz band. The 3.6 GHz band has been identified internationally, including within the European Union, as a band suitable for the provision of mobile broadband services.

In seeking to facilitate this request, the Commission has considered the wider context of current spectrum usage and future available capacity in the 3.6 GHz band. Arising from this, the Commission proposes to licence up to three new operators in the 3.6 GHz band, each of which will be granted access to a 40 MHz block of TDD-compatible spectrum.

The Commission also proposes that the two existing operators in the band will each be offered new assignments of 40 MHz of TDD-compatible spectrum in place of their current 2x30 MHz FDD-compatible assignments. As a result, the replanned 3.6 GHz band will be able to support up to five licensed operators.

The Commission proposes to utilise the same kind of award process as that which it recently employed in licensing 4G mobile services on the Island. This process will involve an initial call for applications, following which it will be determined if demand exceeds supply for the number of licences on offer. If fewer than four valid applications are received, all valid applicants will then be issued with licences by the Commission. If demand exceeds supply, sealed bids will be used to determine which three operators should be licensed.

The licensing of operators by the Commission will take one of two forms. Operators who currently hold a Telecommunications Act licence on the Isle of Man will have their licences modified by the insertion of a new Part, containing conditions relating to the provision of services using the 3.6 GHz band. New entrant operators will be issued with a new Telecommunications Act licence. In addition, all operators licensed by the Commission in either of these ways will be granted Wireless Telegraphy Act licences by Ofcom granting them access to specific spectrum blocks in the 3.6 GHz band.

The Commission proposes that operators licensed to provide services in the 3.6 GHz band will be obliged to launch a publicly available communications service using this spectrum within two years of licence award. The Commission believes that such a condition is warranted in order to prevent spectrum 'hoarding'.

Given the economic value of the 3.6 GHz spectrum and the Commission's need to cover its own costs in relation to the award process, the Commission proposes to levy a fee on operators who are licensed to provide services in the 3.6 GHz band. In this respect, the Commission proposes to charge a fee of £3,000 per licence, which will be payable by each licensee on the award of the spectrum (for new licensees in the band) or on the re-assignment of current spectrum allocations in the band (for existing licensees in the band).

1. Introduction

Request for spectrum in the 3.6 GHz band

- 1.1 The Isle of Man Communications Commission (Commission) has received a request for access to spectrum in the 3.6 GHz band in order to provide a publicly available communications service.
- 1.2 Arising from this request, the Commission has considered spectrum availability in the 3.6 GHz band, as well as the adjacent 3.4 GHz band.¹ In doing so, the Commission has factored in international developments in relation to spectrum allocation in the 3.4-3.8 GHz bands and, in seeking to facilitate this particular request, it has examined how the 3.6 GHz band might be replanned to ensure more efficient use of the spectrum and to facilitate access to the band.
- 1.3 This Consultation sets out the Commission's proposals for how it intends to deal with the request for access to spectrum in the 3.6 GHz band. The Commission has concluded that three blocks of spectrum may readily be made available in the 3.6 GHz band and this Consultation lays out the process the Commission intends to use to offer these spectrum blocks to interested parties and to license operators for the provision of services on the Island using the 3.6 GHz spectrum.

Commission's process for allocating spectrum

- 1.4 It is established practice that the allocation of spectrum in the Isle of Man is dealt with by way of a call for expressions of interest by the Commission. The Commission carries out an open, non-discriminatory and transparent selection process on behalf of the UK Office of Communications (Ofcom).
- 1.5 Arising from the selection process carried out by it, the Commission makes a recommendation to Ofcom as to how it considers the spectrum in the Isle of Man should be allocated.
- 1.6 In the recent process used by the Commission to allocate spectrum for 4G mobile services, a call for expressions of interest was used and the process also included a procedure for the submission of sealed bids, which would only have needed to be used if demand for the spectrum on offer exceeded supply. In the case of 4G, the sealed bid part of the award process was not required as there were fewer applicants than the three licences on offer.
- 1.7 As is explained in this Consultation, the Commission intends to follow the same broad process for licensing operators in the 3.6 GHz band as it did in relation to the licensing of 4G services.

