



Notice of Ofcom's proposal to
make regulations in connection
with the award of 800 MHz and
2.6 GHz

Consultation

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Closing Date for Responses: 11 September 2012

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Section 1

Notice

Notice of proposals

- 1.1 This notice is given in accordance with section 122(4) and (5) of the Wireless Telegraphy Act 2006 ("the 2006 Act") and covers a proposal to make a statutory instrument.
- 1.2 The reasoning for Ofcom's decision to award wireless telegraphy licences is set out in a statement entitled "800 MHz and 2.6 GHz spectrum and related issues", which is published simultaneously to this Notice.
- 1.3 An Information Memorandum providing information for potential bidders for the licences is also published in parallel to this Notice¹.

Proposed licence award regulations

- 1.4 Ofcom has the statutory power under sections 14 and 122(7) of the 2006 Act to make regulations to award licences by means of an auction.
- 1.5 Ofcom proposes to make regulations to allow for an auction of rights of use of radio frequencies (in wireless telegraphy licences) to be held.
- 1.6 A draft of the proposed regulations is set out at Annex 5 and their general effect is set out at Section 2 of this document.

Comments or representations

- 1.7 Comments or representations with respect to the proposed regulations are invited by **11 September 2012**. Comments should be sent to:

Robert Emson
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

E-mail: Robert.emson@ofcom.org.uk

- 1.8 Tel: 020 7783 4375
- 1.9 Following completion of this consultation process, Ofcom intends to make the final regulations as soon as practicable.
- 1.10 Hard copies of this notice and the proposed regulations can be obtained from:

Robert Emson

¹ This document is available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/award-800mhz/statement/IM.pdf>

Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

E-mail: Robert.emson@ofcom.org.uk
Tel: 020 7783 4375

- 1.11 Electronic copies are also available and this notice has been placed on Ofcom's website <http://www.ofcom.org.uk>.

Section 2

General effect of the proposed Wireless Telegraphy (Licence Award) Regulations 2012

The legislative framework

- 2.1 Under section 14(1), (2), (3), (4), (6) and (7) of the Wireless Telegraphy Act 2006 (the "2006 Act") Ofcom may make regulations to allow wireless telegraphy licences to be awarded by means of an auction. (When doing so, section 122(7) of the 2006 Act enables Ofcom to make different provision for different cases and to make incidental provision.)
- 2.2 On 20 December 2010, the Secretary of the State made directions pursuant to section 5 of the 2006 Act, requiring Ofcom to exercise these powers to make regulations to provide for an auction of licences to take place for the use of frequencies in the 800 MHz and 2.6 GHz bands and any other frequency bands which Ofcom thinks fit.
- 2.3 (The directions are contained in The Wireless Telegraphy Act 2006 (Directions to Ofcom) Order 2010 (S.I. 2010/3024).
- 2.4 This is to be done as soon as reasonably practicable after concluding a competition assessment which is required by Article 8 of the directions.
- 2.5 Ofcom has now concluded its competition assessment and this is published today and available at www.ofcom.org.uk.
- 2.6 Ofcom now therefore is giving notice of its proposal to make auction regulations.
- 2.7 A draft of the regulations is set out at Annex 5.

The proposed regulations

- 2.8 The proposed regulations set out the procedure and rules that will apply for the award of wireless telegraphy licences to operate within specified frequencies.
- 2.9 The proposed process involves several stages. These are:
 - 2.9.1 the pre-application stage, in which Ofcom determines whether the 1800 MHz lot is available to be included in the award process;
 - 2.9.2 the application stage, in which applicants can apply to Ofcom to take part in the award process;
 - 2.9.3 the qualification stage, in which Ofcom decides which applicants are qualified to participate in the award process;

- 2.9.4 the principal stage, in which bidding takes place and in which it is determined which bidders have won rights to frequencies and for how many "lots";
 - 2.9.5 the assignment stage, in which specific frequencies are assigned to winning bidders which correspond to the quantity of lots which they won in the principal stage. (Depending on demand for particular lots, this may involve a further round of bidding, where the participants will bid for "assignment stage options" in order to determine which particular frequencies should be assigned to which successful bidder); and
 - 2.9.6 the grant stage, where the licence fee payable by a winning bidder is determined by Ofcom in accordance with the regulations and in which that fee is paid and licences granted.
- 2.10 The proposed regulations also contain a section setting out the activity rules that will apply to applicants and bidders in the award process.
- 2.11 The proposed regulations have been drafted in a way that reflects the chronology of the award process in these different stages.

Extent of application of the regulations

- 2.12 The proposed regulations will apply in the United Kingdom but will not extend to the Channel Islands or to the Isle of Man. The licences to be awarded also will not extend in scope to the Channel Islands or to the Isle of Man.

Entry into force of the regulations

- 2.13 The proposed regulations will come into force on a particular day which will be specified in the regulations before they are made. This date has yet to be determined and will depend on a number of factors, including responses to this Notice.

The radio frequencies which are available for award

- 2.14 The frequencies which are available in the award process are set out in Schedule 1 to the proposed regulations. This Schedule is entitled "Frequency Lots".
- 2.15 Bids made during the award process will be for a wireless telegraphy licence (granted under section 8 of the 2006 Act) which authorises the use of radio frequencies corresponding to lots selected by the bidder.
- 2.16 The different types of lots which are available in the award process are—
- 2.16.1 800 MHz paired frequency lot;
 - 2.16.2 2.6 GHz paired frequency lot;
 - 2.16.3 2.6 GHz individual frequency lot;
 - 2.16.4 800 MHz coverage obligation lot;
 - 2.16.5 1800 MHz lot (if available);
 - 2.16.6 2.6 GHz concurrent low power 10 MHz lot; and

- 2.16.7 2.6 GHz concurrent low power 20 MHz lot.
- 2.17 As described in Schedule 1 of the regulations, the 2.6 GHz frequencies are divided into paired frequency lots (the lower of the paired frequencies span the frequency range 2500 MHz to 2570 MHz and the higher of the paired frequencies span the range 2620 to 2690 MHz) and individual frequency lots (which span the frequency range 2570 MHz to 2620 MHz).
- 2.18 These frequencies, which are available as paired lots, are also available on a concurrent basis for low-power use in the award. This means that they can be licensed for use by more than one licensee at the same time (up to a maximum of ten licensees). Bidders may bid for them on this concurrent basis in either 10 MHz lots or 20 MHz lots.
- 2.19 To facilitate this there are therefore two types of lots called (a) 2.6 GHz concurrent low power 10 MHz lot and (b) 2.6 GHz concurrent low power 20 MHz lot.
- 2.20 It should be noted that the winner of the 800 MHz coverage obligation lot, will have an obligation included in its licence to provide network coverage.
- 2.21 It should also be noted that it is not yet possible to say whether or not the 1800 MHz lot will be available in the auction. This is because it is currently licensed for use by Everything Everywhere Limited and, following the merger between T-Mobile and Orange, must be sold to a third party or handed back to Ofcom for inclusion in this award process. These proposed regulations provide that Ofcom will make a determination as to whether this lot is or is not available.
- 2.22 The bids during the principal stage are not for precise radio frequencies but for lots within frequency bands. The actual frequencies are assigned to winning bidders under the assignment stage at the end of the process.

Application Stage

- 2.23 The Application Stage is described in detail at Part 3 of the proposed regulations.
- 2.24 The application requirements include the submission of:
- 2.24.1 an application form which is set out in a schedule to the regulations, and which includes warranties on the part of the applicant. It must be signed by two authorised persons;
 - 2.24.2 a document for each person which is not an associate of the applicant group, which the applicant wishes to join its applicant group, signed by that person and two authorised persons on behalf of the applicant;
 - 2.24.3 an indication of whether it wishes to participate in the opt-in round;
 - 2.24.4 a document setting out existing spectrum holdings; and
 - 2.24.5 an initial deposit of £100,000.
- 2.25 The document mentioned at paragraph 2.24.2 is intended to cover advisers and other persons to which the applicant will reveal confidential information in connection with the award process. Revealing confidential information would breach the activity

rules, if it were to a person who was not included within a bidder group, and could lead to exclusion from the award process.

- 2.26 The concepts of “applicant group” and “bidder group” are introduced in these proposed regulations (in addition to the more detailed drafting) to ensure that the persons within company groups, and their advisers, keep information confidential. Bidder groups should not have overlapping members, and there is to be a separation of bidders during the award process, to ensure the integrity of the award process.
- 2.27 Applicant groups include associates, and “associate” is defined as a person with a material interest in the applicant. Material interest is also defined and that definition refers to particular sections in the Companies Act 2006. Members of an applicant’s group also include persons in relation to which the applicant has submitted the document mentioned at paragraph 2.24.2.
- 2.28 The opt-in round is considered further below. It is the first round in the award process. Persons wishing to bid must satisfy four requirements in order to do so, which are set out in regulation 18. Bidders who wish to bid must submit bids for all of the selections of lots which are predetermined and mandatory. These are set out in the regulations in regulation 19 and in Schedule 2.
- 2.29 In exceptional circumstances, Ofcom may be required to change the day, time or place for delivery of application forms or the payment of the initial deposit. Ofcom will take reasonable steps to inform interested parties of a change.

Qualification Stage

- 2.30 The qualification stage is described in detail at Part 4 of the proposed regulations.
- 2.31 Following the date for receipt of applications, Ofcom will notify each applicant of the names and associates of each other applicant.
- 2.32 This notification will also set a deadline by when applicants must notify Ofcom whether or not any members of their applicant group are also associates of another applicant. In such cases, applicants must also notify the other applicant(s) concerned.
- 2.33 In parallel with this exercise, Ofcom will also consider whether any members of one applicant group are also members of another applicant group.
- 2.34 Where Ofcom has determined that a common membership exists, Ofcom will notify the applicants concerned and specify a deadline by when all the common memberships must be resolved (for example, the time by when a common associate must have disposed of or otherwise removed its “material interest” in one or both of the applicants concerned, or by when one of the applicants concerned must have withdrawn from the award process).
- 2.35 Ofcom will then record the details of the applicant group members. Where there has been a change in the composition of an applicant group, the applicant must provide new versions of the documents already submitted, following that change. The applicant groups so recorded constitute a “bidder group” for the subsequent stages of the award process.
- 2.36 Ofcom then considers whether each applicant is qualified to participate in the award process.

- 2.37 Each applicant which is considered fit to hold a licence (in accordance with the provisions of regulation 10) and who does not have an overlap in its applicant group with another applicant, is qualified to participate in the award process.
- During the qualification stage, Ofcom may request an applicant to provide additional information or documentation by a specified deadline. In making its determination of whether an applicant should qualify to bid in the award process, Ofcom will take into account any failure by the applicant to provide the additional information by the relevant deadline.
 - In addition, in making its determination of whether an applicant should qualify to bid in the award process, Ofcom will take into account a number of factors, including for example any action that is likely to distort the outcome of the award process.
- 2.38 There then follows a period within which applicants' may withdraw from the award process if they wish to do so. If they do withdraw, their initial deposit is refunded unless the initial deposit has been forfeited in accordance with the regulations (for example for breach of the activity rules).
- 2.39 After the last day for withdrawal, Ofcom determines and publishes the number and names of bidders.
- 2.40 Ofcom will notify each applicant of whether it has qualified to bid in the award process (including the reasons for which an applicant has not qualified).
- 2.41 Ofcom will return initial deposits (without any interest having accrued) to applicants who do not qualify to bid in the award process on completion of the principal stage of the award process, unless the initial deposit has been forfeited in accordance with the regulations (for example for breach of the activity rules).
- 2.42 Following the last day for withdrawal, qualified applicants become "bidders" (in the terminology of the rules) and are required to make a bid in the first primary bid round.

Eligibility and deposit before the opt-in round and the primary bid round

- 2.43 The principal stage consists of the different types of rounds for bidding. These are
- 2.43.1 the opt-in round;
 - 2.43.2 the primary bid rounds; and
 - 2.43.3 the supplementary bids round.
- 2.44 Before the principal stage commences, bidders may pay an additional deposit (regulation 15) which will be taken into account by Ofcom in accordance with regulation 16 for calculating the bidder's eligibility limit for the opt-in round and for the first primary bid round.
- 2.45 The concept of an "eligibility limit" is used in the proposed regulations to determine how many lots a bidder may bid for.
- 2.46 In order to determine eligibility limits for each bidder for the opt-in round and the first primary bid round Ofcom divides by one hundred thousand the total amount that the

bidder has on deposit (including any additional deposit mentioned in paragraph 2.44 above). The eligibility is the number which results from that calculation (rounded down to the nearest whole number).

- 2.47 If the number which results is less than one, that bidder is excluded from the award process (see regulation 16(5)).

The opt-in round

- 2.48 Before the opt-in round Ofcom determines which selections of lots each bidder may bid for in that round.
- 2.49 If the 1800 MHz lot is available for award the selections are set out in List A and List B in Schedule 2. In this case they will be the same selections for all participants in this round.
- 2.50 On the other hand, if the 1800 MHz lot is not available for award the selections are set out in regulation 19 and will be either List C and D or E and F in Schedule 2.
- 2.51 Where a bidder chooses to bid in the opt-in round for any one of the selections included in a list then they are required to bid for all of the selections in that list. They also may not bid for any selection in the second of each pair of lists unless they have bid for all of the selections in the first list of the pair. In every case the amount of any opt-in bid for a selection must be the same as the opt-in price for that selection as set out in Schedule 2.
- 2.52 The selections in these lists in Schedule 2 include lots from the different types of lots which are available in the award process including:
- 2.52.1 800 MHz paired frequency lot;
 - 2.52.2 2.6 GHz paired frequency lot;
 - 2.52.3 2.6 GHz individual frequency lot;
 - 2.52.4 800 MHz coverage obligation lot;
 - 2.52.5 1800 MHz lot (if it is available in the award process);
 - 2.52.6 2.6 GHz concurrent low power 10 MHz lot; and
 - 2.52.7 2.6 GHz concurrent low power 20 MHz lot.
- 2.53 Not all bidders can participate in the opt-in round. It is only bidders which meet the four requirements set out in regulation 18. One of the requirements is that the bidder must have an eligibility limit of a prescribed number of points. Another requirement is that the bidder must not hold existing spectrum holdings in the 900 MHz band and not more than 30 MHz in the 1800 MHz band (the precise frequency bands are set out in regulation 18).
- 2.54 These requirements reflect the decisions made in Ofcom's competition assessment which it carried out in accordance with the Secretary of State's directions. The proposals reflect the decision that at least one bidder other than those that already hold 900 MHz spectrum or more than 30 MHz of 1800 MHz spectrum should win at least a minimum amount of spectrum (one of their opt-in selections).

