



**Response to Consultation and Decision on the
allocation of spectrum in the 3.4 GHz band**

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1. Introduction

1.1 Request for spectrum in the 3.4 GHz band

This response to consultation is concerned with the request submitted by Domicilium (IOM) Limited ('Domicilium') for access to additional spectrum in the 3.4 GHz band.

Domicilium already holds an allocation of 2 x 20 MHz of FDD-compatible spectrum in the 3.4 GHz band and it has requested a further allocation of 2 x 30 MHz in the band in exchange for relinquishing the 2 x 30 MHz allocation it currently holds in the adjacent 3.6 GHz band. Domicilium currently has access to the 3630 – 3660 MHz block (in the 3.6 GHz band) paired with the 3950 – 3980 MHz block (in the 3.9 GHz band) for FDD-compatible services.

Interest has recently been expressed in the 3.9 GHz band for another service and so the Commission took the provisional view that it should recover Domicilium's 3.6 GHz allocation and, in return, the Commission would recommend to Ofcom that Domicilium is granted access to an equivalent 2 x 30 MHz allocation in the 3.4 GHz band.

The Commission published a consultation setting out its proposals further to Domicilium's request on 19 November 2015 (the November 2015 consultation).¹ The Commission received two responses to the consultation, from Domicilium and a party that asked for its identity and response to remain confidential. The Commission thanks the respondents for their comments, which have been taken into account in this consultation response.

1.2 Legal and regulatory background

Legislative background

The Commission is responsible for issuing licences for telecommunications and broadcasting services on the Island. Under the Telecommunications Act 1984 (of Tynwald) its powers include:

- specifying the nature of the telecommunications systems and services which operators are permitted to operate and provide under the licence²; and
- setting conditions on such operation and provision.³

Spectrum management is the responsibility of the UK Office of Communications (Ofcom). Ofcom licenses and regulates the use of radio spectrum in the Island, under the Wireless Telegraphy Act 2006 of Parliament, which is extended to the Isle of Man, with Tynwald's consent, by Order in Council. The Commission works

¹ Consultation on the allocation of spectrum in the 3.4 GHz band, Isle of Man Communications Commission, 19th November 2015, available at: <https://www.gov.im/lib/docs/cc/consultations/34ghzconsultation.pdf>

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

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

closely with Ofcom to ensure that Isle of Man Government policies are taken into account in licensing decisions.

UK legislation relevant to spectrum licensing in the Isle of Man

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 Wireless Telegraphy Act 2006 and the Communications Act 2003.

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;*
 - (...)

Moreover, Section 3 of the WTA ('Duties of OFCOM when carrying out functions') further specifies Ofcom's duties as follows:

- (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.*

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.

2. Requests for spectrum in the 3.4 GHz band

2.1 Summary of the November 2015 consultation proposals

In the November 2015 consultation the Commission considered the request made by Domicilium for additional spectrum in the 3.4 GHz band in the context of the legislative requirements placed on it in relation to the assignment of spectrum usage rights and its own policy in this area, as well as recent experience in relation to the award of spectrum, including in the 3.6 GHz band.

Domicilium's request to the Commission was for a spectrum assignment in the 3.4 GHz band, to augment the 2 x 20 MHz spectrum holding it already has in this band, which is used for the provision of fixed wireless access (FWA) communications services. The request is equivalent to its current assignment in the 3.6 GHz band, i.e. 2 x 30 MHz of FDD-compatible spectrum, which Domicilium indicated it was willing to relinquish.

In the consultation, the Commission reached the provisional conclusion that Domicilium's request for access to additional spectrum in the 3.4 GHz band was justified. As a result, the Commission took the provisional view that it should recommend to Ofcom that the Wireless Telegraphy licence held by Domicilium in relation to its spectrum assignment in the 3.4 GHz band should be varied so that it is granted access to a further assignment of 2 x 30 MHz block in the band it had requested and that the Wireless Telegraphy licence held by Domicilium in relation to its spectrum assignment in the 3.4 GHz band should be revoked.

The Commission was of the view that this approach would be consistent with its spectrum policy and that it would be in the best interests of end-users and of the broader Isle of Man economy.

2.2 Summary of responses

Domicilium stated that it agreed with the Commission's proposal to grant it access to the additional 2 x 30 MHz spectrum allocation in the 3.4 GHz band and confirmed that it was, as a result, willing to relinquish its equivalent spectrum holding in the 3.6 GHz band.

The other respondent also stated that it supported the Commission's proposal to grant Domicilium access to additional spectrum in the 3.4 GHz band, in return for the operator agreeing to vacate its spectrum holding in the 3.6 GHz band.

2.3 Commission's analysis

The Commission notes that no objections were raised by either of the consultation respondents to its proposal to grant Domicilium access to an additional assignment of 2 x 30 MHz in the 3.4 GHz band, in exchange for relinquishing its assignment in

the 3.6 GHz band. The Commission therefore confirms that it intends to proceed with its proposals in this regard.

2.4 Commission's decisions

DECISION 1: Domicilium should be granted access to an additional 2 x 30 MHz block in the 3.4 GHz band. The Commission will recommend to Ofcom that Domicilium's Wireless Telegraphy licence granting it access to spectrum in the 3.4 GHz band be varied so that it is granted access to the 3450 – 3480 MHz block, paired with the 3550 – 3580 MHz block, resulting in a contiguous assignment of 2 x 50 MHz spectrum assignment within the band (i.e. 3450 – 3500 MHz paired with 3550 – 3600 MHz).

DECISION 2: The Commission will recommend to Ofcom that Domicilium's Wireless Telegraphy licence granting it access to spectrum in the 3.6 GHz band be revoked.