¹ In this document, the Commission makes reference to both the 3.4 GHz (3400-3600 MHz) and the 3.6 GHz (3600-3800 MHz) bands and collectively refers to this spectrum as the "3.4-3.8 GHz bands". It should be noted, in the context of terminologies used to describe this spectrum, that the bands have also been described by other agencies (for example, by the European Commission) as the "3400-3800 MHz band".

Consultation structure

1.8 This Consultation Document is structured in the following way:

- **Section 2** contains a legal and regulatory background on the award of licences and associated spectrum usage rights on the Isle of Man;
- **Section 3** provides an overview of the 3.4-3.8 GHz bands and discusses the assignment of spectrum usage rights in the 3.6GHz band;
- **Section 4** sets out the Commission's proposals for the process which will be followed in assigning spectrum usage rights in the 3.6 GHz band;
- **Section 5** gives notice of a proposal to modify licences issued under s.5 of the Telecommunications Act 1984 in instances where such licensees are granted access to spectrum in the 3.6 GHz band.

2. Legal and regulatory background

Legislative background

- 2.1 The Commission is responsible for issuing licences for telecommunications and broadcasting services on the Island. Its powers include:
- specifying the nature of the telecommunications systems and services which operators are permitted to operate and provide under the licence;² and
 - setting conditions on such operation and provision.³
- 2.2 Spectrum management is the responsibility of Ofcom. It licenses and regulates the use of radio spectrum in the Island, under the Wireless Telegraphy Act 2006 of Parliament (WTA), which is extended to the Isle of Man, with Tynwald's consent, by Order in Council. The Commission works closely with Ofcom to ensure that Isle of Man Government policies are taken into account in licensing decisions.
- 2.3 The legislative basis for the proposals to offer access to spectrum in the 3.6 GHz band in the Isle of Man is provided by the Telecommunications Act 1984. This consultation is undertaken as part of the process leading to such licensing.

UK legislation relevant to spectrum licensing in the Isle of Man

- 2.4 The use of spectrum in the Isle of Man is governed by UK legislation that has been extended to the Isle of Man, as well as by international agreements between the UK and other countries on the use to which various bands of radio spectrum can be put and the avoidance of interference across borders. The licensing of spectrum, in the UK and in the Isle of Man, is carried out by Ofcom, by virtue of the powers given to it by the WTA and the Communications Act 2003.
- 2.5 Ofcom's principal and secondary duties are in Section 3 of the Communications Act 2003 ('General duties of Ofcom'), which provides that:
- (1) *It shall be the principal duty of OFCOM, in carrying out their functions—*
 - (a) *to further the interests of citizens in relation to communications matters;*
 - and*
 - (b) *to further the interests of consumers in relevant markets, where appropriate by promoting competition.*
 - (2) *The things which, by virtue of subsection (1), OFCOM are required to secure in the carrying out of their functions include, in particular, each of the following—*
 - (a) *the optimal use for wireless telegraphy of the electro-magnetic spectrum;*
 - (...)
- 2.6 Moreover, Section 3 of the WTA ('Duties of OFCOM when carrying out functions') further specifies Ofcom's duties as follows:

² See s.5(1) and s.5(4)(b) Telecommunications Act 1984.

³ See s.5(5) Telecommunications Act 1984.

- (1) *In carrying out their radio spectrum functions, OFCOM must have regard, in particular, to—*
 - (a) *the extent to which the electromagnetic spectrum is available for use, or further use, for wireless telegraphy;*
 - (b) *the demand for use of the spectrum for wireless telegraphy; and*
 - (c) *the demand that is likely to arise in future for the use of the spectrum for wireless telegraphy.*
- (2) *In carrying out those functions, they must also have regard, in particular, to the desirability of promoting—*
 - (a) *the efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy;*
 - (b) *the economic and other benefits that may arise from the use of wireless telegraphy;*
 - (c) *the development of innovative services; and*
 - (d) *competition in the provision of electronic communications services.*

2.7 For the purposes of the spectrum relevant to this consultation, the respective roles of the Commission and Ofcom in coordinating the award of spectrum licences in the Isle of Man are as follows:

- the Commission ascertains the level and nature of demand for the spectrum in the specified bands. It identifies whether a selection process is needed. Eventually, when the assessment and selection process is completed, it makes a recommendation to Ofcom in relation to the issuing of licences under the WTA to Isle of Man operators, specifying the spectrum bands and the allocations within these bands that should be included within such licences; and
- Ofcom issues licences for spectrum use under the WTA where it is satisfied the Commission's recommendation is consistent with its own statutory duties.