- 2.55 Throughout the regulations there is the concept of “valid bids”. There are valid opt-in bids, valid primary bids and valid supplementary bids. A bid is valid, for instance if it is an opt-in bid, if it complies with the requirements about how those bids must be made and if it was submitted correctly to Ofcom.
- 2.56 The purpose of this concept in the proposed regulations is to provide a drafting mechanism which ensures that it is only valid bids which are taken into consideration when determining which bids are winning bids and the price that winning bidders must pay for their licences.

Eligibility limit for the second and subsequent primary bid rounds

- 2.57 Before the second primary bid round and before each subsequent primary bid round Ofcom determines the eligibility limit for each bidder for that round by calculating the number of eligibility points associated with the bidder's valid primary bid in the prior round. The number of points associated with the bid depends on the lots selected, and Schedule 6 (and regulations 34 and 35) sets out the points attributable to different types of lot.
- 2.58 During the primary bid rounds the selection of lots by a bidder must be such that the total number of eligibility points associated with the bid does not exceed the bidder's eligibility limit.
- 2.59 Over successive primary bid rounds a bidder's eligibility limit can stay the same or can fall, but can never increase. However, it is possible that a bidder's activity in one or more types of lot may increase provided that the bidder's activity in other types of lot is sufficiently reduced.

The primary bid rounds

- 2.60 Ofcom determines in advance the selections of lots which each bidder may bid for (regulation 22).
- 2.61 A bid must be for a selection of:
- 2.61.1 800 MHz paired frequency lot;
 - 2.61.2 2.6 GHz paired frequency lot;
 - 2.61.3 2.6 GHz individual frequency lot;
 - 2.61.4 800 MHz coverage obligation lot;
 - 2.61.5 1800 MHz lot (if it is available in the award process);
 - 2.61.6 2.6 GHz concurrent low power 10 MHz lot; or
 - 2.61.7 2.6 GHz concurrent low power 20 MHz lot.

which matches a selection which is on the list of different possible selections provided to that bidder by Ofcom before the first primary bid round. The list is known as the “permissible selections list”. It may be different for each bidder.

- 2.62 One of the key reasons why the list may be different for each bidder is that the spectrum cap rule applies. This rule says that a bidder may not acquire through the

award process rights of use of radio frequencies, which when added to that bidder's notified existing spectrum holding, amount to total rights of use of more than 210 MHz of radio frequencies in certain 800 MHz, 900 MHz, 1800 MHz and 2.6 GHz frequency bands (the precise frequencies are set out in List A of Schedule 3). The rule also says that no more than 55 MHz can be held in certain other bands (in List B of Schedule 3.) The rule is contained in regulation 24.

- 2.63 The permissible selections will therefore take into account each bidder's (and bidder group's) existing spectrum holdings. Other things are taken into account by Ofcom and these are set out in regulation 23.
- 2.64 The primary bid rounds continue one after another until there ceases to be "excess demand" or until Ofcom determine that (even if there is excess demand) they are satisfied that it is unlikely that the information that would be made available to bidders following further rounds of bidding would change the winning combination of principal stage bids or the base price payable.
- 2.65 Regulation 29 describes how excess demand is determined. This process involves identifying "adjusted demand" for each type of lot, and regulation 30 sets out how adjusted demand is determined. Finding adjusted demand also involves the identification of a key bid. This adjustment is designed to take account of the fact that (as with the opt-in round process) at least one bidder other than those that already hold 900 MHz spectrum or more than 30MHz of 1800 MHz spectrum should win at least a minimum amount of spectrum (one of their opt-in bid selections).
- 2.66 One key feature of the primary bid round is that the prices for the different lots which are available are set by Ofcom rather than by the bidders. For the first round the prices for different types of lot are set out in regulation 32. For subsequent rounds the prices are set by Ofcom before the round begins. The price increases in each round if the "adjusted demand" for lots of a particular type exceeds the number of lots of that type that are available in the award or satisfies certain other conditions which would make it impossible for all of the bids that make up the "adjusted demand" to win at the same time. (The concept of adjusted demand is the same as that used in relation to determining excess demand.) The method for determination of prices by Ofcom is set out in regulation 33.
- 2.67 The primary bid rounds follow a clock auction format. The auction proceeds in discrete rounds, with all bidders making bids within the same fixed time window. In any given primary bid round, each bidder may make a single bid for a single selection of lots at the prevailing round prices.
- 2.68 A bidder that does not submit a valid primary bid in the first round will be excluded from the award and will not receive a refund of its deposit. In subsequent primary bid rounds, if a bidder does not submit a valid primary bid that bidder's eligibility limit for subsequent primary bid rounds will be zero.
- 2.69 Each bid must specify the total amount in thousands of whole pounds that a bidder is willing to pay for a licence for the lots it has selected. This amount must be equal to the total of the prevailing round prices for the selected lots.

The supplementary bids round

- 2.70 Following the primary bid rounds, there will be a single round of bidding called the supplementary bids round.

- 2.71 The key difference from the primary bid rounds is that for this round, the bidder can specify the price it would be willing to pay for the selection of lots. Again, however, the selection must be one which is on that bidder's permissible selection list. The amount of the bid, while determined by the bidder, is subject to certain restrictions (which are set out in regulation 37).
- 2.72 There is an upper limit on the number of supplementary bids which may be made, and this is set at 3000. A bidder may not submit more than one supplementary bid for each selection. However, there is no obligation to submit a supplementary bid.

Bidding procedure

- 2.73 For each of the opt-in round, the primary bid rounds and the supplementary bids round, the process for making the bids is set out in the regulations contained in Part 5 in Chapters 5, 6 and 7.
- 2.74 The process involves submitting bids by means of the electronic auction system. Rules exist on incomplete or defective bid forms and for round extensions where circumstances exist beyond the bidder's control which mean it cannot submit its bid on time.
- 2.75 The deadline for submission of bids is set by Ofcom before the start of each round.
- 2.76 If Ofcom proceeds to make the proposed regulations it will publish detailed information on how to access and use the electronic auction system before the award process begins.

Further deposits

- 2.77 One key point to note is that regulation 52 of the proposed regulations enables Ofcom to require an additional amount by way of deposit during primary bid rounds. The proposed rule applies where in respect of a primary bid, the amount which a bidder specifies that it is willing to pay is greater than double the total amount that the bidder has on deposit. Ofcom would have regard to the desirability of securing an efficient outcome to the principal stage.
- 2.78 The reason for this rule is that Ofcom should ensure that bidders have funds available to pay for the licences for which they are bidding, to minimise non payment risk and consequential effects and risks for other bidders who take part in the award.
- 2.79 A further deposit is also required in the context of the supplementary bids round (regulation 59).
- 2.80 A final principal stage deposit is required once the winning bids have been determined and the base price calculated for those bids. This deposit is the difference between the sums already on deposit and that base price. This is set out in regulation 63.

Winning principal stage bids

- 2.81 After the supplementary bids round is complete, the winning bids are determined.
- 2.82 This determination is made having regard to all the valid bids made during the principal stage as a whole, so they include opt-in bids, primary bids and supplementary bids.

- 2.83 Since bidding throughout the award process has been for combinations of different numbers and types of lots (in selections of lots), to determine the winning bids, Ofcom first needs to determine the winning combination of principal stage bids.
- 2.84 The winning combination is the valid combination of principal stage bids for which the total value of the combination calculated in accordance with regulation 60(8) is highest. Valid combinations are those with valid bids and which meet the other rules in regulation 60(4). Tie-break rules exist if there is more than one combination of equal highest value.
- 2.85 Once the winning bids have been identified, Ofcom will calculate the price that each winning bidder must pay (the base price) (regulation 61 and Schedule 7).

Assignment of frequencies

- 2.86 Chapter 9 of Part 5 of the proposed regulations sets out how radio frequencies are to be assigned to winning bidders (the "assignment stage").
- 2.87 These rules cover each possible scenario which may arise from winning principal stage bids and set out in full how the radio frequencies are to be assigned in these circumstances.
- 2.88 Depending on demand for particular lots, this may involved a further round of bidding, where the participants will bid for "assignment stage options" in order to determine which particular frequencies should be assigned to which successful bidder.

Grant stage

- 2.89 The licence fee payable by a winning bidder will be an amount equal to the total of:
- a) the base price; and
 - b) for each winning assignment stage bid made by that bidder, the "additional price" for that winning assignment stage bid (calculated by Ofcom under regulation 102 and Schedule 8).
- 2.90 Each winning bidder that has on deposit with Ofcom an amount less than its licence fee will be required to increase its deposit (less any sum forfeited) to the level of its licence fee.
- 2.91 If that bidder meets the payment requirements, Ofcom will grant a licence for the relevant frequencies which have been assigned. If not, the bidder will not be entitled to the grant of a licence and will not receive a refund of its deposit, which will (where not already forfeited) be forfeited.
- 2.92 If a winning bidder's deposit (less any sum forfeited) is equal to or greater than its licence fee, Ofcom will:
- a) grant the bidder a licence for the relevant frequencies assigned; and
 - b) refund to the bidder the difference (if any) between the amount of that deposit (less any sum forfeited) and the licence fee.

Completion of the award process

- 2.93 After the grant of licences, and the payment of refunds to winning bidders, Ofcom will complete the award process by publishing on the Ofcom website details of the bids made, the names of all the licensees, the details of the frequency ranges comprised in the licences awarded and the licence fees paid.

Activity rules

- 2.94 The proposed regulations contain activity rules that have featured in previous Ofcom spectrum awards. These are intended primarily to ensure that bidder activities do not distort the award process. A list of events is set out in regulation 110, and the occurrence of such events can lead to forfeiture of deposits and exclusion from the award process. Bids made by excluded bidders are deemed to be invalid.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 11 September 2012**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <https://stakeholders.ofcom.org.uk/consultations/notice-proposal-regulations/howtorespond/form> as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email combined.award@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Ofcom
Mobile & Auction Team
3rd Floor
Spectrum Policy Group
Riverside House
2a Southwark Bridge Road
London SE1 9HA
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include a direct answer to the question asked in this document, which is highlighted at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Robert Emson. On 020 7783 4375.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.
- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/account/disclaimer/>

Ofcom's consultation processes

- A1.11 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.12 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.13 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 020 79823601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.6 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organizations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A2.8 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 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. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation question

Do you have any comments on the proposed statutory instrument set out in this notice?

Annex 5

Draft Wireless Telegraphy (Licence Award) Regulations 2012

2012 No.

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Licence Award) Regulations 2012

Made - - - -

Coming into force - -

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The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred on OFCOM by section 14(1), (2), (3), (4), (6) and (7) and section 122(7) of the Wireless Telegraphy Act 2006(a) (“the 2006 Act”) and as required by article 9 of the Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2010(b) (“the 2010 Order”).

Before making these Regulations OFCOM has concluded an assessment of competition as required by article 8 of the 2010 Order.

Before making these Regulations OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the 2006 Act, published notice of their proposal in accordance with section 122(4)(b) of the 2006 Act and have considered the representations made to them before the time specified in that notice in accordance with section 122(4)(c) of the 2006 Act.

(a) 2006 c.36.
(b) S.I. 2010/3024

PART 1
INTRODUCTORY

Citation, commencement, and extent

1.—(1) These Regulations may be cited as the Wireless Telegraphy (Licence Award) Regulations 2012 and shall come into force on **[date of coming into force]**.

(2) These Regulations shall not extend to the Channel Islands or to the Isle of Man.

Interpretation

2.—(1) In these Regulations—

“1800 MHz band” has the meaning given in regulation 18(5);

“additional price” has the meaning given in regulation 102;

“adjusted demand” shall be construed in accordance with regulation 30;

“applicant” means a body corporate making an application for a licence;

“applicant group” means, in relation to an applicant—

(a) that applicant;

(b) each associate of that applicant; and

(c) each person in respect of whom the applicant has delivered to OFCOM a completed document in the form set out in Schedule 5;

“assignment stage” has the meaning given in regulation 17(1);

“assignment stage bid” shall be construed in accordance with regulation 82(3);

“assignment stage bid form” has the meaning given in regulation 87(1);

“assignment stage round” has the meaning given in regulation 82(1);

“associate” means, in relation to an applicant or bidder, a person who has a material interest in that applicant or bidder;

“authorised person” means a person specified by an applicant in its application as authorised to bind that applicant for all purposes relating to the award process;

“base price” has the meaning given in regulation 61;

“bidder” means an applicant which has qualified to bid in the award process and which has not withdrawn from the award process on or before the last day for withdrawal;

“bidder group” shall be construed in accordance with regulation 7(3);

“confidential information” means, in relation to any applicant or bidder, any information which is not in the public domain and which, if it were made public or disclosed to another applicant (or potential applicant) or bidder or a member of their respective applicant or bidder groups, would be likely to affect decisions that such other applicant (or potential applicant) or bidder may make in relation to the award process;

“deadline”, in relation to any requirement imposed on any person by or under these Regulations, means (as the case may require)—

(d) the time,

(e) the date, or

(f) the date, and the time on that date,

by which that requirement must be fulfilled by that person;

“electronic auction system” means the system established by OFCOM for bidders to participate in the award process;

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“eligibility limit” means, in relation to the opt-in round, a primary bid round or the supplementary bids round, the number of eligibility points which limits the bids that may be made by that bidder in that round, in accordance with these Regulations;

“end of round time” has the meaning given in regulation 46(2);

“excess demand” shall be construed in accordance with regulation 29;

“existing spectrum holdings” has the meaning given in regulation 5(5);

“final principal stage deposit” has the meaning given in regulation 62(a)(i)(cc);

“GHz” means gigahertz;

“grant stage” has the meaning given in regulation 17(1);

“initial deposit” shall be construed in accordance with regulation 5(3)(b);

“last day for withdrawal” has the meaning given in regulation 13(1);

“licence” means a wireless telegraphy licence to be granted pursuant to these Regulations to establish or use a wireless telegraphy station or install or use wireless telegraphy apparatus in the United Kingdom at frequencies to be determined in accordance with the procedure set out in Part 5 of these Regulations;

“material interest” means, whether held directly or indirectly—

(g) any interest (construed in accordance with sections 820 to 825 of the Companies Act 2006(a)) in—

(i) any share which carries, or any shares which together carry, more than twenty five per cent. of the votes entitled to be cast at a general meeting of the applicant or bidder; or

(ii) any share or shares in the case of which the consent of the holder of that share or those shares is required for the conduct of any business of the applicant or bidder; or

(h) the right to appoint or remove a majority of the applicant’s or bidder’s board of directors;

“MHz” means megahertz;

“OFCOM” means the Office of Communications;

“OFCOM’s bank account” means the bank account nominated by OFCOM for the purposes of the award process, details of which are published on their internet website;

“opt-in selection” has the meaning given in regulation 19(8);

“opt-in round” has the meaning given in regulation 17(2);

“opt-in bid form” has the meaning given in regulation 20(1);

“opted-in bidder” has the meaning given in regulation 21(2);

“permissible bid selection” has the meaning given in regulation 22(5);

“permissible bid selection list” has the meaning given in regulation 22(5);

“pounds” means pounds sterling;

“primary bid” has the meaning given in regulation 25(1);

“primary bid form” has the meaning given in regulation 25(3);

“primary bid rounds” has the meaning given in regulation 17(2);

“principal stage” has the meaning given in regulation 17(1);

“principal stage bid” means an opt-in bid, a primary bid, or a supplementary bid;

“round” means a period of time specified by OFCOM during which bidders may make bids in accordance with the procedure set out in Part 5 of these Regulations;

“round price” shall be construed in accordance with regulation 25(2);

“supplementary bid” has the meaning given in regulation 36;

(a) 2006 c.46.

