

Response to Consultation:

Review of the Radio Links Licensing Regime

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1. Introduction

The need to revise the existing fees was felt for a number of years.

On the 4 September 2009 a consultation paper was published on the review of Radio Links Licensing Regime with a view to establishing a new fee structure that incentives efficient use of spectrum. This paper gave a detailed overview of international practice as well as an analysis of the current local situation. The main thrust of the consultation was to outline the proposals underpinning the new fee structure.

By the end of the consultation period on the 19 October 2009, two responses were received namely from:

- GO plc
- Vodafone Malta Ltd

This paper outlines the responses received.

2. Analysis of Responses and MCA's Position

This section treats the specific questions put forward in the consultation.

2.1 Licensing Method

The consultation paper proposed that individual licences, as opposed to a General Authorisation, would be applied to each link. This approach would enable the MCA to assign rights of use of spectrum for each link from a given transmission site.

One respondent was in agreement, whilst the other did not provide its position.

2.2 Proposed Assignment Methodology

The paper also proposed that the existing assignment methodology is retained. To date, prior to accepting an application, the Malta Communications Authority (MCA) carries out a validation process, to ensure that the spectrum bands being requested are the most appropriate for the service being established. During this process the MCA initiates discussions with the applicant as may be necessary to ensure that the frequency selected is appropriate¹ for the service required with a view to making an efficient use of the available spectrum. Once this validation process is concluded, the applicant is requested to submit its final application. A public notification of the request is then carried out and if no demand for the spectrum is registered the assignment is carried out.

Both respondents had agreed with this position.

2.3 Spectrum Charges

The consultation paper proposed that a new fee structure of €45 per MHz would be applied for spectrum above 1GHz. It was also proposed that, at least for the time being, the fee structure for spectrum below 1GHz would remain unchanged.

¹ For example the fixed service can be operated in a number of different frequency bands that have different characteristics. An optimum use of spectrum is therefore obtained when the most appropriate band is selected for the service required.

One of the respondents agreed with the basic rate as proposed. However, it considered that the fee should be differentiated across the bands to reflect the diverse propagation characteristics of the different bands used to deploy radio links.

The other respondent, agreed with the fee structure as proposed. However, it felt that the fee should be applied on a pro-rata basis dependant on the amount of spectrum being used by the operator.

Having the same fee structure across all bands above 1GHz gives the necessary flexibility during the validation of the application. In fact, as outlined earlier on, the MCA will retain the right to assign spectrum in a different band from that requested by the applicant in an effort to maintain spectrum efficiency. However, having different fees applicable to the different bands would introduce complexities in this process. Moreover the fact that to date demand has not exceeded supply on any particular band further substantiates this position.

Further to the issue raised by the second respondent, it can be clarified that the payments will be on a pro-rata basis as long as the channels widths considered are in line with the channelling arrangements established in the National Frequency Plan for these bands.

2.3.1 Re-use factor

As an incentive to encourage operators to invest in the re-utilisation of assigned frequencies, it was proposed that:

- a. For channels reused by the operators themselves, the applicable fees would be reduced by 50%
- b. Operators would also be given the opportunity to apply for a national coverage fee for a given channel. The proposed fee of €247.50 per MHz² would allow users to establish any number of links in a given channel.
- c. Operators would be free to choose whether to apply for a national coverage fee or on a link-by-link basis

One of the respondents stated that it was in agreement with the above proposal. However, the other respondent was of the view that the reduction for reused channels should be higher than 50% and that the cut-off for the national coverage fee should be lower than 10 reuses.

² This is the fee due for 10 re-uses

Both respondents have requested some clarifications on how this new licence type will be implemented in practice.

The reduction by 50% for reused channels is considered an adequate incentive when one takes into consideration the possibility of assigning the same frequency to a different operator at full price. This approach is also in line with international practice. In establishing the cut-off for the national coverage fee, the objective to incentivise efficient use was kept in view and due account was taken of the actual usage patterns registered so far.

2.3.2 Unidirectional and Bidirectional Links

In the consultation paper it was proposed that the current practice of charging twice the fee for bidirectional links is retained.

No negative comments were received.

2.4 Fee structure for Services Ancillary to Broadcasting

The current fee structure makes a distinction between the fees charged for services ancillary to broadcasting and radio relay links used by operators other than broadcasters. In the consultation paper it was proposed that the new fee structure for spectrum above 1GHz would apply for both types of services reflecting a service and technology neutral approach.

One of the respondents was in favour with this approach, whilst the other respondent requested that this statement is qualified to eliminate any possibility of ambiguity.

The terminology currently in use in the Fees Ordinance is in line with the ITU Radio Regulations and to date no issues of misinterpretation were registered.

2.5 Implementation

Since the new fee structures will introduce a substantial increase in fees for services ancillary to broadcasting, it was proposed that a 2-year transition period is adopted.

The respondents requested whether the new fee structure could be applied straightaway and where this would not be possible, whether an option to apply for the new fees in advance of January 2012 could be introduced.

Considering that the new fee structure presents significant differences from the current one, a staged introduction is considered reasonable.

2.6 Licence Terms and Conditions

The consultation paper published last year proposed that the existing system of renewable one year licences is retained.

One of the respondents agreed with this proposal. However, the other one expressed the view that this ought to be extended given the equipment³ costs involved:

A one-year licence affords a certain level of flexibility in terms of administration and the concerns raised can be adequately addressed via the licence terms.

³ *'equipment for radio links is band-specific and hence if licence is not renewed on the expiration of one year, then the equipment would become redundant'*