Regulatory framework for the licensing of services in the Isle of Man

2.8 Operators in the Isle of Man who hold, or wish to hold, spectrum assignments in the 3.6 GHz band need both a WTA Licence issued by Ofcom which will, with the Commission's recommendation, allow the use of the 3.6 GHz band for the provision of telecommunications services on the Island, and a Telecommunications Act licence issued in the Isle of Man which allows the provision of telecommunications services in the Isle of Man.

2.9 The Commission proposes to attach a new Part to the current Telecommunications Act licences for those operators who are assigned spectrum usage rights in the 3.6 GHz band. The new Part would contain licence conditions in relation to service provision in the band, and would formally link the Telecommunications Act licence to the WTA licence issued by Ofcom, as at present the only formal link is from the WTA licence which implies the holding of a Telecommunications Act licence. There is no mechanism in the current Telecommunications Act licences which connects the permission for an operator to offer telecommunications services with the WTA licence which allows the operator to use particular spectrum bands to offer these services.

- 2.10 The Commission considers that this would, for current operators, require a modification in the current Telecommunications Act licences. The Commission's proposals for varying existing operators' licences is set out in Section 5 of this consultation and the text of the proposed licence variation is set out in Annex 1.
- 2.11 For a new market entrant, the Commission would issue an appropriate licence under the Telecommunications Act, which would licence the operator to provide telecommunications services on the Island. This may be a licence limited to providing internet and Internet related services or such other services as may be specified.

3. Spectrum in the 3.4-3.8 GHz bands

International developments

- 3.1 The 3.4-3.8 GHz bands comprise 400 MHz of spectrum, 200 MHz each in the 3.4 GHz band and in the 3.6 GHz band.
- 3.2 The 3.4-3.8 GHz bands were identified by the European Commission (EC) in May 2008 as bands capable of supporting the provision of electronic communications services within the European Union (EU). The EC's Decision 2008/411/EC⁴ provides for the designation of the 3.4-3.8 GHz bands, on a non-exclusive basis, for terrestrial electronic communications networks which "should mainly target end-user access to broadband communications."⁵
- 3.3 In May 2014, the EC adopted an Implementing Decision (2014/276/EU)⁶ amending its 2008 Decision, primarily in relation to a number of technical parameters governing use of the bands. In particular, the Commission specified that the duplex mode of operation in 3.4-3.8 GHz bands should be Time Division Duplex (TDD), although the Decision also provided for the use of Frequency Division Duplex (FDD) in the 3.4 GHz band but not in the 3.6 GHz band.⁷
- 3.4 Although the Isle of Man is not part of the EU and so not bound by these EC Decisions, it would nonetheless be prudent for the Island to follow the EC designation of the 3.4-3.8 GHz bands for terrestrial electronic communications networks. This is particularly so, given the ramifications this Decision is likely to have for the production of equipment (including terminal devices) used in the bands.
- 3.5 This consideration is all the more relevant in light of global harmonisation developments, specifically the proposal that the 3.4-3.8 GHz bands be identified as bands for IMT⁸ services, with this proposal due to be considered at the upcoming World Radiocommunication Conference (WRC-15) in Geneva in November this year. Ofcom recently signalled that the UK will support the identification of the 3.4-3.8 GHz bands for IMT at WRC-15.⁹

⁴ Commission Decision 2008/411/EC of 21 May 2008 on the harmonisation of the 3 400-3 800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community (OJ L 144, 4.6.2008, p. 77).

⁵ Ibid., Recital (2).

⁶ Commission Implementing Decision 2014/276/EU of 2 May 2014 on amending Decision 2008/411/EC on the harmonisation of the 3 400-3 800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community (OJ L 139, 14.05.2014, p.18).