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“supplementary bids form” has the meaning given in regulation 37(1);

“supplementary bids round” has the meaning given in regulation 17(2);

“valid assignment stage bid” has the meaning given in regulation 89;

“valid primary bid” has the meaning given in regulation 26;

“valid principal stage bid” means a valid opt-in bid, a valid primary bid, or a valid supplementary bid;

“valid supplementary bid” has the meaning given in regulation 38;

“winning assignment stage bid” shall be construed in accordance with regulation 97, 99, 100 or 101 as the case may be;

“winning principal stage bid” shall be construed in accordance with regulation 60; and

“winning bidder” means a bidder that submitted a winning principal stage bid.

(2) A reference in these Regulations to—

(a) an “800 MHz paired frequency lot”;

(b) a “2.6 GHz paired frequency lot”;

(c) a “2.6 GHz individual frequency lot”;

(d) the “800 MHz coverage obligation lot”;

(e) the “1800 MHz lot”;

(f) a “2.6 GHz concurrent low power 10 MHz lot”;

(g) a “2.6 GHz concurrent low power 20 MHz lot”;

shall be construed in accordance with Schedule 1.

(3) A reference in these Regulations to a “type of lot” or “lot” shall be construed in accordance with Schedule 1.

(4) A reference in these Regulations to a number of “eligibility points” associated with lots shall be construed in accordance with Schedule 6.

PART 2

PRE-APPLICATION STAGE

Determination of whether the 1800 MHz lot is available

3.—(1) OFCOM shall determine whether the 1800 MHz lot is available to be included in the award process.

(2) OFCOM shall publish on their internet website a notice as to whether the 1800 MHz lot is available to be included in the award process.

PART 3

APPLICATION STAGE

Applications for the grant of a licence

4. Applications for the grant of a licence shall only be made in accordance with the procedure set out in these Regulations.

Application

5.—(1) Only a body corporate may apply to OFCOM for a licence.

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- (2) A body corporate may only make one application.
- (3) To apply for a licence, a body corporate must—
- (a) on the day specified by OFCOM for receipt of applications, deliver to OFCOM at Riverside House, 2a Southwark Bridge Road, London SE1 9HA within the times on that day specified by OFCOM a sealed envelope containing—
 - (i) a document containing the application information required by, and the warranty set out in, Schedule 4, completed in respect of the applicant and signed on its behalf by two authorised persons;
 - (ii) for each person, not being an associate of the applicant, which the applicant wishes to join its applicant group, a document in the form set out in Schedule 5 which has been—
 - (aa) completed by the applicant and signed on its behalf by two authorised persons; and
 - (bb) completed by and signed by or on behalf of the person in respect of whom that document is completed;
 - (iii) an indication in writing of whether or not it wishes to participate in the opt-in round;
 - (iv) a document setting out details of the existing spectrum holdings of—
 - (aa) each member of its applicant group;
 - (bb) each person in whom the applicant has a material interest;
 - (cc) each person in whom any member of its applicant group has a material interest;
 - (dd) any person who has entered into a contract or arrangement with the applicant (or any member of its applicant group or any person in whom the applicant or any member of its applicant group has a material interest) to acquire rights under a wireless telegraphy licence granted pursuant to the award process; and
 - (b) by a deadline specified by OFCOM, pay into OFCOM's bank account by a same day electronic transfer, with accompanying information which identifies the applicant, an initial deposit of one hundred thousand pounds.
- (4) OFCOM shall publish the day, times and deadline on their internet website.
- (5) "Existing spectrum holdings" means—
- (a) any authorisation to establish or use a wireless telegraphy station, or to install or use wireless telegraphy apparatus, under a wireless telegraphy licence which relates to any of the frequencies listed in Schedule 3; and
 - (b) any contract or arrangement under which such an authorisation is to be acquired.
- (6) The details required are—
- (a) the wireless telegraphy licence number; and
 - (b) details of the radio frequencies.

PART 4

QUALIFICATION STAGE

Notification of names of applicants and associates

- 6.—(1) OFCOM shall give notice to each applicant of—
- (a) the name of each other applicant and the names of their associates; and
 - (b) the deadline by when each applicant must notify OFCOM under paragraph (3).

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(2) On receipt of that notice, each applicant must examine the names of the other applicants and their associates and determine whether any member of its applicant group is also an associate of another applicant or is also an applicant.

(3) Where an applicant determines that a member of its applicant group is also an associate of another applicant or is also an applicant, it must notify the other applicant and OFCOM of that fact by the deadline specified by OFCOM.

(4) If it appears to OFCOM from any application or notice that a member of one applicant group is also a member of another applicant group, OFCOM shall give notice to each of the applicants concerned of that fact and specify a deadline by when each applicant concerned may notify OFCOM of any change in circumstances the effect of which is that no member of its applicant group is also a member of another applicant group.

Recording of applicant group members

7.—(1) Where there has been a change in the composition of an applicant's applicant group since the date of the application, that applicant shall provide OFCOM with a document complying with the provisions of regulations 5(3)(a)(i), 5(3)(a)(ii) and 5(3)(a)(iv) following that change.

(2) After the expiry of the deadline given to applicants under regulation 6(4) OFCOM shall record the members of each applicant group.

(3) Each applicant group so recorded shall constitute a bidder group for the purposes of the subsequent stages of the award process.

Subsequent changes to bidder groups

8.—(1) An applicant or bidder may change its bidder group but, in relation to the award process, the applicant or bidder shall be subject to regulations 11 and 108 if they apply to any such change.

(2) Where the change involves the addition or departure of an associate, the applicant or bidder must notify OFCOM of the change and submit a revised version of—

- (a) the document provided under regulation 5(3)(a)(i) which complies with those provisions following the change; and
- (b) the document provided under regulation 5(3)(a)(v) which complies with those provisions following the change.

(3) If an applicant or bidder decides to add a person who is not an associate of the applicant or bidder to its bidder group, the applicant or bidder must deliver to OFCOM a document in the form set out in Schedule 5 completed by the applicant or bidder and signed on its behalf by two authorised persons and completed by and signed by or on behalf of the person in respect of whom that document is completed.

Subsequent changes to existing spectrum holdings during award process

9.—(1) An applicant or bidder may change its existing spectrum holdings during the award process, subject to regulations 108 and 110(j) if they apply to that change.

(2) If there is a change to an applicant or bidder's existing spectrum holdings during the award process, the applicant or bidder must notify OFCOM of the changes and submit a revised version of the document provided under regulation 5(3)(a)(iv) which complies with those provisions following the change.

Fitness to hold a licence

10.—(1) OFCOM shall determine if each applicant which has submitted an application in accordance with regulation 5 is fit to hold a licence.

(2) In making their determination under paragraph (1), OFCOM shall take into account whether—

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- (a) the grant of a licence to the applicant would be prejudicial to the interests of national security;
- (b) the applicant is a fit and proper person to hold a licence having regard to the probity of—
 - (i) the applicant;
 - (ii) each member of the applicant's bidder group; and
 - (iii) each director of each member of the applicant's bidder group;
- (c) any of the information submitted to OFCOM by the applicant in connection with the award process is false or misleading;
- (d) any member of the applicant's bidder group has colluded, or attempted to collude, or is colluding or attempting to collude, with another person to distort the outcome of the award process;
- (e) any member of the applicant's bidder group has acted or is acting in a way which is likely to distort the outcome of the award process;
- (f) any member of the applicant's bidder group, or any person to whom confidential information has been disclosed, has disclosed, or is disclosing or attempting to disclose or has incited or is inciting another person to disclose, any confidential information, whether directly or indirectly, to any person, except where the disclosure is—
 - (i) to OFCOM;
 - (ii) to a member of the applicant's bidder group;
 - (iii) to a provider of finance for the purpose of raising finance for the applicant's application; or
 - (iv) to a person for the purpose of enabling that person to decide whether to participate as a member of the applicant's bidder group;
- (g) any member of the applicant's bidder group has obtained or is obtaining or attempting to obtain confidential information relating to another applicant;
- (h) any member of the applicant's bidder group is receiving or is attempting to receive services in relation to the award process from any person who has provided or is providing services to OFCOM in relation to the award process; and
- (i) any person who is a member or a director or employee of a member of the applicant's bidder group and is also a director or employee of a member of another bidder group is—
 - (i) taking part in the preparation of both bidder groups for participation in the award process; or
 - (ii) receiving confidential information relating to both bidder groups.

(3) Applicants must, if requested to do so by OFCOM, provide by a deadline specified by OFCOM any information or documentation which OFCOM require to make their determination.

(4) If an applicant does not provide such information or documentation by the deadline specified by OFCOM, OFCOM shall also take that fact into account in making their determination.

(5) Where OFCOM determine that an applicant is not fit to hold a licence the applicant shall be disqualified from the award process.

(6) OFCOM shall inform an applicant which is disqualified of their decision and the reasons for it but that applicant's initial deposit shall not be forfeited for that reason.

Qualification to participate in the award process

11.—(1) Each applicant—

- (a) which was not disqualified under regulation 10; and
- (b) has no member of its bidder group which is also a member of the bidder group of another applicant which was not disqualified under regulation 10,

shall be qualified to participate in the award process.

(2) Where an applicant is not qualified to participate in the award process OFCOM shall inform that applicant of that fact but that applicant's initial deposit shall not be forfeited for that reason.

Publication of names of qualified applicants

12. OFCOM shall notify each applicant qualified to participate of the name of each other applicant who is so qualified, and the names of their associates, and shall publish the names of all applicants who are so qualified on OFCOM's internet website.

Withdrawal of an application

13.—(1) OFCOM shall notify each applicant qualified to participate of the last day for withdrawal from the award process ("last day for withdrawal") and shall publish the last day for withdrawal on OFCOM's internet website.

(2) If, on or before the last day for withdrawal, OFCOM receives notice of an applicant's intention to withdraw its application, signed by two authorised persons, the application shall be withdrawn and the applicant shall be excluded from the award process but that applicant's initial deposit shall not be forfeited for that reason.

(3) That applicant shall not be re-admitted to the award process.

(4) OFCOM shall notify all other applicants of the withdrawal.

Determination of number of bidders

14.—(1) After the last day for withdrawal, OFCOM shall determine the number of bidders.

(2) Where there are no bidders, OFCOM shall complete the award process by refunding to applicants which were not qualified, or withdrew in accordance with regulation 13, the initial deposits (where such deposits have not been forfeited under regulation 108) but not any interest which has accrued on the deposits.

(3) Where there are one or more bidders, OFCOM shall grant licences in accordance with the procedure set out in Part 5 of these Regulations.

(4) OFCOM shall publish the names of the bidders on OFCOM's internet website.

Additional deposit before the opt-in round and the first primary bid round

15.—(1) In addition to the initial deposit paid in accordance with regulation 5(3)(b), a bidder may pay an additional sum in pounds as a deposit which shall be taken into account by OFCOM in accordance with regulation 16 for the purpose of calculating the bidder's eligibility limit for the opt-in round (if the bidder wishes to bid in that round) and for the first primary bid round.

(2) A bidder wishing to pay such an additional sum must, by a deadline specified by OFCOM, pay the additional sum into OFCOM's bank account by a same day electronic transfer with accompanying information which identifies the bidder.

Determination of bidder's eligibility limit for the opt-in round and first primary bid round

16.—(1) After the deadline specified in regulation 15(2), OFCOM shall determine each bidder's eligibility limit for the opt-in round (if the bidder has indicated that it wishes to bid in that round) and for the first primary bid round in accordance with the requirements of this regulation.

(2) OFCOM shall divide by one hundred thousand the total amount of pounds that the bidder has on deposit (including the initial deposit and any additional sum paid under regulation 15, but not including any sum forfeited under regulation 108).

(3) Where the number that results from the calculation in paragraph (2) is not a whole number, that number shall be rounded down to the nearest whole number.

(4) The eligibility limit shall be that whole number.

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(5) Where a bidder's eligibility limit calculated in accordance with this regulation is less than one, that bidder shall be excluded from the award process and shall not receive a refund of its initial deposit or any sum that the bidder has paid as a deposit under regulation 15, which shall (where not forfeited under regulation 108) be forfeited.

PART 5

BIDDING PROCEDURE

CHAPTER 1

Principal stage, assignment stage and grant stage

Principal stage, assignment stage and grant stage

17.—(1) The process for the award of licences shall consist of the procedure set out in Chapters 2 to 8 of this Part (“principal stage”), the procedure set out in Chapter 9 of this Part (“assignment stage”) and the procedure set out in Chapter 10 of this Part (“grant stage”).

(2) During the principal stage there shall be one round for opt-in bids (“opt-in round”) one or more rounds for the submission of primary bids (“primary bid rounds”) and one round for the submission of supplementary bids (“supplementary bids round”).

(3) A bid made during the principal stage shall be a bid for a licence which authorises the use of frequencies corresponding to lots selected by the bidder.

(4) The selection shall specify a number of lots of a particular type without identifying any particular numbered lot which falls within that type.

(5) Following completion of the principal stage, the lots and the corresponding frequencies (as set out in Schedule 1) that are to be assigned to the winning bidders shall be determined in accordance with the procedure set out in the assignment stage.

(6) Licences for the frequencies so determined shall be granted in accordance with the grant stage.

CHAPTER 2

Opt-in round

Opt-in round

18.—(1) Only bidders satisfying each of the four requirements in this regulation may bid in the opt-in round.

(2) The first requirement is that the bidder must have stated in its application that it wished to participate in the opt-in round.

(3) The second requirement is that the bidder must not have notified existing spectrum holdings to OFCOM as part of its application for the use of frequencies in the following frequency bands—

- (a) 880.1 to 914.9 MHz;
- (b) 925.1 to 959.9 MHz.

(4) The third requirement is that the bidder must not have notified existing spectrum holdings to OFCOM as part of its application for the use of more than thirty megahertz of frequency in the following frequency bands—

- (a) 1710.1 to 1781.7 MHz;
- (b) 1805.1 to 1876.7 MHz.

(5) The frequency bands referred to in paragraph (4)(a) and (b) are together referred to as “the 1800 MHz band”.

(6) The fourth requirement is that the bidder's eligibility limit must be—

- (a) at least 6750 points if the bidder's existing spectrum holdings do not include any frequencies in the 1800 MHz band; or
- (b) at least 2250 points if the bidder's existing spectrum holdings do include frequencies in the 1800 MHz band.

