

# The Assignment of radio spectrum in the VHF band for T-DAB Networks

Call for Expression of Interest

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## **1. Preamble**

In February 2022, the Malta Communications Authority ('MCA') published a Decision outlining the methodology for the assignment of spectrum in the VHF band to be used for the provision of Terrestrial Digital Audio Broadcasting (T-DAB) services in Malta. In addition, the Decision also outlined the conditions for the rights of use of spectrum in this band.

The aforesaid Decision requires the MCA to publish a Call for Expression of Interest following the receipt of a formal expression of interest for any or all of the spectrum lots available in the respective band.

An authorised electronic communication service ('ECS') provider lodged a formal request with the MCA for the assignment of spectrum in the VHF band to be used for the provision of a T-DAB network.

The MCA is hereby publishing a Call for Expression of Interest to determine the demand for the spectrum channels listed in the Decision.

## 2. Definitions

Wherever the following terms appear in this document, they shall be attributed the corresponding definitions in accordance with what is stated below:

Definition	
<b>Applicant</b>	The legal or natural person submitting an Expression of Interest as per Section 6 of this document.  In the cases of joint ventures, the term applies to the individual entities forming part of the joint venture.
<b>Authority or the MCA</b>	Malta Communications Authority.
<b>Call</b>	The Call for Expression of Interest.
<b>Government</b>	The Government of Malta.
<b>Licensee</b>	A successful applicant which is awarded a licence relating to the right of use for the relevant spectrum band at the Grant Stage of the Award process as described in the MCA Decision MCA/D/21 -4460.
<b>Decision</b>	The Decision titled “The Assignment Process of Radio Spectrum in VHF band for Terrestrial

	Digital Audio Broadcasting (T-DAB) Services in Malta” (MCA/D/21-4460)
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### 3. Introduction

The MCA, as the competent authority responsible for the effective management of the radio frequency spectrum, invites undertakings who wish to obtain access to the rights of use for spectrum in the VHF band to set up a T-DAB network to express their interest in this Call in line with the provisions outlined in this document.

Although every care has been taken in preparing this document, no representation, warranty or undertaking, however so described, expressed or implied, in respect of any error or misstatement is or will be made or given. No responsibility or liability will be accepted by the MCA or by any of its officers, employees, servants, agents or advisers, however so described, as to the accuracy or completeness of this document or any other written or oral information made available to any interested party or its advisers concerning this document, and any liability howsoever arising (including in respect of this assignment process) is expressly disclaimed. No information contained in this document shall form the basis for any warranty or representation, however so described, by the MCA. In case any part of the text represented in this document contradicts the text in the Decision, the text in the aforesaid Decision shall prevail.

This Call is governed solely by Maltese law and is subject to the exclusive jurisdiction of the competent Maltese courts and, or tribunals however so described.

The expressions of interest are indicative only; they are non-binding and do not confer any rights to the Applicants that respond.

Any frequency assignment process pursuant to this Call will be limited to the Applicants that indicate interest in any of the spectrum lots available in the VHF Band as established in the Decision.

All applications received shall be assessed administratively, and any applications which are either incomplete<sup>1</sup>; improperly filled; or express demand for spectrum which is not based on

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<sup>1</sup> Areas of the application form which are deemed not applicable by the applicant shall be marked as such.

the lot structure so established in the Decision, or express demand for spectrum not listed in the Decision, **shall be automatically deemed inadmissible** and hence refused.

The MCA will sum up all the channels requested from the different responses to this Call and assess the demand based on the total number of channels requested. Should the total number of channels requested exceed six channels, then the MCA will invite all the applicants to participate in a binding Call for Applications followed by a Qualification Phase. The Call for Applications shall also include a request for the necessary documentation to be used during the subsequent Qualification Phase. Failure of the Applicant to produce the requested documentation shall also be considered as a failure of the Qualification Phase. These Applicants shall be the only participants to this Call for Applications which will lead to the grant of the rights of use for the respective lots accordingly.

Should the demand for spectrum be equal or less than the available spectrum, then the MCA will issue a Request for Information and specify the requirements that the Applicants must satisfy in order to qualify for the award of a Licence for the rights of use of the radio frequency spectrum. Failure by the Applicant to produce the required documentation shall also be considered as a failure of this stage. The rights of use of spectrum shall only be awarded to the Applicant on passing the Qualification Phase. Failure by the Applicant to pass the stage of the Qualification Phase, will result in the discarding of the relevant expression of interest and the disqualification of the Applicant from being awarded a Licence for the spectrum in question.