⁷ The process of undertaking two-way radio communications over a communications channel is known as *duplexing*. Duplexing can take two forms, half (i.e. where the parties take turns to transmit over a shared channel, for example using two-way radios) and full (i.e. where simultaneous two-way communication is enabled). Full duplexing may be enabled in two basic ways: frequency division duplex (FDD) or time division duplex (TDD), with FDD requiring two separate symmetrical segments of spectrum for the uplink and downlink radio channels while TDD uses a single frequency band to transmit and receive with alternative time slots allocated to transmit and receive operations.

⁸ IMT (International Mobile Telecommunications) is a definition used by the International Telecommunication Union (ITU) to denote a family of global technical standards for mobile telephony.

⁹ See *Update on the UK preparations for the World Radiocommunication Conference 2015 (WRC-15)*, Ofcom Statement, 6th January 2015, Para. 4.15.

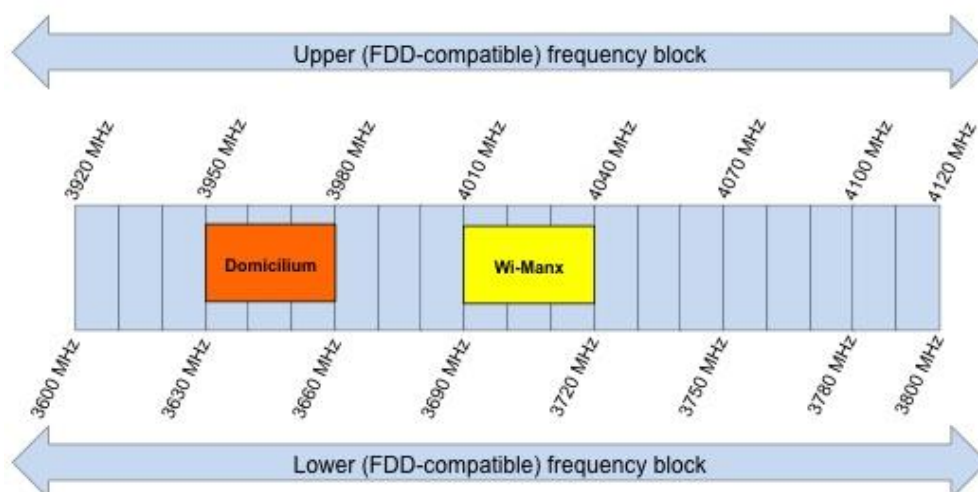
The 3.4 GHz band

- 3.6 Ofcom recently published proposals to offer access to the 3.4 GHz band within the UK, as part of its Public Sector Spectrum Release programme.¹⁰ As well as Ministry of Defence (MOD) and other Government users, the 3.4 GHz band has historically been used for other services, notably amateur radio and Programme Making and Special Events (PMSE). Ofcom intends shortly to publish its Information Memorandum for the UK award of 2.3 and 3.4 GHz spectrum. It is expected that at this time Ofcom will also clarify the availability or otherwise of these bands for use in Crown dependencies, including the Isle of Man.
- 3.7 Domicilium is the only operator that currently holds a 3.4 GHz spectrum assignment in the Isle of Man. Domicilium has a 2x20 MHz FDD-compatible spectrum assignment in the band, using the frequencies 3480-3500 MHz and 3580-3600 MHz. Domicilium uses this spectrum allocation to provide a range of wireless-based communications services on the Island.

The 3.6 GHz band

- 3.8 Two operators – Domicilium and Wi-Manx – currently hold FDD-compatible spectrum assignments of 2x30 MHz each in the 3.6 GHz band. However, because the aim, when allocating the spectrum, was to accommodate four operators within the band, the duplex spacing is one of 320 MHz, which means that for both operators, the upper frequency block allocated to them lies outside the 3.6 GHz band. This is shown in Figure 1 below.