Opt-in selections

19.—(1) Before the opt-in round OFCOM shall determine which list or lists of selections of lots each bidder eligible to bid in the opt-in round may bid for in the opt-in round.

(2) If the 1800 MHz lot is available for award, the lists will be List A and List B as set out in Schedule 2.

(3) If the 1800 MHz lot is not available for award, the list or lists will be determined in accordance with paragraph (4), (5) or (6) (as the case may be).

(4) The lists will be List C and List D as set out in Schedule 2 for those bidders whose existing spectrum holdings do not include any frequencies in the 1800 MHz band;

(5) The lists will be List E and List F as set out in Schedule 2 for those bidders in respect of which the following conditions are both satisfied—

- (a) the bidder's existing spectrum holdings include frequencies in the 1800 MHz band; and
- (b) the bidder's eligibility limit is at least 4500 points;

(6) The list will be only List E as set out in Schedule 2 for those bidders in respect of which the following conditions are both satisfied—

- (a) the bidder's existing spectrum holdings include frequencies in the 1800 MHz band; and
- (b) the bidder's eligibility limit is less than 4500 points.

(7) An opt-in bid shall be for a selection of—

- (a) 800 MHz paired frequency lots;
- (b) 2.6 GHz paired frequency lots;
- (c) 2.6 GHz individual frequency lots;
- (d) the 800 MHz coverage obligation lots;
- (e) the 1800 MHz lot (if available);
- (f) a 2.6 GHz concurrent low power 10 MHz lot;
- (g) a 2.6 GHz concurrent low power 20 MHz lot,

which matches a selection which is on the list or one of the lists of selections of lots that that bidder may bid for in the opt-in round.

(8) Each of the different possible selections set out in Schedule 2 is an “opt-in selection”.

Opt-in bids

20.—(1) In order to make an opt-in bid a bidder must, on a form provided to the bidder by OFCOM (“opt-in bid form”), specify the amount in whole pounds which it is willing to pay for a licence which authorises use of the frequencies in an opt-in selection.

(2) That amount in whole pounds for an opt-in selection must be the sum set out as being the opt-in price for that opt-in selection in Schedule 2.

(3) A bidder that wishes to bid in the opt-in round must—

- (a) submit one opt-in bid for each of the four opt-in selections set out in List A in Schedule 2, if the 1800 MHz lot is available for award; or
- (b) if the 1800 MHz lot is not available for award, submit one opt-in bid for each of the two opt-in selections set out in List C (if regulation 19(4) applies to that bidder), or for each of the two opt-in selections set out in List E in Schedule 2 (if regulation 19(5) or (6) applies to that bidder).

(4) A bidder that may bid for the opt-in selections set out in List B, List D or List F (in accordance with regulation 19) is not required to submit a bid for any of those opt-in selections.

(5) If a bidder makes a bid for an opt-in selection in List B it must submit one bid for each of the three opt-in selections in that list.

(6) If a bidder makes a bid for an opt-in selection in List D it must submit one bid for each of the two opt-in selections in that list.

Valid opt-in bids

21.—(1) An opt-in bid is a valid opt-in bid if the bidder complies with the provisions of regulations 19, 20 and 40 in respect of that bid.

(2) A bidder which has made a valid opt-in bid is referred to as an “opted-in bidder”.

CHAPTER 3

The primary bid rounds

Permissible packages of numbers of different types of lots for each bidder

22.—(1) OFCOM shall, for the primary bid rounds and supplementary bids round, determine which selections of lots a bidder may bid for.

(2) A bid must be for a selection of—

- (a) 800 MHz paired frequency lots;
- (b) 2.6 GHz paired frequency lot;
- (c) 2.6 GHz individual frequency lot;
- (d) the 800 MHz coverage obligation lot;
- (e) the 1800 MHz lot (if available);
- (f) 2.6 GHz concurrent low power 10 MHz lots; or
- (g) 2.6 GHz concurrent low power 20 MHz lots,

which matches a selection which is on the list of different possible selections provided to that bidder by OFCOM before the first primary bid round.

(3) The list of different possible selections provided to each bidder may be different for each bidder.

(4) The number specified for a particular type of lot in any selection may be zero.

(5) The list shall be known as the “permissible bid selection list” and each selection in that list shall be known as a “permissible bid selection”.

(6) The permissible bid selections list for each bidder shall not change during the primary bid rounds and supplementary bids round.

Preparing a permissible bid selection list for each bidder

23.—(1) In determining the permissible bid selection list for each bidder OFCOM shall include each possible selection of lots which—

- (a) complies with the spectrum cap rule;
- (b) does not include the 1800 MHz lot if that lot is not available for award;
- (c) meets the following requirements—
 - (i) a permissible bid selection must not include more than one 2.6 GHz concurrent low power 10 MHz lot;
 - (ii) a permissible bid selection must not include more than one 2.6 GHz concurrent low power 20 MHz lot;

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- (iii) if a permissible bid selection includes one 2.6 GHz concurrent low power 10 MHz lot it may not also include a 2.6 GHz concurrent low power 20 MHz lot; and
 - (iv) if a permissible bid selection includes one 2.6 GHz concurrent low power 20 MHz lot it may not also include a 2.6 GHz concurrent low power 10 MHz lot;
 - (d) meets the requirement that if the selection includes one 2.6 GHz concurrent low power 10 MHz lot, then it must not include more than twelve 2.6 GHz paired frequency lots;
 - (e) meets the requirement that if the selection includes one 2.6 GHz concurrent low power 20 MHz lot, then it must not include more than ten 2.6 GHz paired frequency lots;
 - (f) meets the requirement that if a bid selection includes any 2.6 GHz individual frequency lots then it must include at least two such lots;
 - (g) meets the requirement that a bid selection may not include more lots in a category than the number of lots available in that category; and
 - (h) meets the rules set out in paragraphs (2), (3) and (4), in so far as those paragraphs apply.
- (2) If there is only one opted-in bidder, each selection on that bidder's permissible bid selection list must include (in addition to any other lots which are included) a selection of lots which matches those comprised in one of the valid opt-in bids made by that bidder.
- (3) If the 1800 MHz lot is available and there is at least one opted-in bidder, permissible bid selections for bidders that are not opted-in bidders shall not include any bid selection that includes—
- (a) three 800 MHz paired frequency lots, the 800 MHz coverage obligation lot and the 1800 MHz lot;
 - (b) two or more 800 MHz paired frequency lots, the 800 MHz coverage obligation lot, the 1800 MHz lot and thirteen or more 2.6 GHz paired frequency lots;
 - (c) two or more 800 MHz paired frequency lots, the 800 MHz coverage obligation lot, the 1800 MHz lot, eleven or more 2.6 GHz paired frequency lots and a 2.6 GHz concurrent low power 10 MHz lot;
 - (d) two or more 800 MHz paired frequency lots, the 800 MHz coverage obligation lot, the 1800 MHz lot, nine or more 2.6 GHz paired frequency lots and a 2.6 GHz concurrent low power 20 MHz lot;
 - (e) four 800 MHz paired frequency lots, the 1800 MHz lot and thirteen or more 2.6 GHz paired frequency lots;
 - (f) four 800 MHz paired frequency lots, the 1800 MHz lot, eleven or more 2.6 GHz paired frequency lots and a 2.6 GHz concurrent low power 10 MHz lot; or
 - (g) four 800 MHz paired frequency lots, the 1800 MHz lot, nine or more 2.6 GHz paired frequency lots and a 2.6 GHz concurrent low power 20 MHz lot.
- (4) Paragraph (5) applies if—
- (a) the 1800 MHz lot is not available;
 - (b) there is at least one opted-in bidder; and
 - (c) none of the opted-in bidders' existing spectrum holdings include frequencies in the 1800 MHz band.
- (5) If this paragraph applies, permissible bid selections for bidders that are not opted-in bidders shall not include any bid selection that includes—
- (a) three 800 MHz paired frequency lots and the 800 MHz coverage obligation lot;
 - (b) four 800 MHz paired frequency lots and thirteen or more 2.6 GHz paired frequency lots;
 - (c) two or more 800 MHz paired frequency lots, the 800 MHz coverage obligation lot and thirteen or more 2.6 GHz paired frequency lots;
 - (d) four 800 MHz paired frequency lots, eleven or more 2.6 GHz paired frequency lots and a 2.6 GHz concurrent low power 10 MHz lot;

- (e) two or more 800 MHz paired frequency lots, the 800 MHz coverage obligation lot, eleven or more 2.6 GHz paired frequency lots and a 2.6 GHz concurrent low power 10 MHz lot;
- (f) four 800 MHz paired frequency lots, nine or more 2.6 GHz paired frequency lots and a 2.6 GHz concurrent low power 20 MHz lot; or
- (g) two or more 800 MHz paired frequency lots, the 800 MHz coverage obligation lot, nine or more 2.6 GHz paired frequency lots and a 2.6 GHz concurrent low power 20 MHz lot.

The spectrum cap rule

24.—(1) The spectrum cap rule is that a bidder must meet each of the two requirements on spectrum holdings.

(2) The first requirement is that a bidder may not acquire through the award process rights of use of frequencies, which when added to the existing spectrum holdings (which the bidder notified under regulation 5(3)(a)(iv)), amount to total rights of use of more than two hundred and ten megahertz of frequencies in the frequency bands set out in List A in Schedule 3.

(3) The second requirement is that a bidder may not acquire through the award process rights of use of frequencies, which when added to the existing spectrum holdings (which the bidder notified under regulation 5(3)(a)(iv)), amount to total rights of use of more than fifty five megahertz of frequencies in the frequency bands set out in List B in Schedule 3.

Primary bids

25.—(1) A bid made during a primary bid round (“primary bid”) shall be at an amount in whole pounds being the total amount of the round prices in that primary bid round for each lot included in the permissible bid selection.

(2) The round price shall be determined for each type of lot by OFCOM in accordance with regulation 32 or 33 and shall be the prices at which lots are offered to bidders during a primary bid round.

(3) In order to make a primary bid a bidder must, on a form provided to the bidder by OFCOM (“primary bid form”) specify—

- (a) the number of 800 MHz paired frequency lots it wishes to be included in a licence at the round price for these lots;
- (b) the number of 2.6 GHz paired frequency lots it wishes to be included in a licence at the round price for these lots;
- (c) the number of 2.6 GHz individual frequency lots it wishes to be included in a licence at the round price for these lots;
- (d) if it wishes the 800 MHz coverage obligation lot to be included in a licence at the round price for that lot;
- (e) if the 1800 MHz lot is available, if it wishes the 1800 MHz lot to be included in a licence at the round price for that lot;
- (f) if it wishes a 2.6 GHz concurrent low power 10 MHz lot to be included in a licence at the round price for these lots; and
- (g) if it wishes a 2.6 GHz concurrent low power 20 MHz lot to be included in a licence at the round price for these lots.

(4) A bidder must not submit more than one primary bid in any one primary bid round.

(5) The bid selection specified in a primary bid made by a bidder must be such that the total number of eligibility points associated with the primary bid in accordance with paragraph (6) does not exceed the bidder’s eligibility limit for that primary bid round (determined in accordance with regulation 16 or 34 and notified to the bidder in accordance with regulation 46(1)(c)).

(6) The number of eligibility points associated with a primary bid shall be a number equal to the total of the eligibility points attributed to the lots included in the bid selection comprised in the primary bid in accordance with Schedule 6.

Valid primary bids

26. A primary bid is a valid primary bid if the bidder complies with the provisions of regulations 25 and 47 in respect of that primary bid.

Requirement for a valid primary bid in the first primary bid round

27. Any bidder which does not submit a valid primary bid in the first primary bid round having an associated eligibility of at least one eligibility point shall be excluded from the award process and shall not receive a refund of its initial deposit or any sum that the bidder has paid as a deposit under regulation 15, which shall (where not forfeited under regulation 108) be forfeited.

Number of primary bid rounds

28.—(1) After each primary bid round OFCOM shall determine if there is excess demand in accordance with regulation 29.

(2) Where there is excess demand there shall be another primary bid round, unless OFCOM determine that they are satisfied that it is unlikely that the information that would be made available to bidders following any such further primary bid rounds would change—

- (a) the winning combination of principal stage bids in accordance with regulation 60;
- (b) the base price payable by a winning bidder in accordance with regulation 61.

(3) Where OFCOM have determined under paragraph (2) that there shall be no further primary bid rounds, there shall be a supplementary bids round.

(4) Where OFCOM have determined that there is no excess demand there shall be no further primary bid rounds but there shall be a supplementary bids round.

Determination of excess demand

29.—(1) There is excess demand if any of the following conditions is satisfied—

- (a) the adjusted demand for any type of lot is greater than the number of lots of that type that are available in the award process;
- (b) the number produced by adding together the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots and the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots is greater than ten;
- (c) the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots is greater than zero and the adjusted demand for 2.6 GHz paired frequency lots is greater than twelve; or
- (d) the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots is greater than zero and the adjusted demand for 2.6 GHz paired frequency lots is greater than ten.

(2) OFCOM shall determine the adjusted demand for types of lots in accordance with regulation 30.

Determination of adjusted demand

30.—(1) Where paragraph (2) applies, the adjusted demand for a type of lot is the total number of lots of that type selected in the valid primary bids submitted in the most recent primary bid round.

(2) This paragraph applies where—

- (a) no bidder submitted a valid opt-in bid; or
- (b) at least one opted-in bidder submitted a valid primary bid in the most recent primary bid round, and that bid was for a selection of lots which included the lots comprised in one of that bidder's valid opt-in bids.

(3) Where paragraph (2) does not apply, the adjusted demand for a type of lot is the number produced by applying the calculation set out in paragraph (4).

- (4) The number is the total of—
- (a) the number of lots of that type selected in the key bid; and
 - (b) the number of lots of that type selected in the valid primary bids submitted in the most recent primary bid round, but not including the valid primary bid (if any) of the bidder which submitted the key bid.
- (5) The key bid shall be determined by OFCOM in accordance with regulation 31.

Identifying the key bid

31.—(1) The key bid is the bid which has the lowest value of n calculated in accordance with paragraph (2) out of all of the bids which satisfy both of the requirements set out in paragraphs (3) and (4).

- (2) For each such bid, the value of n is the difference (if any) between—
- (a) the amount of the bid; and
 - (b) the total amount of the round prices in the most recent primary bid round for the lots included in the bid.

(3) The first requirement referred to is that the bid must be a valid opt-in bid or a valid primary bid made by an opted-in bidder.

(4) The second requirement referred to is that the bid must include, in addition to any other lots which are included, the selection of lots which matches those comprised in one of the valid opt-in bids made by that bidder.

(5) Where there is more than one bid for which the value of n is lowest (“tied n bids”), the key bid shall be determined in accordance with the order of precedence set out in paragraph (6).

(6) Tied n bids with a lesser value of a prevail over tied n bids with a greater value of a , where a is calculated in accordance with paragraph (7).

