

Addendum to second consultation on assessment of future mobile competition and proposals for the award of 800 MHz and 2.6 GHz spectrum and related issues of 12 January 2012

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1. We have been asked to clarify how our proposals in our “*Second consultation on assessment of future mobile competition and proposals for the award of 800 MHz and 2.6 GHz spectrum and related issues*” of 12 January 2012, in particular for our preferred option, Option 4, would change if before the auction Everything Everywhere (EE) sold the rights to use the 2x15MHz of 1800MHz spectrum that it is required to divest as part of its merger commitments, to a party other than Vodafone or Telefónica¹. Specifically some stakeholders have asked us to clarify in this circumstance what spectrum portfolios would be reserved, and for which opted-in bidders.
2. It seems to us that the key issue in this situation is whether it would be sufficient to meet our objective of there being at least four credible national wholesalers, that parties other than EE, Telefónica and Vodafone collectively held (at least) the spectrum in one of the spectrum portfolios we have identified, even if they do not do so individually (Case 1); or whether it is necessary to meet our objective that there is at least one party who on its own holds (at least) one of the identified spectrum portfolios (Case 2).
3. In Case 1, given that a party other than EE, Telefónica and Vodafone would already be holding the future rights to use the 2x15MHz of 1800MHz spectrum to be divested by EE, the spectrum portfolios in the auction would be the same for all opted-in bidders, and would consist of the spectrum in excess of 2x15MHz of 1800MHz that we considered necessary to reserve to meet our objective.
4. For example, in the case of the Group 2 portfolios set out at Figure 4.11 in the January 2012 consultation, the following portfolios would be on offer to all opted-in bidders in the auction²:

Case 1: Group 2 portfolios for all opted-in bidders

Portfolio	800 MHz	1800 MHz	2.6 GHz
Portfolio 5a	2 x 10 MHz		
Portfolio 6a			2 x 10 MHz

5. In Case 2, the spectrum necessary to meet our objective would vary between bidders: in the case of the party that had acquired the 2x15MHz of 1800MHz spectrum the portfolios would be as in Case 1; in the case of other parties, the portfolios would be those that we judged necessary for them independently to acquire sufficient spectrum to meet our objective, and, of course, could not include the 1800MHz spectrum already sold by EE.
6. For example, in the case of the Group 2 portfolios set out at Figure 4.11 in the January 2012 consultation, the following portfolios would be on offer to the bidder that had

¹ Pursuant to the commitments made by Everything Everywhere’s parent companies in Case No COMP/M.5650, *T-Mobile/Orange*.

² This list does not include Portfolio 3, consisting of just 2x15MHz of 800MHz spectrum, since that portfolio is ‘dominated’ by Portfolio 5a, consisting of 2x10MHz of 800MHz spectrum, and likewise does not include Portfolio 4, consisting of 2x10MHz of 800MHz plus 2x10MHz of 2.6GHz, since that portfolio is ‘dominated’ by both of Portfolios 5a and 6a.

already acquired the 2x15MHz of 1800MHz spectrum (assuming that they entered the auction and opted-in):

Case 2: Group 2 portfolios for the party that had already acquired the 1800MHz divestment spectrum (if they entered the auction and opted in)

Portfolio	800 MHz	1800 MHz	2.6 GHz
Portfolio 5a	2 x 10 MHz		
Portfolio 6a			2 x 10 MHz

7. The portfolios that would be on offer to other opted-in bidders in this case would be as follows:

Case 2: Group 2 portfolios for other opted-in bidders

Portfolio	800 MHz	1800 MHz	2.6 GHz
Portfolio 3	2 x 15 MHz		
Portfolio 4	2 x 10 MHz		2 x 10 MHz

8. We invite stakeholders to comment on these two alternative options, and the appropriate choice between them, in their responses to our January 2012 consultation.