Figure 1: the 3.6 GHz band (current assignments)



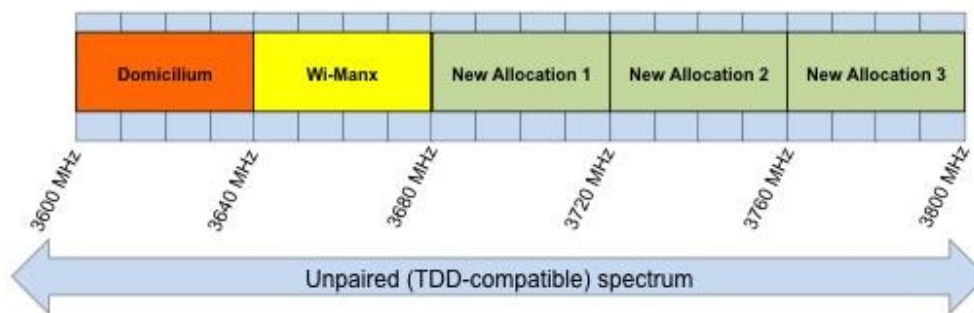
- 3.9 Both Domicilium and Wi-Manx have confirmed to the Commission that they are not using their assigned spectrum allocations in the 3.6 GHz band to provide services to end-users.

¹⁰ Public Sector Spectrum Release (PSSR), Award of the 2.3 GHz and 3.4 GHz bands, Ofcom Consultation, 7th November 2014.

Replanning the 3.6 GHz band

- 3.10 With only two licensees currently in the 3.6 GHz band, there is a significant amount of unused spectrum that is potentially available for immediate allocation within the band. By altering the currently unused assignments held by the two existing licensees, a process that would involve swapping their current 2x30MHz FDD-compatible assignments for 40 MHz of TDD-compatible spectrum, there exists the opportunity to facilitate the request received by the Commission for a spectrum allocation. In fact, by replanning the band, the Commission will be in a position to grant immediate access to up to three new users in this band.¹¹
- 3.11 The replanned 3.6GHz band is illustrated in Figure 2 below.

Figure 2: the 3.6 GHz band (with replanned assignments)



- 3.12 The Commission is pursuing with Domicilium and Wi-Manx the option to re-assign their 3.6 GHz spectrum allocations on the above basis and the Commission hopes to be making a request to Ofcom to vary both operators' WTA licences to give formal effect to this change. This means that, with three TDD-compatible 40 MHz blocks within the band in the process of being freed up, the Commission is now in a position to proceed with a spectrum award process within the 3.6 GHz band in order to license up to three operators to provide services using the 3.6 GHz spectrum.
- 3.13 The Commission further proposes to cap each individual operator's spectrum holding in the band at 40 MHz. This is because the Commission is keen to use this opportunity to offer access to spectrum allocations in the band to operators who do not hold any 3.6 GHz allocations at present. The Commission is also keen to guard against possible spectrum hoarding and so it does not believe that it would be reasonable for any operator (or operators) to hold more than one 40 MHz block of TDD-compatible spectrum in the band, given that multiple 40 MHz block holdings would foreclose the band to other potentially interested operators. The Commission will review the position following the conclusion of the spectrum award process in the band, if the outcome results in any unallocated spectrum blocks.

¹¹ Without replanning the band, access could be granted to two 40 MHz blocks of TDD-compatible spectrum (i.e. 3720 MHz – 3760 MHz and 3760 MHz – 3800 MHz). Replanning frees up a further 40 MHz block (3680 MHz – 3720 MHz) for re-assignment.

Proposal 1: the Commission will hold a spectrum award process offering access to three 40 MHz blocks of TDD-compatible spectrum in the 3.6 GHz band, with each operator's total spectrum holding in the band capped at 40 MHz.

4. 3.6 GHz spectrum award process

Background to selection of award process

- 4.1 In deciding on an appropriate award process for the spectrum blocks that are available in the 3.6 GHz band, the Commission is mindful of the aim, set out in its Spectrum Strategy,¹² to ensure that spectrum usage rights are assigned in a manner that maximises investment in communications infrastructure and services on the Island. The Commission is also keen to ensure that the process used is the least burdensome and which facilitates the early award of spectrum usage rights, on a fair and transparent basis, to interested operators.
- 4.2 In this regard, the Commission is of the view that its recent successful 4G spectrum licensing process provides an appropriate template for awarding spectrum in the 3.6 GHz band. In licensing 4G, the Commission decided on a process involving a call for applications, with provisions for the submissions of sealed bids in a situation where demand exceeded supply. This process successfully enabled the Commission to conclude the 4G licensing process rapidly, allowing the licensees to move ahead with the deployment of 4G services.
- 4.3 Given that only one operator has expressed interest in acquiring spectrum in the 3.6 GHz band and the Commission is in a position to offer access to up to three blocks of spectrum in the band, there is a strong likelihood that – as was the case for 4G – demand will not exceed supply for the spectrum on offer. As a result, the Commission is of the view that a similar award process to that used for 4G is one that is best placed to ensure the efficient and timely award of spectrum in the 3.6 GHz band.