(7) For each tied n bid, the value of a is the total amount of the round prices in the most recent primary bid round for the lots included in the tied n bid, disregarding lots which are also included in the valid primary bid (if any) submitted in the most recent primary bid round by the bidder which submitted the tied n bid.

(8) Where there is more than one tied n bid for which the value of a is lowest (“tied a bids”), the key bid shall be determined in accordance with the order of precedence set out in paragraph (9).

(9) Tied a bids with a lesser value of b prevail over tied a bids with a greater value of b , where b is calculated in accordance with paragraph (10).

(10) For each tied a bid, the value of b is the total amount of the round prices in the most recent primary bid round for the lots included in the valid primary bid (if any) submitted in the most recent primary bid round by the bidder which submitted the tied a bid, disregarding lots which are also included in the tied a bid.

(11) Where a bidder which submitted a tied a bid did not submit a valid primary bid in the most recent primary bid round, the value of b in relation to that tied a bid shall be zero.

(12) Where there is more than one tied a bid for which the value of b is lowest (“tied b bids”), OFCOM shall employ a method of random selection from amongst those tied b bids to determine the key bid.

Round prices for the first primary bid round

- 32.** In the first primary bid round, the round price for—
- (a) each 800 MHz paired frequency lot shall be two hundred and twenty five million pounds;
 - (b) each 2.6 GHz paired frequency lot shall be fifteen million pounds;
 - (c) each 2.6 GHz individual frequency lot shall be one hundred thousand pounds;
 - (d) the 800 MHz coverage obligation lot shall be two hundred and fifty million pounds;

- (e) the 1800 MHz lot (if available) shall be two hundred and twenty five million pounds;
- (f) each 2.6 GHz concurrent low power 10 MHz lot shall be three million pounds; and
- (g) each 2.6 GHz concurrent low power 20 MHz lot shall be six million pounds.

Determination of round prices for subsequent primary bid rounds

33.—(1) In each subsequent primary bid round, the round price for each type of lot shall be determined by OFCOM in accordance with this regulation.

(2) The round price for a type of lot shall be the same as it was in the previous primary bid round, unless any of paragraphs (3), (5), (7), (9), (11) or (13) apply.

(3) This paragraph applies where the adjusted demand for lots of a particular type exceeds the number of lots of that type that are available in the award.

(4) Where paragraph (3) applies in relation to a particular type of lot, the round price for that type of lot in the next round shall be higher than the round price for that type of lot in the previous round, subject to the limit in paragraph (15).

(5) This paragraph applies where the number produced by adding together the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots and the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots is greater than ten.

(6) Where paragraph (5) applies—

- (a) the round price for 2.6 GHz concurrent low power 10 MHz lots in the next round shall be higher than the round price for 2.6 GHz concurrent low power 10 MHz lots in the previous round, subject to the limit in paragraph (15); and
- (b) the round price for 2.6 GHz concurrent low power 20 MHz lots in the next round shall be higher than the round price for 2.6 GHz concurrent low power 20 MHz lots in the previous round, subject to the limit in paragraph (15).

(7) This paragraph applies where—

- (a) the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots in the previous round is greater than zero; and
- (b) the adjusted demand for 2.6 GHz paired frequency lots in the previous round is greater than twelve.

(8) Where paragraph (7) applies—

- (a) the round price for 2.6 GHz paired frequency lots in the next round shall be higher than the round price for 2.6 GHz paired frequency lots in the previous round, subject to the limit in paragraph (15); and
- (b) the round price for 2.6 GHz concurrent low power 10 MHz lots in the next round shall be higher than the round price for 2.6 GHz concurrent low power 10 MHz lots in the previous round, subject to the limit in paragraph (15).

(9) This paragraph applies where—

- (a) the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots in the previous round is greater than zero; and
- (b) the adjusted demand for 2.6 GHz paired frequency lots in the previous round is greater than ten.

(10) Where paragraph (9) applies—

- (a) the round price for 2.6 GHz paired frequency lots in the next round shall be higher than the round price for 2.6 GHz paired frequency lots in the previous round, subject to the limit in paragraph (15); and
- (b) the round price for 2.6 GHz concurrent low power 20 MHz lots in the next round shall be higher than the round price for 2.6 GHz concurrent low power 20 MHz lots in the previous round, subject to the limit in paragraph (15).

(11) This paragraph applies where—

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- (a) the adjusted demand for 2.6 GHz paired frequency lots in the previous round is greater than twelve; and
- (b) the round price for 2.6 GHz concurrent low power 10 MHz lots in the previous round is less than one fifth of the amount that OFCOM have determined to be the round price for 2.6 GHz paired frequency lots in the next round.

(12) Where paragraph (11) applies, the round price for 2.6 GHz concurrent low power 10 MHz lots in the next round shall be higher than the round price for 2.6 GHz concurrent low power 10 MHz lots in the previous round, subject to—

- (a) the limit in paragraph (15); and
- (b) a requirement that the round price for 2.6 GHz concurrent low power 10 MHz lots in the next round must not be less than one fifth of the amount that OFCOM have determined to be the round price for 2.6 GHz paired frequency lots in the next round.

(13) This paragraph applies where—

- (a) the adjusted demand for 2.6 GHz paired frequency lots in the previous round is greater than ten; and
- (b) the round price for 2.6 GHz concurrent low power 20 MHz lots in the previous round is less than two fifths of the amount that OFCOM have determined to be the round price for 2.6 GHz paired frequency lots in the next round.

(14) Where paragraph (13) applies, the round price for 2.6 GHz concurrent low power 20 MHz lots in the next round shall be higher than the round price for 2.6 GHz concurrent low power 20 MHz lots in the previous round, subject to—

- (a) the limit in paragraph (15); and
- (b) a requirement that the round price for 2.6 GHz concurrent low power 20 MHz lots in the next round must not be less than two fifths of the amount that OFCOM have determined to be the round price for 2.6 GHz paired frequency lots in the next round.

(15) The limit is that the round price for a type of lot must not be more than twice the amount of the round price for that type of lot in the previous primary bid round.

Bidders' eligibility limit for second and subsequent primary bid rounds

34. Before the second primary bid round and before each subsequent primary bid round OFCOM shall determine an eligibility limit for each bidder for that primary bid round in accordance with regulation 35.

Determination of bidders' eligibility limit for second and subsequent primary bid rounds

35.—(1) OFCOM shall determine each bidder's eligibility limit under paragraph (2) or (5) (as the case may be).

(2) Where a bidder makes a valid primary bid in a primary bid round, OFCOM shall determine the bidder's eligibility limit for the next primary bid round (if any) by calculating the number of eligibility points associated with that valid primary bid.

(3) The number of eligibility points associated with a valid primary bid shall be a number equal to the total of the eligibility points associated with the lots included in the selection specified in that valid primary bid in accordance with Schedule 6.

(4) The bidder's eligibility limit shall be a number equal to the number of eligibility points associated with that valid primary bid.

(5) Where a bidder does not make a valid primary bid in a primary bid round, the bidder's eligibility limit for the next primary bid round shall be zero.

CHAPTER 4

The supplementary bids round

Supplementary bid selection

36. A bid made during the supplementary bid round (“supplementary bid”) shall be a bid for a selection of—

- (a) 800 MHz paired frequency lots;
- (b) 2.6 GHz paired frequency lots;
- (c) 2.6 GHz individual frequency lots;
- (d) the 800 MHz coverage obligation lots;
- (e) the 1800 MHz lot (if available);
- (f) a 2.6 GHz concurrent low power 10 MHz lot;
- (g) a 2.6 GHz concurrent low power 20 MHz lot,

which matches a selection which is on the permissible bid selection list for that bidder.

Supplementary bids

37.—(1) In order to make a supplementary bid a bidder must, on a form provided to the bidder by OFCOM (“supplementary bids form”) specify—

- (a) the number of 800 MHz paired frequency lots it wishes to be included in a licence;
- (b) the number of 2.6 GHz paired frequency lot it wishes to be included in a licence;
- (c) the number of 2.6 GHz individual frequency lot it wishes to be included in a licence;
- (d) if it wishes the 800 MHz coverage obligation lot to be included in a licence;
- (e) if the 1800 MHz lot is available for award, if it wishes the 1800 MHz lot to be included in a licence;
- (f) if it wishes a 2.6 GHz concurrent low power 10 MHz lot to be included in a licence;
- (g) if it wishes a 2.6 GHz concurrent low power 20 MHz lot to be included in a licence; and
- (h) an amount in whole thousands of pounds that it is willing to pay for a licence which authorises the use of the frequencies comprised in the lots that are selected.

(2) The selection of lots specified in a supplementary bid made by a bidder must be such that the total number of eligibility points associated with the supplementary bid in accordance with paragraph (3) does not exceed the bidder’s eligibility limit for the first primary bid round.

(3) The number of eligibility points associated with a supplementary bid shall be a number equal to the total of the eligibility points associated with the lots included in the selection specified in that bid in accordance with Schedule 6.

(4) The selection of lots specified in a supplementary bid made by a bidder may be the same as or different from the selection comprised in any primary bid made by that bidder.

(5) The amount of the supplementary bid shall be determined by the bidder, subject to the restrictions in paragraph (6).

(6) The restrictions are—

- (a) that the amount of the supplementary bid must not be less than the total amount of the round prices in the first primary bid round for the selection of lots included in the selection specified in that bid;
- (b) where the supplementary bid is for a selection of lots in respect of which the bidder has also made a primary bid, the amount of the supplementary bid must be greater than the amount of the highest primary bid made by the bidder for that selection; and
- (c) where—

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- (i) the bidder did not make a valid primary bid in the final primary bid round; or
 - (ii) the supplementary bid is for a selection of lots that is different from the selection specified in the valid primary bid made by the bidder in the final primary bid round;
- the amount of the supplementary bid must not be greater than the amount “*C*” determined in accordance with paragraph (7);

(7) The amount “*C*” referred to in paragraph (6)(c) shall be calculated in accordance with the formula—

$$C = RP + B - P$$

where—

“*RP*” is the total amount of the round prices in the primary bid round referred to in paragraph (8) for the selection of lots included in the selection of lots specified in the supplementary bid;

“*B*” is, where the bidder made a valid primary bid in the round referred to in paragraph (8), the amount of the highest valid principal stage bid made by the bidder for the same selection as specified in that valid primary bid, and is otherwise zero; and

“*P*” is, where the bidder made a valid primary bid in the round referred to in paragraph (8), the amount of that valid primary bid, and is otherwise zero.

(8) The primary bid round referred to in paragraph (7) is the latest primary bid round in which a primary bid made by the bidder for the selection of lots specified in the basic supplementary bid could have satisfied the restriction set out in regulation 25(5).

(9) A bidder may submit any number of supplementary bids in the supplementary bids round up to a maximum of three thousand supplementary bids.

(10) A bidder may not submit more than one supplementary bid for each permissible selection of lots.

(11) A bidder is not required to submit a supplementary bid.

Valid supplementary bids

38. A supplementary bid is a valid supplementary bid if the bidder complies with regulations 36, 37 and 54 in respect of that supplementary bid.

CHAPTER 5

Procedure for opt-in rounds

Notice to be given to bidders before the opt-in round

39. Before the start of the opt-in round, OFCOM shall notify each bidder of the date on which, and the times on that date within which, the opt-in bid round will take place.

Submission of opt-in bid form to OFCOM

40.—(1) Except as provided for in regulation 41, a bidder must submit the completed opt-in bid form to OFCOM by using the electronic auction system.

(2) Except as provided for in regulation 42, the completed supplementary bids form must be received by OFCOM within the times notified to bidders under regulation 39.

Alternative method for submission of opt-in bid form

41.—(1) Where OFCOM are satisfied that a bidder is unable to submit an opt-in bid form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder’s ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the opt-in bid form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the opt-in bid form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

Extension to opt-in round

42.—(1) Where—

- (a) OFCOM have not received a completed opt-in bid form from a bidder by the deadline notified to bidders under regulation 39 as the end of the opt-in round, and
- (b) paragraph (2) applies,

the time by which the bidder's completed opt-in bid form must be received by OFCOM shall be the time sixty minutes after the time notified to bidders under regulation 39.

(2) This paragraph applies where OFCOM are satisfied that circumstances existed which were beyond the bidder's control which had the effect that the bidder could not submit its opt-in bid form so that it was received by OFCOM on time.

Incomplete or defective opt-in bid form

43.—(1) Where, due to the manner of completion, an opt-in bid form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of the opt-in bids, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of opt-in bids.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons that OFCOM have correctly ascertained the bidder's intention, the opt-in bid form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation, the opt-in bid form in its entirety shall be rejected by OFCOM and the opt-in bid submitted on the opt-in bid form shall not be a valid opt-in bid.

Notification that opt-in bid not valid

44. Where a bidder submits an opt-in bid that is not a valid opt-in bid, OFCOM shall, after the end of the opt-in round, notify the bidder of that fact and shall give the reasons why the bid is not a valid opt-in bid.

Release of information on opt-in bids in principal stage

45. After the end of the opt-in round and before the start of the first primary bid round OFCOM shall notify bidders of the number of bidders that submitted valid opt-in bids.

CHAPTER 6

Procedure for primary bid rounds

Notice to be given to bidders before primary bid rounds and extensions to rounds

46.—(1) Before the start of each primary bid round, OFCOM shall notify each bidder of—

- (a) the date on which, and the times on that date within which, the primary bid round will take place;
- (b) the round price for—
 - (i) 800 MHz paired frequency lots;
 - (ii) 2.6 GHz paired frequency lot;
 - (iii) 2.6 GHz individual frequency lot;

- (iv) the 800 MHz coverage obligation lot;
 - (v) the 1800 MHz lot (if available);
 - (vi) 2.6 GHz concurrent low power 10 MHz lots; and
 - (vii) 2.6 GHz concurrent low power 20 MHz lots;
 - (c) the bidder's eligibility limit for that primary bid round; and
 - (d) whether the number of opted-in bidders whose eligibility limit for that primary bid round is at least as great as the minimum eligibility of their valid opt-in bids is greater than one.
- (2) The time notified by OFCOM under paragraph (1)(a) as the end of the primary bid round ("end of round time") may be treated by a bidder in respect of—
- (a) no more than two primary bid rounds, and also
 - (b) in respect of each occasion where paragraph (3) applies to the bidder, a further primary bid round,

as that time extended by thirty minutes and OFCOM shall treat that extended time as the end of round time for the purposes of paragraph (1)(a).

- (3) This paragraph applies to a bidder where—
- (a) in respect of a previous primary bid round, the bidder treated the end of round time for that round as extended by thirty minutes in accordance with paragraph (2);
 - (b) the bidder submitted its completed primary bid form for that primary bid round so that it was received by OFCOM by the end of round time so extended; and
 - (c) OFCOM have notified the bidder that they are satisfied that, in respect of that primary bid round, circumstances existed which were beyond the bidder's control which had the effect that the bidder could not have submitted its primary bid form so that it was received by OFCOM by the end of round time without such an extension.