The terms and conditions of the Licence will be communicated when the Applicants are invited to submit information to enable the Qualification Phase process.

As stated above, this request for expressions of interest initiates the formal application process, and the publication of this Call does not bind the Government and/or the MCA to assign or to proceed to a further stage in the process for the assignment of this radio frequency spectrum channels.

An Expression of Interest must be submitted to the MCA by completing the form contained in Annex 1. This has to be submitted in accordance with the instructions given in Section 6 of this document.

## 4. General Conditions associated with the Spectrum and the Award Process

### The Spectrum

The spectrum subject to this Expression of Interest is organised into six lots of one channel each as described in the Decision. Any spectrum lot shall be granted for the period of eight years starting from 1<sup>st</sup> July 2022.

Section 1 of the Decision provides the details about the spectrum Lots as applicable in this band.

Section 3 of the Decision establishes the technical conditions for the rights of use of spectrum, including the purpose of the network that the spectrum can be applied for, the applicable coverage obligations and necessary measures to avoid cross-border interference and obligations related to Electromagnetic Field (EMF) emissions.

Section 6 of the Decision provides the details on the licence duration and the associated mechanism related to the renewal of the Licence.

Section 7 of the Decision provides the details concerning pricing for spectrum channels in this band.

### Licence information

In addition to the licence terms and conditions specific to this spectrum band, further conditions of a more generic status are also applicable as set forth in the Licence. These conditions arise from the Electronic Communications (Regulation) Act (Cap. 399 of the Laws of Malta)<sup>2</sup>; relevant national and EU legislation; and applicable decisions of the MCA, which will apply to the undertaking/s who will be granted a Licence for the rights of use of radio frequency spectrum.

The Licence granted for the rights of use of radio frequency spectrum does not in itself authorise the undertaking/s to provide services. The undertaking/s which will be awarded the

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<sup>2</sup> <https://legislation.mt/eli/cap/399/eng/pdf>



rights of use of the aforementioned radio frequency spectrum shall be required to operate such networks and provide services under a General Authorisation in line with the Electronic Communications Networks and Services (General) Regulations (SL. 399.48 of the Laws of Malta)<sup>3</sup>.

The radiocommunications apparatus, which form part of an electronic communications network, is regulated by the General Authorisation (Radiocommunications Apparatus) Regulations (S.L.399.40 of the Laws of Malta)<sup>4</sup>. Licensees shall be required to comply with the various provisions of these Regulations with regard to their radiocommunications apparatus.

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<sup>3</sup> <https://legislation.mt/eli/sl/399.48/eng/pdf>

<sup>4</sup> <https://legislation.mt/eli/sl/399.40/eng/pdf>.

## 5. Assignment Process

The Assignment Process, as outlined in Figure 1 below, is established in section 3 of the Decision.