Details of proposed licence award process

- 4.4 In putting in place an award process for the 3.6 GHz spectrum, the Commission has considered two possible outcomes, i.e. (i) where there is no excess demand for the spectrum on offer and (ii) where there is excess demand. These alternative scenarios may be catered for by using an award process in which the level of interest in the spectrum is assessed at the outset. Assuming there is no excess demand, licences can be awarded to all valid applicants who express an interest in acquiring a licence. The process also caters for a situation where there is excess demand and where, as a result, the licences are awarded on a competitive basis.
- 4.5 Based on the foregoing, details of the Commission's proposed award process for licensing operators in the 3.6 GHz spectrum are as follows:
- **Application Stage:** this stage involves the Commission issuing a public Call for Applications to operators wishing to acquire licences to provide services in the 3.6 GHz band. Successful applicants will be issued with a WTA licence by Ofcom on the recommendation of the Commission, and a new Part will be attached to the

¹² Response to Consultation on Options for Managing the Radio Frequency Spectrum, Communications Commission, January 2012, pages 6-7.

Telecommunications Act licence held by or issued to the operator that is being licensed to use spectrum in the 3.6 GHz band.

The call for Applications will set out details of the fee to be charged by the Commission for each licence granted to provide services in the 3.6 GHz band and it will also specify the condition that each licence applicant will need to meet, i.e. that it will launch a publicly-available electronic communications service using spectrum in the 3.6 GHz band. This condition will be attached as a new Part to the Telecommunications Act licences of the operators acquiring 3.6 GHz spectrum, and the Commission will ensure compliance with licence conditions as set out in Section 11 of the Telecommunications Act 1984 and/or via enforcement provisions in the licence.

A draft new Part is attached as Annex 1 to this Consultation. In the application form that will be published in the call for Applications, applicants will be required to confirm their willingness to accept the proposed condition as a licence condition. This will also constitute the contractual acceptance by the applicant of the award process.

- **Qualification Stage:** this stage involves the Commission's evaluation of the applications received in response to its call for Applications in order to determine the number of valid applications received. If three or fewer valid applications are received, the Commission will inform each valid applicant that they have qualified for the right to be awarded licences to provide services in the 3.6 GHz band. Each valid applicant will then be required to confirm that they wish to be awarded such a licence. If there are three or fewer valid applicants, the process will then proceed to the Award Stage. If four or more valid applications are received, however, all valid applicants will be informed that the process will continue with the Sealed Bid Stage.
- **Sealed Bids Stage:** this stage will only be required under a scenario where more than three valid applications are received and it involves the Commission inviting all valid applicants to submit sealed bids setting out their financial offers for a licence. The Commission will evaluate the sealed bids received from valid applicants and will rank the applicants' bid in descending order according to the highest monetary values contained in the sealed bids. The three highest-ranked applicants will then be informed that their licence application has been successful. Each successful applicant will be required to confirm that they wish to be awarded a licence and to confirm that they will pay the 3.6 GHz licence fee, (which the Commission proposes to set at £3,000 per licence – see paragraphs 4.7 to 4.11 below) plus the appropriate sealed bid amount, if a competitive stage is required to be held.¹³

¹³ As was the case for the 4G licensing process, the Commission intends to employ the sealed bid process (if it is required) on the basis that the three licences on offer will be awarded to the three operators that submit the highest monetary value in their sealed bids. However, all three successful applicants will only each be required to pay an additional amount equal to the financial offer submitted by the highest losing applicant in the Sealed Bid Stage. This method is a variant of a *Vickery auction*, which is a type of sealed bid auction that gives bidders an incentive to bid their true value. By using such a method, the Commission can ensure that the award process results in an