Submission of primary bid form to OFCOM

47.—(1) Except as provided for in regulation 48, a bidder must submit the completed primary bid form to OFCOM by using the electronic auction system.

- (2) The completed primary bid form must be received by OFCOM by the end of round time.

Alternative method for submission of primary bid form

48.—(1) Where OFCOM are satisfied that a bidder is unable to submit a primary bid form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder's ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the primary bid form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the primary bid form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

Incomplete or defective primary bid form

49.—(1) Where, due to the manner of completion, a primary bid form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of the primary bid, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of the primary bid.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons that OFCOM have correctly ascertained the bidder's intention, the primary bid form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation, the primary bid form in its entirety shall be rejected by OFCOM and the primary bid submitted on the primary bid form shall not be a valid primary bid.

Notification that primary bid not valid

50. Where a bidder submits a primary bid that is not a valid primary bid during a primary bid round, OFCOM shall, after the end of that primary bid round, notify the bidder of that fact and shall give the reasons why the bid is not a valid primary bid.

Release of information on primary bids in principal stage

51. After the end of each primary bid round and before the start of the next primary bid round (or before the start of the supplementary bids round if there is no subsequent primary bid round), OFCOM shall notify bidders of—

- (a) the total number of—
 - (i) 800 MHz paired frequency lots;
 - (ii) 2.6 GHz paired frequency lots;
 - (iii) 2.6 GHz individual frequency lots;
 - (iv) 800 MHz coverage obligation lot;
 - (v) 1800 MHz lot (if available);
 - (vi) 2.6 GHz concurrent low power 10 MHz lots; and
 - (vii) 2.6 GHz concurrent low power 20 MHz lots, included in valid primary bids; and
- (b) whether there is excess demand.

Further deposit during primary bid rounds

52.—(1) Where, in respect of a primary bid, the amount which a bidder specifies that it is willing to pay is greater than double the total amount that the bidder has on deposit with OFCOM for the purposes of the award process at that time OFCOM may, having regard to the desirability of securing an efficient outcome to the principal stage, subsequently notify the bidder that the bidder is required to pay a further sum in pounds as a deposit.

(2) The further sum shall be an amount determined by OFCOM such that the total amount that the bidder is required to have on deposit is at most half the amount of the highest valid primary bid that the bidder made before OFCOM gave notice to the bidder under paragraph (1).

(3) Any such sum must be paid into OFCOM's bank account by a same day electronic transfer, with accompanying information which identifies the bidder, by a deadline specified by OFCOM.

(4) Where a bidder does not satisfy the requirements set out in paragraph (3), OFCOM shall notify the bidder of that fact, and for any primary bid rounds following notice being given under this paragraph the bidder's eligibility limit shall be zero.

CHAPTER 7

Procedure and further deposit for supplementary bids round

Notice to be given to bidders before supplementary bids round

53. Before the start of the supplementary bids round, OFCOM shall notify each bidder of—

- (a) the date on which, and the times on that date within which, the supplementary bids round will take place;
- (b) the deadline by when bidders must pay a further sum in pounds as a deposit calculated in accordance with regulation 59; and

- (c) if applicable, the proportion referred to in regulation 59(1)(a).

Submission of supplementary bids form to OFCOM

54.—(1) Except as provided for in regulation 55, a bidder must submit the completed supplementary bids form to OFCOM by using the electronic auction system.

(2) Except as provided for in regulation 56, the completed supplementary bids form must be received by OFCOM within the times notified to bidders under regulation 53(a).

Alternative method for submission of supplementary bids form

55.—(1) Where OFCOM are satisfied that a bidder is unable to submit a supplementary bids form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder's ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the supplementary bids form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the supplementary bids form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

Extension to supplementary bids round

56.—(1) Where—

- (a) OFCOM have not received a completed supplementary bids form from a bidder by the time notified to bidders under regulation 53(a) as the end of the supplementary bids round, and
- (b) paragraph (2) applies,

the time by which the bidder's completed supplementary bids form must be received by OFCOM shall be the time sixty minutes after the time notified to bidders under regulation 53(a).

(2) This paragraph applies where OFCOM are satisfied that circumstances existed which were beyond the bidder's control which had the effect that the bidder could not submit its supplementary bids form so that it was received by OFCOM on time.

Incomplete or defective supplementary bids form

57.—(1) Where, due to the manner of completion, a supplementary bids form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of the supplementary bid or bids, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of the supplementary bid or bids.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons that OFCOM have correctly ascertained the bidder's intention, the supplementary bids form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation—

- (a) where the incompleteness or defect relates to one or more of the supplementary bids made on the supplementary bids form, that supplementary bid or those supplementary bids (as the case may be) shall not be valid;
- (b) where sub-paragraph (a) does not apply, the supplementary bids form in its entirety shall be rejected by OFCOM and none of the supplementary bids made on that supplementary bids form shall be valid.

Notification that supplementary bid not valid

58. Where a bidder submits a supplementary bid that is not a valid supplementary bid, OFCOM shall, after the end of the supplementary bids round, notify the bidder of that fact and shall give the reasons why the bid is not a valid supplementary bid.

Further deposit for supplementary bids rounds

59.—(1) By the deadline notified to bidders under regulation 53(b), each bidder must pay into OFCOM's bank account a further sum in pounds as a deposit so that the total amount the bidder has on deposit is not less than—

- (a) where a bidder has on all occasions paid sums for deposit by the time specified for payment by OFCOM, a proportion specified by OFCOM which is at most one half, of the greater of—
 - (i) the amount of the bidder's highest valid primary bid; and
 - (ii) the amount of the bidder's highest valid supplementary bid;
- (b) where a bidder has not on all occasions paid sums for deposit by the time specified for payment by OFCOM, the greater of—
 - (i) the amount of the bidder's highest valid primary bid; and
 - (ii) the amount of the bidder's highest valid supplementary bid.

(2) The further sum must be paid to OFCOM by a same day electronic transfer with accompanying information which identifies the bidder making the payment.

(3) Where a bidder does not so make payment, OFCOM shall notify the bidder and the bidder shall be excluded from the award process and shall not receive a refund of its initial deposit or any sum paid as a deposit under regulations 15, 52 or paragraph (2) of this regulation which shall (where not forfeited under regulation 108) be forfeited, and all of that principal stage bids (if any) shall be deemed to be invalid.

CHAPTER 8

Determination of winning principal stage bids and conclusion of principal stage

Determination of the winning principal stage bids and the winning combination of principal stage bids

60.—(1) The winning principal stage bids shall be those valid principal stage bids that comprise the winning combination of principal stage bids.

(2) The winning combination of principal stage bids shall be the valid combination of principal stage bids for which the total value of the combination of bids calculated in accordance with paragraph (8) is the highest.

(3) Where there is more than one valid combination of principal stage bids for which the total value is equal highest, the winning combination of principal stage bids shall be determined in accordance with the order of precedence set out in paragraph (5) and then in accordance with paragraph (6) if necessary.

(4) A combination of principal stage bids is a valid combination of principal stage bids if all of the bids included in the combination are valid principal stage bids, there is no more than one principal stage bid from any one bidder within the combination, and—

- (a) if any bidder submitted a valid opt-in bid in the opt-in round, there is at least one bid in the combination from an opted-in bidder for a selection of lots that includes all of the lots selected in one of the valid opt-in bids made by that bidder;
- (b) the total number of lots of each type in the combination is not greater than the number of lots of that type available in the award process;

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- (c) the number produced by adding together the number of 2.6 GHz concurrent low power 10 MHz lots in the combination and the number of 2.6 GHz concurrent low power 20 MHz lots in the combination is not greater than ten;
- (d) if any bid in the combination includes a 2.6 GHz concurrent low power 10 MHz lot, the total number of 2.6 GHz paired frequency lots in the combination is not greater than twelve; and
- (e) if any bid in the combination includes a 2.6 GHz concurrent low power 20 MHz lot, the total number of 2.6 GHz paired frequency lots in the combination is not greater than ten.

(5) The order of precedence referred to in paragraph (3) shall be determined by the total number of eligibility points associated with each such valid combination of principal stage bids in accordance with paragraph (7) such that valid combinations of principal stage bids with which a greater total number of eligibility points are associated prevail over valid combinations of principal stage bids with which a lesser total number of eligibility points are associated.

(6) If after the provisions in paragraph (5) have been applied more than one valid combination of principal stage bids of highest ranking in the order of precedence remains, OFCOM shall employ a method of random selection from amongst those remaining valid combinations of principal stage bids of highest ranking in the order of precedence to determine the winning combination of principal stage bids.

(7) The number of eligibility points associated with a valid combination of principal stage bids shall be a number equal to the total of the eligibility points associated with the lots included in the selection of lots specified in the bids constituting that valid combination of principal stage bids in accordance with Schedule 6.

(8) The total value of a combination of bids (“TV”) shall be calculated in accordance with the formula—

$$TV = A + L - Y$$

where—

- “A” is the total of the amounts of the bids in the combination;
- “L” is the number determined in accordance with paragraph (9);
- “Y” is the number determined under paragraph (10).

(9) The total of the round prices in the first primary bid round (as set out in regulation 32) for each lot that is available in the award process but was not included in that combination, but not including any 2.6 GHz concurrent low power 10 MHz lot or 2.6 GHz concurrent low power 20 MHz lot.

(10) The number is—

- (a) sixty million if the combination includes at least one 2.6 GHz concurrent low power 20 MHz lot;
- (b) thirty million if the combination includes at least one 2.6 GHz concurrent 10 MHz lot and does not include any 2.6 GHz concurrent low power 20 MHz lots; or
- (c) zero, if neither (a) nor (b) apply.

Determination of base price for each winning principal stage bid

61. In respect of each winning principal stage bid OFCOM shall determine an amount in accordance with Schedule 7 (“base price”) which shall be payable by the relevant winning bidder.

Notification of results of principal stage and refund of deposits

62. Following the determination of the winning principal stage bids under regulation 60, and the determination of the base price for each winning principal stage bid under regulation 61, OFCOM shall—

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- (a) notify—
 - (i) each winning bidder of—
 - (aa) the selection of lots included in its winning principal stage bid;
 - (bb) the amount of the base price for its winning principal stage bid; and
 - (cc) the further sum (if any) in pounds as a deposit that it is required to pay in accordance with regulation 63 (“final principal stage deposit”); and
 - (ii) all other bidders that they have not made a winning principal stage bid;
- (b) refund to applicants which were not qualified or which withdrew in accordance with regulation 13, and to bidders which were not winning bidders, the initial deposits and any sum paid as a deposit under regulations 15, 52 or 59 (where such deposits have not been forfeited under regulation 108), but not any interest which has accrued on the deposits.

Final principal stage deposit

63.—(1) The final principal stage deposit shall be an amount such that the total amount that the bidder has on deposit is not less than the amount of the base price for that bidder’s winning bid determined under regulation 61.

(2) The final principal stage deposit must be paid into OFCOM’s bank account by a same day electronic transfer, with accompanying information which identifies the bidder, by a deadline specified by OFCOM.

(3) Where a bidder does not satisfy the requirements set out in paragraph (2), OFCOM shall notify the bidder and the bidder shall be excluded from the award process, will not be assigned any frequencies and shall not receive a refund of its initial deposit or any sum paid as a deposit under regulations 15, 52, 59 or paragraph (2), which shall be forfeited.

Publication of results of principal stage

64. After the deadline specified under regulation 63(2), OFCOM shall publish on their internet website—

- (a) the names of the winning bidders that have satisfied the requirements of regulation 63(2);
- (b) in respect of each such winning bidder—
 - (i) the selection of lots included in its winning principal stage bid; and
 - (ii) the base price for its winning principal stage bid;
- (c) the names of any winning bidders that have not satisfied the requirements of regulation 63(2) and who have been excluded from the award process in accordance with regulation 63(3);
- (d) in respect of each winning bidder that has not satisfied the requirements of regulation 63(2) and has been excluded from the award process in accordance with regulation 63(3)—
 - (i) the selection of lots included in the bid which would have constituted its winning principal stage bid; and
 - (ii) the base price for the bid which would have constituted its winning principal stage bid.

CHAPTER 9

Assignment of frequencies

Preliminary

65.—(1) If there was no winning principal stage bid that included lots of a particular type, there shall be no assignment of the frequencies comprised in that type of lot and no licence shall be granted for those frequencies.

(2) In this Chapter, a reference to a block of frequencies or a block of lots is to be construed (respectively) as a reference to a block of contiguous frequencies or a block of sequentially numbered lots.

Assignment of frequencies in respect of the 800 MHz coverage obligation lot

66. Where the 800 MHz coverage obligation lot was included in a winning principal stage bid, OFCOM shall assign to the bidder that submitted that winning principal stage bid the frequencies comprised in that lot.

Assignment of 800 MHz paired frequency lots to winner of the 800 MHz coverage obligation lot

67.—(1) This regulation applies where the winning principal stage bid referred to in regulation 66 also included one or more 800 MHz paired frequency lots.

(2) OFCOM shall assign to the bidder that submitted that winning principal stage bid the block of 800 MHz paired frequency lots that satisfies both of the conditions in paragraph (3).

(3) The conditions are—

- (a) the number of 800 MHz paired frequency lots contained within that block is equal to the number of 800 MHz paired frequency lots selected in the winning principal stage bid; and
- (b) 800 MHz paired frequency lot 4 is contained within that block.

Assignment of frequencies in respect of the 1800MHz lot

68. Where the 1800 MHz lot was included in a winning principal stage bid, OFCOM shall assign to the bidder that submitted that winning principal stage bid the frequencies comprised in that lot.

Assignment of 800 MHz paired frequency lots in the case where 800 MHz paired frequency lots were selected in only one winning principal stage bid

69.—(1) This regulation applies where 800 MHz paired frequency lots were selected in only one winning principal stage bid, and that winning principal stage bid did not also include the 800 MHz coverage obligation lot.

(2) OFCOM shall assign to the bidder that submitted that winning principal stage bid a block of 800 MHz paired frequency lots such that—

- (a) the number of 800 MHz paired frequency lots contained within that block is equal to the number of 800 MHz paired frequency lots selected in that winning principal stage bid; and
- (b) 800 MHz paired frequency lot 4 is contained within that block.

Assignment of 800 MHz paired frequency lots in the case where 800 MHz paired frequency lots were selected in two winning principal stage bids, one of which also included the 800 MHz coverage obligation lot

70.—(1) This regulation applies where 800 MHz paired frequency lots were selected in two winning principal stage bids, one of which also included the 800 MHz coverage obligation lot.