### High-Level Process Overview

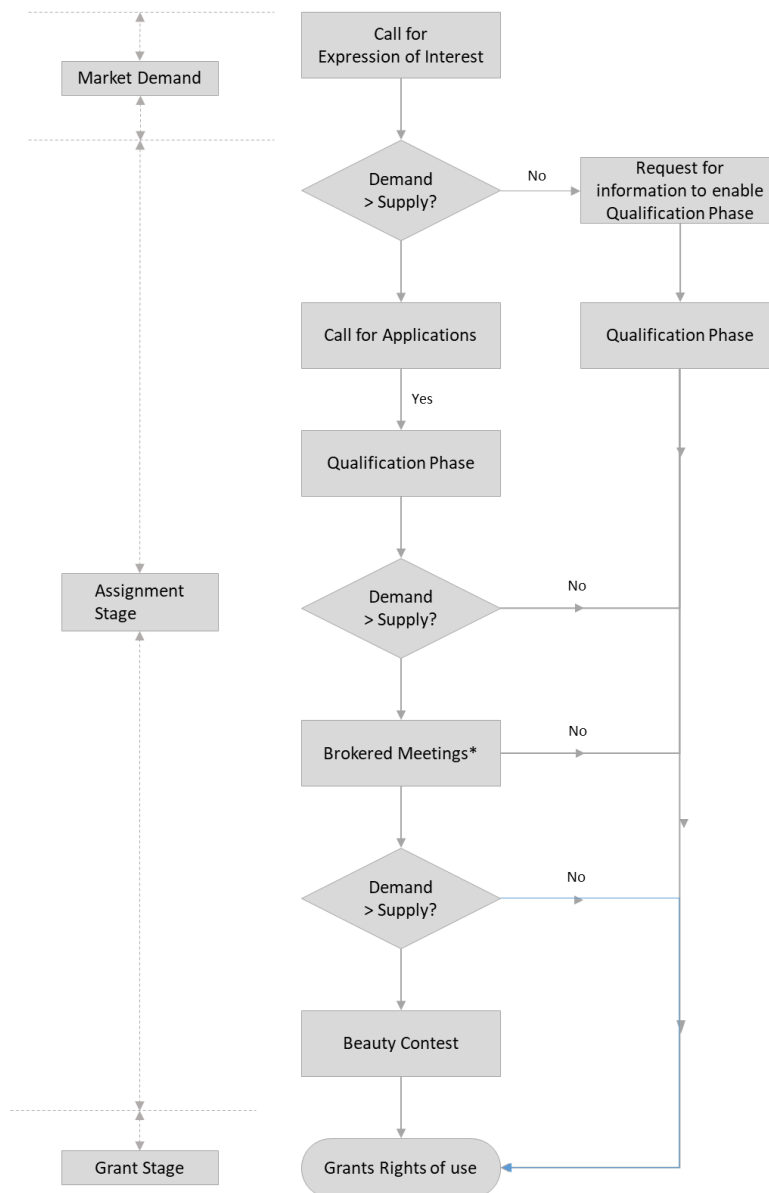


Figure 1 Spectrum assignment process

Through this **Call for Expression of Interest**, parties may express interest in acquiring spectrum in the VHF band. Having established the demand for the spectrum, the MCA will proceed with either a **Request for Information** or with the publication for a **Call of Applications** which in both circumstances lead to a **Qualification Phase**.

As part of the Request for Information or the Call for Applications as the case may be, the administrative fees, first-year fees and bank guarantees shall be collected as follows:

- a) A non-refundable **administration fee** to cover the costs incurred by the MCA in carrying out the spectrum assignment process.
- b) The **first-year fees** of all spectrum lots requested by the Applicant will also be collected. These fees shall be refunded to all unsuccessful applicants at the conclusion of the assignment process. For all successful applicants, these fees will cover the first year fees of the respective spectrum licences.
- c) Applicants will be required to issue a **bank guarantee** for the whole duration of the assignment process in favour of the MCA and for an amount equivalent to the first year fees of the spectrum lots requested. At the end of the assignment process, the bank guarantee of all successful applicants will be converted into a performance guarantee valid for a three (3) year period starting from 1<sup>st</sup> July 2022.

All the information received during the **Qualification Phase** shall assist the MCA in its assessment on whether the Applicants have the necessary standing to fulfil the Licence obligations should they be successful in acquiring the radio frequency spectrum rights. The outcome of this process is a binary Pass or Fail that shall not rank the Applicants.

Depending on the actual demand for spectrum, the process may continue through a direct assignment process or through a competitive process consisting of a Beauty Contest phase where applicants will be invited to submit their pledges on how they intend to improve their offer over and above the minimum level of services established in the Decision. At its

discretion, the MCA may hold a set of Brokered Meetings seeking to reach a single agreement that meets the demands and expectations of all applicants.

The process is concluded at the **Grant of Rights of Use** stage whereby the successful Applicants are announced, and the MCA shall proceed to issue the respective Licenses.

## 6. Submission of Expressions of Interest

### Submitting an Expression of Interest

The Expression of Interest Application forms (to be found in Annex 1) shall be completed in full and must be received by the MCA by no later than 12:00 hrs of the 10<sup>th</sup> March 2022

The Applicant is to submit a copy of the said Application in both hard (paper) copy and soft copy<sup>5</sup>. Should there be any discrepancy between the soft copies and hard copies, then the version as listed in the hard copies shall be deemed as binding.

All Expressions of Interest received will remain sealed until the closing date. Where the Applicant is not registered as an authorised ECS undertaking with the MCA and is a company, then a certified copy of the Memorandum and Articles of Association of the applicant company must be included with the application form. Submissions received after the closing date will not be considered and will be returned to the Applicant.

Any pages on which entries or corrections to an Expression of Interest have been made, must be initialled by the person or persons signing the application form.