- **Award Stage:** this final stage in the process involves the Commission awarding licences to the successful applicants, either following the Qualification Stage or the Sealed Bid Stage. The award of a licence to provide services in the 3.6 GHz band to a new entrant (or entrants) would involve the issuing of a new Telecommunications Act licence. For existing operators it will entail a modification of the Telecommunications Act licence in the form of an attached new Part. Modification of the Telecommunications Act licences will be carried out as prescribed in section 10 of the Telecommunications Act 1984. A draft modification is attached as Annex 1 to this Consultation, and representation may be made on this proposed modification within one month from the date of publication of this consultation. At this stage, the Commission will recommend to Ofcom that it awards Wireless Telegraphy licences relating to usage of spectrum within the 3.6 GHz band. On award, successful applicants will furnish the Commission with payment in respect of the fee for the licence modification.

It should also be noted in this context that while the two existing licensees in the band will not be required to go through this award process in order to be granted re-assigned allocations in the 3.6 GHz band, they will be obliged to accept modifications to their licences as per the attached new Part. This will also mean, as is explained further in paragraphs 4.7 to 4.11, that the two existing licensees will be obliged to furnish payment to the Commission in respect of the fee for the modification of their licences, thus reflecting the economic value of the re-assigned allocations being granted to them.

Proposal 2: the 3.6 GHz licence award process will comprise four stages, i.e. an Application Stage, Qualification Stage, Sealed Bid Stage and Award Stage. If three or fewer qualified applications are received, the Sealed Bid Stage will not be required and, in this instance, the process will proceed directly to the Awards Stage.

Licence condition obliging usage of the spectrum

- 4.6 The Commission wishes to ensure that operators granted licences to provide services in the 3.6 GHz band use their licences to provide a publicly available electronic communications service. To this end, the Commission is proposing to insert a condition into the Telecommunications Act licences held by operators who are licensed to provide services in the 3.6 GHz spectrum to the effect that such a service should be made available within two years.

Proposal 3: operators licensed to provide services in the 3.6 GHz spectrum will be obliged to use this spectrum to provide a publicly available electronic communications service within a period of two years.

economically efficient outcome (in that the spectrum is awarded to those bidders who place the highest value on it) while at the same time avoiding imposing any kind of “winner’s curse” on the successful bidders relating to the financial offers they submit.

Licence fees

- 4.7 The Commission considers it appropriate, given the economic value of the 3.6 GHz spectrum, and its need to cover its own costs in relation to the award process, to levy a fee on operators who are licensed to provide services in the 3.6 GHz band. Such an approach is consistent with the Commission's position on licence fees, as set out in its 2012 Spectrum Strategy.¹⁴
- 4.8 The Commission recognises that the commercial value to operators who are licensed to provide services in the 3.6 GHz band is likely to be far less than that of the licences awarded for the provision of 4G mobile services. As a result, the Commission is minded to levy a licence fee for the 3.6 GHz spectrum at a far more modest level than that which applied for 4G, bearing in mind, however, that the Commission is incurring costs in relation to the award process, which it wishes to recoup to the maximum extent feasible.
- 4.9 The proposed licence fee will be charged both to operators who apply for and are granted licences by the Commission to provide services in the band and to the two existing operators licensed by the Commission in the band (Domicilium and Wi-Manx) on foot of the re-assignment of their current spectrum allocations in the band. In relation to the latter, the levying of this licence fee recognises the fact that both operators will be granted access to more valuable 40 MHz TDD-compatible spectrum blocks within the band.
- 4.10 As regards the level at which the licence fee should be set, the Commission proposes to charge a fee of £3,000. This fee will be payable by each licensee on the award of the spectrum (for new licensees in the band) or on the re-assignment of current spectrum allocations in the band (for existing licensees in the band).
- 4.11 Successful licensees will also be liable for WTA fees which are payable directly to Ofcom. The fees for a licence in the 3.6 GHz band are set by Ofcom in the Wireless Telegraphy (Licence Charges) Regulations 2011, currently at a rate of £5,000 per licence payable every five years.