(2) OFCOM shall assign to the bidder that submitted the one of those two winning principal stage bids that did not also include the 800 MHz coverage obligation lot, a block of 800 MHz paired frequency lots such that—

- (a) the number of 800 MHz paired frequency lots contained within that block is equal to the number of 800 MHz paired frequency lots selected in that winning principal stage bid; and
- (b) the lowest numbered 800 MHz paired frequency lot included in the block is such that—

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- (i) there is no overlap between the block of 800 MHz paired frequency lots assigned and the 800 MHz paired frequency lots assigned under regulation 67; and
- (ii) the combination of the block of 800 MHz paired frequency lots assigned under this regulation and the 800 MHz paired frequency lots assigned under regulation 67 is a single block of 800 MHz paired frequency lots.

Assignment of 2.6 GHz paired frequency lots in the case where 2.6 GHz paired frequency lots were selected in only one winning principal stage bid

71. Where 2.6 GHz paired frequency lots were selected in only one winning principal stage bid, OFCOM shall assign to the bidder that submitted that winning principal stage bid a block of 2.6 GHz paired frequency lots such that—

- (a) the number of 2.6 GHz paired frequency lots contained within that block is equal to the number of 2.6 GHz paired frequency lots selected in that winning principal stage bid; and
- (b) 2.6 GHz paired frequency lot 1 is contained within that block.

Assignment of 2.6 GHz concurrent low power 10 MHz lots in the case where 2.6 GHz paired frequency lots were selected in only one winning principal stage bid

72.—(1) This regulation applies where—

- (a) 2.6 GHz paired frequency lots have been assigned in accordance with regulation 71; and
- (b) there are one or more winning principal stage bids which included a 2.6 GHz concurrent low power 10 MHz lot.

(2) OFCOM shall assign to each bidder that submitted a winning principal stage bid which included a 2.6 GHz concurrent low power 10 MHz lot a block of frequencies corresponding to the two sequentially numbered 2.6 GHz paired frequency lots that satisfy the condition in (3).

(3) The condition is that the number of the lower of the two numbered 2.6 GHz paired frequency lots must be one greater than the highest numbered 2.6 GHz paired frequency lot that has been assigned in accordance with regulation 71.

Assignment of 2.6 GHz concurrent low power 20 MHz lots in the case where 2.6 GHz paired frequency lots were selected in only one winning principal stage bid

73.—(1) This regulation applies where—

- (a) 2.6 GHz paired frequency lots have been assigned in accordance with regulation 71; and
- (b) there are one or more winning principal stage bids which included a 2.6 GHz concurrent low power 20 MHz lot.

(2) OFCOM shall assign to each bidder that submitted a winning principal stage bid which included a 2.6 GHz concurrent low power 20 MHz lot a block of frequencies corresponding to the four sequentially numbered 2.6 GHz paired frequency lots that satisfy the condition in (3).

(3) The condition is that number of the lowest of the four numbered 2.6 GHz paired frequency lots must be one greater than the highest numbered 2.6 GHz paired frequency lot that has been assigned in accordance with regulation 71.

Assignment of 2.6 GHz paired frequency lots and 2.6 GHz concurrent low power 10 MHz lots in the first special case

74.—(1) This regulation applies where—

- (a) no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot;
- (b) at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot; and

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- (c) 2.6 GHz paired frequency lots were included in two winning principal stage bids, with eleven such lots included in one of those winning principal stage bids, and one such lot in the other winning principal stage bid.
- (2) OFCOM shall assign—
- (a) to each bidder that submitted a winning principal stage bid that included eleven 2.6 GHz paired frequency lots, the block of eleven 2.6 GHz paired frequency lots containing 2.6 GHz paired frequency lot 1;
 - (b) to the bidder or bidders (as the case may be) that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, the block of two 2.6 GHz paired frequency lots consisting of 2.6 GHz paired frequency lot 12 and 2.6 GHz paired frequency lot 13; and
 - (c) to the bidder that submitted the winning principal stage bid that included one 2.6 GHz paired frequency lot, 2.6 GHz paired frequency lot 14.

Assignment of 2.6 GHz paired frequency lots and 2.6 GHz concurrent low power 10 MHz lots in the second special case

- 75.**—(1) This regulation applies where—
- (a) no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot;
 - (b) at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot; and
 - (c) 2.6 GHz paired frequency lots were included in two winning principal stage bids, with ten such lots included in one of those winning principal stage bids, and one such lot in the other winning principal stage bid.
- (2) OFCOM shall assign—
- (a) to the bidder that submitted the winning principal stage bid that included ten 2.6 GHz paired frequency lots, the block of ten 2.6 GHz paired frequency lots containing 2.6 GHz paired frequency lot 1;
 - (b) to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, the block of two 2.6 GHz paired frequency lots consisting of 2.6 GHz paired frequency lot 11 and 2.6 GHz paired frequency lot 12; and
 - (c) to the bidder that submitted the winning principal stage bid that included one 2.6 GHz paired frequency lot, 2.6 GHz paired frequency lot 13.

Assignment of 2.6 GHz paired frequency lots, 2.6 GHz concurrent low power 10 MHz lots and 2.6 GHz concurrent low power 20 MHz lots in the third special case

- 76.**—(1) This regulation applies where—
- (a) at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot; and
 - (b) 2.6 GHz paired frequency lots were included in two winning principal stage bids, with nine such lots included in one of those winning principal stage bids, and one such lot in the other winning principal stage bid.
- (2) OFCOM shall assign—
- (a) to the bidder that submitted the winning principal stage bid that included nine 2.6 GHz paired frequency lots, the block of nine 2.6 GHz paired frequency lots containing 2.6 GHz paired frequency lot 1;
 - (b) to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 20 MHz lot, the block of four 2.6 GHz paired frequency lots consisting of 2.6 GHz paired frequency lot 10, 2.6 GHz paired frequency lot 11, 2.6 GHz paired frequency lot 12 and 2.6 GHz paired frequency lot 13;

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- (c) to any bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, the block of two 2.6 GHz paired frequency lots consisting of 2.6 GHz paired frequency lot 10 and 2.6 GHz paired frequency lot 11; and
- (d) to the bidder that submitted the winning principal stage bid that included one 2.6 GHz paired frequency lot, 2.6 GHz paired frequency lot 14.

Assignment of 2.6 GHz paired frequency lots, 2.6 GHz concurrent low power 10 MHz lots and 2.6 GHz concurrent low power 20 MHz lots in the fourth special case

77.—(1) This regulation applies where—

- (a) at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot; and
- (b) 2.6 GHz paired frequency lots were included in two winning principal stage bids, with eight such lots included in one of those winning principal stage bids, and one such lot in the other winning principal stage bid.

(2) OFCOM shall assign—

- (a) to the bidder that submitted the winning principal stage bid that included eight 2.6 GHz paired frequency lots, the block of eight 2.6 GHz paired frequency lots containing 2.6 GHz paired frequency lot 1;
- (b) to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 20 MHz lot, the block of four 2.6 GHz paired frequency lots consisting of 2.6 GHz paired frequency lot 9, 2.6 GHz paired frequency lot 10, 2.6 GHz paired frequency lot 11 and 2.6 GHz paired frequency lot 12;
- (c) to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, the block of two 2.6 GHz paired frequency lots consisting of 2.6 GHz paired frequency lot 9 and 2.6 GHz paired frequency lot 10; and
- (d) to the bidder that submitted the winning principal stage bid that included one 2.6 GHz paired frequency lot, 2.6 GHz paired frequency lot 13.

Assignment of 2.6 GHz concurrent low power 10 MHz lots in the case where 2.6 GHz paired frequency lots were selected in more than one winning principal stage bid

78.—(1) This regulation applies where—

- (a) no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot;
- (b) at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot;
- (c) more than one winning principal stage bid included 2.6 GHz paired frequency lots; and
- (d) neither regulation 74 nor regulation 75 apply.

(2) OFCOM shall assign to each bidder that submitted the winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot a block of two 2.6 GHz paired frequency lots.

(3) OFCOM shall determine which two 2.6 GHz paired frequency lots shall be assigned under paragraph (2) after OFCOM has determined the winning assignment stage bids for 2.6 GHz paired frequency lots in accordance with regulation 99.

(4) The two 2.6 GHz paired frequency lots shall be the two lots which meet the requirement in paragraph (5).

(5) The combination of the two blocks of 2.6 GHz paired frequency lots assigned under this regulation, and the blocks of 2.6 GHz paired frequency lots included in winning assignment stage bids for 2.6 GHz paired frequency lots, must form a single block of 2.6 GHz paired frequency lots.

Assignment of 2.6 GHz concurrent low power lots in the case where 2.6 GHz paired frequency lots were selected in more than one winning principal stage bid

79.—(1) This regulation applies where—

- (a) at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot;
- (b) more than one winning principal stage bid included 2.6 GHz paired frequency lots; and
- (c) neither regulation 76 nor regulation 77 apply.

(2) OFCOM shall assign to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 20 MHz lot a block of four 2.6 GHz paired frequency lots.

(3) OFCOM shall determine which four 2.6 GHz paired frequency lots shall be assigned under paragraph (2) after OFCOM has determined the winning assignment stage bids for 2.6 GHz paired frequency lots in accordance with regulation 100.

(4) The four 2.6 GHz paired frequency lots shall be the four lots which meet the requirement in paragraph (5).

(5) The combination of the four blocks of 2.6 GHz paired frequency lots assigned under this regulation, and the blocks of 2.6 GHz paired frequency lots included in winning assignment stage bids for 2.6 GHz paired frequency lots, must form a single block of 2.6 GHz paired frequency lots.

(6) OFCOM shall assign to each bidder that submitted a winning principal stage bids that included a 2.6 GHz concurrent low power 10 MHz lot a block of two 2.6 GHz paired frequency lots, being the lowest two numbered 2.6 GHz paired frequency lots included in the block of four 2.6 GHz paired frequency lots determined in accordance with paragraph (4).

Assignment of 2.6 GHz concurrent low power lots in the case where 2.6 GHz paired frequency lots were not selected in any winning principal stage bid

80.—(1) This regulation applies where —

- (a) at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot or a 2.6 GHz concurrent low power 20 MHz lot; and
- (b) 2.6 GHz paired frequency lots were not included in any winning principal stage bid.

(2) OFCOM shall assign to each bidder that submitted a winning principal stage bid that included a 2.6 concurrent low power 10 MHz lot the following 2.6 GHz paired frequency lots—

- (a) 2.6 GHz paired frequency lot 5; and
- (b) 2.6 GHz paired frequency lot 6.

(3) OFCOM shall assign to each bidder that submitted a winning principal stage bid that included a 2.6 concurrent low power 20 MHz lot the following 2.6 GHz paired frequency lots—

- (a) 2.6 GHz paired frequency lot 5;
- (b) 2.6 GHz paired frequency lot 6;
- (c) 2.6 GHz paired frequency lot 7; and
- (d) 2.6 GHz paired frequency lot 8.

Assignment of 2.6 GHz individual frequency lots in the case where 2.6 GHz individual frequency lots were selected in only one winning principal stage bid

81. Where 2.6 GHz individual frequency lots were selected in only one winning principal stage bid, OFCOM shall assign to the bidder that submitted that winning principal stage bid a block of 2.6 GHz individual frequency lots such that—

- (a) the number of 2.6 GHz individual frequency lots contained within that block is equal to the number of 2.6 GHz individual frequency lots selected in that winning principal stage bid; and

- (b) 2.6 GHz individual frequency lot 9 is contained within that block.

Assignment stage round and assignment stage bids

82.—(1) Where—

- (a) more than one winning principal stage bid included 800 MHz paired frequency lots and regulation 70 does not apply,
- (b) more than one winning principal stage bid included 2.6 GHz paired frequency lots and none of regulations 74, 75, 76 or 77 apply, or
- (c) more than one winning principal stage bid included 2.6 GHz individual frequency lots,

there shall be one further round of bidding to determine which lots in each band shall be included in the licence to be granted to each winning bidder (“the assignment stage round”).

(2) Only bidders that submitted a winning principal stage bid which included lots of the types referred to in sub-paragraph (1)(a), (b) or (c) may bid in the assignment stage round.

(3) A bid made during the assignment stage round shall be a bid for one of the assignment stage options determined by OFCOM as being available to the winning bidder in accordance with regulation 83.

(4) The assignment stage options available to the winning bidders may be different for each winning bidder.

Identifying the assignment stage options

83. The assignment stage options that are available to each winning bidder in the assignment stage round shall be determined by OFCOM for each winning bidder in accordance with the following regulations.

Assignment stage options for 800 MHz paired frequency lots

84.—(1) Where the winning principal stage bid that included the 800 MHz coverage obligation lot did not also include any 800 MHz paired frequency lots, the assignment stage options in respect of 800 MHz paired frequency lots shall be those blocks of 800 MHz paired frequency lots which satisfy the following conditions—

- (a) the number of 800 MHz paired frequency lots contained in the block of 800 MHz paired frequency lots to be assigned is equal to the number of such lots included in the bidder’s winning principal stage bid; and
- (b) the lowest numbered 800 MHz paired frequency lot included in the block is such that if that winning bidder were assigned that block the following conditions are satisfied—
 - (i) each other winning bidder that included 800 MHz paired frequency lots in its winning principal stage bid could be assigned a block of 800 MHz paired frequency lots that, in respect of that bidder’s winning principal stage bid, satisfies the condition in paragraph (a);
 - (ii) there would be no overlap between the blocks of 800 MHz paired frequency lots assigned;
 - (iii) the combination of all of the blocks of 800 MHz paired frequency lots assigned would be a single block of 800 MHz paired frequency lots; and
 - (iv) 800 MHz paired frequency lot 4 would be included in that single block of 800 MHz paired frequency lots.

(2) Where the winning principal stage bid that included the 800 MHz coverage obligation lot also included at least one 800 MHz paired frequency lot (so that 800 MHz paired frequency lots have been assigned to that bidder under regulation 67), the assignment stage options in respect of the 800 MHz paired frequency lots included in other winning principal stage bids shall be those blocks of 800 MHz paired frequency lots which satisfy the following conditions—

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- (a) the number of 800 MHz paired frequency lots contained in the block of 800 MHz paired frequency lots is equal to the number of 800 MHz paired frequency lots included in the bidder's winning principal stage bid; and
- (b) the lowest numbered 800 MHz paired frequency lot included in the block is such that if that winning bidder were assigned that block of 800 MHz paired frequency lots the following conditions are satisfied—
 - (i) each other winning bidder that included 800 MHz paired frequency lots in its winning principal stage bid could be assigned a block of 800 MHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in paragraph (a);
 - (ii) there would be no overlap between the blocks of 800 MHz paired frequency lots assigned, nor between those blocks and the 800 MHz paired frequency lots assigned under regulation 67;
 - (iii) the combination of all of the blocks of 800 MHz paired frequency lots assigned, including 800 MHz paired frequency lots assigned under regulation 67, would be a single block of 800 MHz paired frequency lots.