The Application Form may be completed electronically to facilitate processing and sent to [spectrum.mca@mca.org.mt](mailto:spectrum.mca@mca.org.mt) for the attention of the Chief Executive Officer of the MCA. However, as specified in this section, in all cases an original hard copy of the duly filled Application Form together with an original copy of the Memorandum and Articles of Association of the applicant company (where applicable), must be submitted to the MCA in an appropriately sealed envelope/package clearly marked “**Expression of Interest – Spectrum for Terrestrial Digital Audio Broadcasting in the VHF band**” which is to be addressed to:

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<sup>5</sup> Depending on the size of the submission, a soft copy of the application may be provided using a pen-drive or similar memory formats that can be readable using the USB interface. Encrypted documents may be used given that the any additional software required to open the document shall be made available to the MCA. Encryption keys are to be provided separately using email.

**The Chief Executive Officer  
Malta Communications Authority  
Valletta Waterfront  
Pinto Wharf  
Floriana FRN 1913  
Malta**

The hard copy of the Expressions of Interest must be submitted at the MCA either by recorded delivery (postal/courier service) or hand-delivered, and the name and address of the Applicant must be clearly visible on the outside of the envelope/package.

All costs incurred in connection with the preparation, production and submission of the Expressions of Interest will be borne exclusively by the Applicant. Regardless of the outcome of the process, Applicants may under no circumstance claim reimbursement from the MCA of any costs related to their submission.

### **Opening of Expressions of Interest**

Expressions of Interest will be opened at the premises of the MCA upon the expiration of the Closing Date. The names of the Applicants will be subsequently published on the MCA's website ([www.mca.org.mt](http://www.mca.org.mt)).

## Confidentiality

Any information in relation to this Call whether submitted in hard copy or in soft copy will only be made public by the MCA subject to the MCA's Internal Guidelines on Confidentiality<sup>6</sup> published on 16th December 2004.

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<sup>6</sup> <https://www.mca.org.mt/sites/default/files/guidelines/confidentialityguidelinesfinal-0.pdf>

## **Annex 1 – Expression of Interest Form**

The Expression of Interest Form consists of two parts – Part I and Part II:

- Part I should be completed in clearly legible type or block letters by the Applicant.
- Part II is a declaration, which must be signed:
  - in the case of an individual, by the person in whose name the application is made;  
and
  - in the case of a legal person, by the person or persons duly and legally authorised to act for, and on behalf of, the said legal person. In this case, the supporting documentation empowering such person(s) to represent the Applicant in this context must be presented with the declaration.



## Part I: Information Required from the Applicant

### 1. Applicant Contact Details

1.1	Applicant's Name	
1.2	Business postal address of Applicant	
1.3	Company Registration Number	
1.4	Telephone Number	
1.5	Fax Number	
1.6	Website address	
1.7	Postal address of registered office <sup>7</sup>	
1.8	VAT number	

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<sup>7</sup> In the case of registered companies whose business address differs from that of the address of their registered office.

## 2. Principal Contact Details

2.1	Name of primary contact person	
2.2	Designation	
2.3	Postal address	
2.4	Telephone Number	
2.5	Mobile Number	
2.6	E-mail Address	

## 3. Provide the Company's Profile

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**4. Details on Request for Spectrum lots in the VHF Band**

Indicate the total number of lots requested

**5. Description of Network and Service:**

5.1 Description of networks to be operated<sup>8</sup>

Include, the proposed structure of the network, including the number of transmitters, their location and other relevant technical parameters.

5.2 Description of the T-DAB service to be provided.

In your response, describe the service in terms of the number of audio broadcasting channels intended to be offered, the average bit rate offered, and any additional ancillary services if planned.


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<sup>8</sup> Any additional details should be provided in separate attachments.



**6. Consumer Interest**

Part of the spectrum on offer is currently used by an existing T-DAB service. Do you have plans to offer continuity of service in the eventuality that the existing T-DAB network will cease to offer service as a result of this spectrum assignment process? If yes, how would you achieve that?



**7. Geographical Scope**

The geographical scope and the coverage obligations are set to nationwide. In this field insert the estimates on the percentage geographical coverage expected at the end of the first three years following the award of the rights of use of spectrum license.

**8. Estimated Date of Commencement of the Relevant Activity**

Please indicate the estimated date of commencement of activities.

Month

Year

**Part II: Declaration**

I / We hereby declare that:

- The information provided is accurate and complete in all respects.
- Misrepresentation or failure to submit any information as requested by the MCA shall be deemed by me/us as a good and sufficient cause for the MCA to disregard the application.
- Any legal dispute between the MCA and an Applicant shall be governed solely by Maltese law and shall be subject to the exclusive jurisdiction of the competent Maltese courts and, or tribunals however so described.

<b>Full name(s) of Signatory/Signatories:</b>	<b>Designation</b>	<b>Signature</b>

Date: \_\_\_\_\_