¹⁴ *Response to Consultation on Options for Managing the Radio Frequency Spectrum*, Communications Commission, January 2012. See pages 20-22.

5. Notice of proposal to modify licences issued under s.5 of the Telecommunications Act 1984

5.1 Under the provisions of section 10(3) of the Telecommunications Act 1984, before making modifications to operators' licences, the Commission is required to give notice:

*"(a) stating that it proposes to make the modifications and setting out their effect;
(b) stating the reasons why it proposes to make the modifications; and
(c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made"*

5.2 The modification proposed to current operators' licences is set out in Annex 1, which will be attached as a new Part in Schedule 1 to current Telecommunications Act licences. The purpose of the proposed modification is to ensure that the 3.6 GHz spectrum is used to provide a publicly available electronic communications service, within two years of licence award and that operators who are granted a 3.6 GHz licence pay the relevant fee to the Commission.

5.3 The time period within which representations or objections may be made will run concurrently with this consultation, so that representations on the proposed licence modifications may be made within one month of the publication of this consultation.

6. Next steps

Your views are sought on this Consultation paper. Please respond in writing by 17:00 on 29 April 2015 to:

Mr Yoav Harel
Regulatory Manager, Communications Commission
Ground Floor, Murray House
Mount Havelock, Douglas
Isle of Man, IM1 2SF
or by email: yoav.harel@iomcc.im

- 6.1 Electronic copies of this document are also available at www.iomcc.im.
- 6.2 When submitting your views please indicate if you are responding on behalf of an organisation. To ensure that the process is open and honest and in line with the Government's Code of Practice on Consultation, responses can only be accepted if you provide your name with your response. Unless specifically requested otherwise, any responses received may be published either in part or in their entirety, within three months of the closing date for this consultation, and will be available on the Commission's website.
- 6.3 It is the Commission's view that it is important that consultations are carried out in a transparent manner, that the views of respondents are published, and that the reasoning behind the Commission's consideration of these views can be made clear. Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. Please indicate clearly if any part of your response should be considered to be commercially sensitive, and so required to be confidential. Confidential responses will be included in any statistical summary and numbers of comments received.
- 6.4 The purpose of consultation is not to be a 'referendum' but an information, views and evidence gathering exercise from which to make an informed decision. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

Annex 1: Text of proposed licence variation

Part X of Schedule 1: ADDITIONAL OBLIGATIONS IN RESPECT OF SERVICE PROVISION USING SPECTRUM IN THE 3.6 GHZ BAND

INTERPRETATION AND APPLICATION

- i. The conditions in this Part are binding upon the Communications Provider insofar as the Communications Provider:
 - runs a telecommunications system making use of a frequency allocation in the 3.6 GHz band; and/or
 - provides telecommunications services making use of a frequency allocation in the 3.6 GHz band.
- ii. The conditions in this Part apply only to the Communications Provider's:
 - running of a telecommunications system making use of a frequency allocation in the 3.6 GHz band; and/or
 - provision of telecommunications services making use of a frequency allocation in the 3.6 GHz band.

PROVISION OF A PUBLICLY AVAILABLE COMMUNICATIONS SERVICE

- iii. The Communications Provider shall ensure that at all times after the Launch Date it is making use of a frequency allocation in the 3.6 GHz band to provide a publicly available telecommunications service to consumers in the Isle of Man.
- iv. For the purposes of this Condition:
 - the Launch Date is two years following the award of a licence to provide service using the 3.6 GHz spectrum.

PAYMENT OF FEES

- v. A Communications Provider that is granted the use of a frequency allocation in the 3.6 GHz band shall pay, or cause to be paid, to the Treasury the following sum:
 - £3,000 within 14 days of the Commission's award of an appropriate Telecommunications Act 1984 licence, or in the case of an existing licensee, a modified Telecommunications Act licence incorporating this Part.
- vi. For the purposes of paragraph 1(b) of Schedule 2, amounts payable under this Condition shall be deemed to be amounts payable under Condition X of the Operator's Licence.
- vii. The Wireless Telegraphy licence fee (£5,000) shall be paid to Ofcom before the Wireless Telegraphy Act licence is granted.