Assignment stage options for 2.6 GHz paired frequency lots

85.—(1) Where no winning principal stage bid included a 2.6 GHz concurrent low power lot, the assignment stage options in respect of the 2.6 GHz paired frequency lots shall be those blocks of 2.6 GHz paired frequency lots which satisfy the following conditions—

- (a) the number of 2.6 GHz paired frequency lots contained in the block of 2.6 GHz paired frequency lots to be assigned is equal to the number of such lots included in the bidder's winning principal stage bid; and
- (b) the lowest numbered 2.6 GHz paired frequency lot included in the block is such that if that winning bidder were assigned that block the following conditions are satisfied—
 - (i) each other winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid could be assigned a block of 2.6 GHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in paragraph (a);
 - (ii) there would be no overlap between the blocks of 2.6 GHz paired frequency lots assigned;
 - (iii) the combination of all of the blocks of 2.6 GHz paired frequency lots assigned would be a single block of 2.6 GHz paired frequency lots; and
 - (iv) 2.6 GHz paired frequency lot 1 would be included in that single block of 2.6 GHz paired frequency lots.

(2) Where no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot, but one or more winning principal stage bids included a 2.6 GHz concurrent low power 10 MHz lot, the assignment stage options for the 2.6 GHz paired frequency lots shall be those blocks of 2.6 GHz paired frequency lots which satisfy the following conditions—

- (a) the number of 2.6 GHz paired frequency lots contained in the block of 2.6 GHz paired frequency lots is equal to the number of 2.6 GHz paired frequency lots included in the bidder's winning principal stage bid; and
- (b) the lowest numbered 2.6 GHz paired frequency lot included in the block is such that if that winning bidder were assigned that block of 2.6 GHz paired frequency lots the following conditions are satisfied—
 - (i) each other winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid could be assigned a block of 2.6 GHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in paragraph (a);

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- (ii) the winning bidder or bidders (as the case may be) that included a 2.6 GHz concurrent low power 10 MHz lot in their winning principal stage bids could be assigned a block of two 2.6 GHz paired frequency lots that does not include any of the following lots—
 - (aa) 2.6 GHz paired frequency lot 1
 - (bb) 2.6 GHz paired frequency lot 2;
 - (cc) 2.6 GHz paired frequency lot 13;
 - (dd) 2.6 GHz paired frequency lot 14;
 - (iii) there would be no overlap between the blocks of 2.6 GHz paired frequency lots assigned;
 - (iv) the combination of all of the blocks of 2.6 GHz paired frequency lots assigned would be a single block of 2.6 GHz paired frequency lots; and
 - (v) 2.6 GHz paired frequency lot 1 would be included in that single block of 2.6 GHz paired frequency lots.
- (3) Where one or more winning principal stage bids included a 2.6 GHz concurrent low power 20 MHz lot, the assignment stage options for the 2.6 GHz paired frequency lots shall be those blocks of 2.6 GHz paired frequency lots which satisfy the following conditions—
- (a) the number of 2.6 GHz paired frequency lots contained in the block of 2.6 GHz paired frequency lots is equal to the number of 2.6 GHz paired frequency lots included in the bidder's winning principal stage bid; and
 - (b) the lowest numbered 2.6 GHz paired frequency lot included in the block is such that if that winning bidder were assigned that block of 2.6 GHz paired frequency lots the following conditions are satisfied—
 - (i) each other winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid could be assigned a block of 2.6 GHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in paragraph (a);
 - (ii) the winning bidder or bidders (as the case may be) that included a 2.6 GHz concurrent low power 20 MHz lot in their winning principal stage bids could be assigned a block of four 2.6 GHz paired frequency lots that does not include any of the following lots—
 - (aa) 2.6 GHz paired frequency lot 1
 - (bb) 2.6 GHz paired frequency lot 2;
 - (cc) 2.6 GHz paired frequency lot 13;
 - (dd) 2.6 GHz paired frequency lot 14;
 - (iii) there would be no overlap between the blocks of 2.6 GHz paired frequency lots assigned;
 - (iv) the combination of all of the blocks of 2.6 GHz paired frequency lots assigned would be a single block of 2.6 GHz paired frequency lots; and
 - (v) 2.6 GHz paired frequency lot 1 would be included in that single block of 2.6 GHz paired frequency lots.

Assignment stage options for 2.6 GHz individual frequency lots

86.—(1) In respect of 2.6 GHz individual frequency lots the assignment stage options shall be those blocks of 2.6 GHz individual frequency lots which satisfy the following conditions—

- (a) the number of 2.6 GHz individual frequency lots contained in the block of 2.6 GHz individual frequency lots to be assigned is equal to the number of such lots included in the bidder's winning principal stage bid; and

- (b) the lowest numbered 2.6 GHz individual frequency lot included in the block is such that if that winning bidder were assigned that block the following conditions are satisfied—
 - (i) each other winning bidder that included 2.6 GHz individual frequency lots in its winning principal stage bid could be assigned a block of 2.6 GHz individual frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in paragraph (a);
 - (ii) there would be no overlap between the blocks of 2.6 GHz individual frequency lots assigned;
 - (iii) the combination of all of the blocks of 2.6 GHz individual frequency lots assigned would be a single block of 2.6 GHz individual frequency lots; and
 - (iv) 2.6 GHz individual frequency lot 9 would be included in that single block of 2.6 GHz individual frequency lots.

Assignment stage bids

87.—(1) In order to make an assignment stage bid for an assignment stage option, a bidder must, on the form provided to the bidder by OFCOM (“assignment stage bid form”), specify an amount in whole pounds that it is willing to pay, in addition to the base price for that bidder's winning principal stage bid determined under regulation 61, for a licence that includes—

- (a) the block of 800 MHz paired frequency lots;
- (b) the block of 2.6 GHz paired frequency lots; or
- (c) the block of 2.6 GHz individual frequency lots (as the case may be);

that is the assignment stage option.

(2) A bidder may submit no more than one assignment stage bid for each of the assignment stage options.

(3) A bidder is not required to submit an assignment stage bid.

Assignment stage bid deposit

88.—(1) Each bidder that makes an assignment stage bid must, by a deadline specified by OFCOM, pay into OFCOM's bank account by a same day electronic transfer, with accompanying information which identifies the bidder, a further sum in pounds as a deposit so that the total amount the bidder has on deposit is an amount that is not less than the amount (“*d*”) calculated in accordance with the formula set out in paragraph (2).

(2) The formula is—

$$d = b + a_1 + a_2 + a_3$$

where—

“*b*” is the amount of the base price of the bidder's winning principal stage bid (determined in accordance with regulation 61);

“*a*₁” is the amount of the highest assignment stage bid made by the bidder for an assignment stage option in relation to 800 MHz paired frequency lots;

“*a*₂” is the amount of the highest assignment stage bid made by the bidder for an assignment stage option in relation to 2.6 GHz paired frequency lots;

“*a*₃” is the amount of the highest assignment stage bid made by the bidder for an assignment stage option in relation to 2.6 GHz individual frequency lots.

Valid assignment stage bids

89. An assignment stage bid is a valid assignment stage bid if the bidder complies with regulations 82(3), 87 and 91 in respect of that assignment stage bid.

Notice to bidders before the assignment stage round

90. Before the start of the assignment stage round, OFCOM shall notify each bidder that may make an assignment stage bid in the assignment stage bid round of—

- (a) the assignment stage options that are available to that bidder as determined in accordance with regulation 83;
- (b) the date on which, and the times on that date within which, the assignment stage round will take place.

Submission of assignment stage bid form to OFCOM

91.—(1) Except as provided for in regulation 92, a bidder must submit the completed assignment stage bid form to OFCOM by using the electronic auction system.

(2) Except as provided for in regulation 93, the completed assignment stage bid form must be received by OFCOM by the time notified to the bidder under regulation 90(b) as the end of the assignment stage round.

Alternative method for submission of assignment stage bid form

92.—(1) Where OFCOM are satisfied that a bidder is unable to submit an assignment stage bid form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder's ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the assignment stage bid form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the assignment stage bid form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

Extension to assignment stage round

93.—(1) Where—

- (a) OFCOM have not received a completed assignment stage bid form from a bidder by the time notified to bidders under regulation 90(b) as the end of the round time; and
- (b) paragraph (2) applies,

the time by which the bidder's completed assignment stage bid form must be received by OFCOM shall be the time thirty minutes after the time notified to bidders under regulation 90(b).

(2) This paragraph applies where OFCOM are satisfied that circumstances existed which were beyond the bidder's control which had the effect that the bidder could not submit its assignment stage bid form so that it was received by OFCOM on time.

Incomplete or defective assignment stage bid form

94.—(1) Where, due to the manner of completion, an assignment stage bid form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of assignment stage bids, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of assignment stage bids.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons of that bidder that OFCOM have correctly ascertained the bidder's intention, the assignment stage bid form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation—

- (a) where the incompleteness or defect relates to one or more of the assignment stage bids made on the assignment stage bid form, that assignment stage bid or those assignment

stage bids (as the case may be) shall be deemed to be invalid, and regulation 96 shall apply accordingly;

- (b) in all other cases, the assignment stage bid form in its entirety shall be rejected by OFCOM and all of the assignment stage bids made on that assignment stage bids form shall be deemed to be invalid, and regulation 96 shall apply.

Notification that assignment stage bid is not valid

95. Where a bidder submits an assignment stage bid that is not a valid assignment stage bid, OFCOM shall, after the end of the assignment stage round, notify the bidder of that fact and shall give the reasons why the bid is not a valid assignment stage bid.

Procedure where there is no valid assignment stage bid

96. If a bidder does not make a valid assignment stage bid for an assignment stage option, the bidder shall be deemed to have made a valid assignment stage bid of zero pounds for that option.

Determination of the winning assignment stage bids for 800 MHz paired frequency lots

97.—(1) The winning assignment stage bids for 800 MHz paired frequency lots will be those assignment stage bids that comprise the winning combination of assignment stage bids for 800 MHz paired frequency lots.

(2) The winning combination of assignment stage bids for 800 MHz paired frequency lots shall be the valid combination of assignment stage bids for 800 MHz paired frequency lots having the highest total value of amounts bid.

(3) A combination of valid assignment stage bids is a valid combination of assignment stage bids for 800 MHz paired frequency lots if within that combination—

- (a) there is one valid assignment stage bid from each winning bidder that included 800 MHz paired frequency lots in its winning principal stage bid;
- (b) each such valid assignment stage bid is for a block of 800 MHz paired frequency lots;
- (c) there is no overlap between the blocks of 800 MHz paired frequency lots comprised in those valid assignment stage bids;
- (d) the combination of all of the blocks of 800 MHz paired frequency lots comprised in those valid assignment stage bids together with the 800 MHz paired frequency lots assigned under regulation 67 (if applicable) is a single block of 800 MHz paired frequency lots; and
- (e) that single block of 800 MHz paired frequency lots includes 800 MHz paired frequency lot 4.

(4) Where there is more than one valid combination of assignment stage bids for 800 MHz paired frequency lots for which the total value is equal highest OFCOM shall employ a method of random selection from amongst those valid combinations of assignment stage bids to determine the winning combination of assignment stage bids for 800 MHz paired frequency lots.

Determination of the winning assignment stage bids for 2.6 GHz paired frequency lots where no winning principal stage bid included a 2.6 GHz concurrent low power lot

98.—(1) In the situation where no winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot or a 2.6 GHz concurrent low power 20 MHz lot, the winning assignment stage bids for 2.6 GHz paired frequency lots will be those assignment stage bids that comprise the winning combination of assignment stage bids for 2.6 GHz paired frequency lots.

(2) The winning combination of assignment stage bids for 2.6 GHz paired frequency lots shall be the valid combination of assignment stage bids for 2.6 GHz paired frequency lots having the highest total value of amounts bid.

(3) A combination of valid assignment stage bids is a valid combination of assignment stage bids for 2.6 GHz paired frequency lots if within that combination—

- (a) there is one valid assignment stage bid from each winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid;
- (b) each such valid assignment stage bid is for a block of 2.6 GHz paired frequency lots;
- (c) there is no overlap between the blocks of 2.6 GHz paired frequency lots comprised in those valid assignment stage bids;
- (d) the combination of all of the blocks of 2.6 GHz paired frequency lots comprised in those valid assignment stage bids is a single block of 2.6 GHz paired frequency lots; and
- (e) that single block of 2.6 GHz paired frequency lots includes 2.6 GHz paired frequency lot 1.

(4) Where there is more than one valid combination of assignment stage bids for 2.6 GHz paired frequency lots for which the total value is equal highest OFCOM shall employ a method of random selection from amongst those valid combinations of assignment stage bids to determine the winning combination of assignment stage bids for 2.6 GHz paired frequency lots.

Determination of the winning assignment stage bids for 2.6 GHz paired frequency lots where no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot but at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot

99.—(1) In the situation where no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot but at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot, the winning assignment stage bids for 2.6 GHz paired frequency lots will be those assignment stage bids that comprise the winning combination of assignment stage bids for 2.6 GHz paired frequency lots.

(2) The winning combination of assignment stage bids for 2.6 GHz paired frequency lots shall be the valid combination of assignment stage bids for 2.6 GHz paired frequency lots having the highest total value of amounts bid.

(3) A combination of valid assignment stage bids is a valid combination of assignment stage bids for 2.6 GHz paired frequency lots if within that combination—

- (a) there is one valid assignment stage bid from each winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid;
- (b) each such valid assignment stage bid is for a block of 2.6 GHz paired frequency lots;
- (c) there is no overlap between the blocks of 2.6 GHz paired frequency lots comprised in those valid assignment stage bids;
- (d) the winning bidders that included a 2.6 GHz concurrent low power 10 MHz lot in their winning principal stage bids could, collectively, be assigned a block of 2.6 GHz paired frequency lots meeting the requirements of regulation 85(2)(b)(ii) that does not overlap with any of the blocks of 2.6 GHz paired frequency lots within the combination;
- (e) the combination of all of the blocks of 2.6 GHz paired frequency lots comprised in those valid assignment stage bids and the block of 2.6 GHz paired frequency lots meeting the requirements of (d) is a single block of 2.6 GHz paired frequency lots; and
- (f) that single block of 2.6 GHz paired frequency lots includes 2.6 GHz paired frequency lot 1.

(4) Where there is more than one valid combination of assignment stage bids for 2.6 GHz paired frequency lots for which the total value is equal highest OFCOM shall employ a method of random selection from amongst those valid combinations of assignment stage bids to determine the winning combination of assignment stage bids for 2.6 GHz paired frequency lots.

Determination of the winning assignment stage bids for 2.6 GHz paired frequency lots where at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot

100.—(1) In the situation where at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot, the winning assignment stage bids for 2.6 GHz paired frequency lots will be those assignment stage bids that comprise the winning combination of assignment stage bids for 2.6 GHz paired frequency lots.

(2) The winning combination of assignment stage bids for 2.6 GHz paired frequency lots shall be the valid combination of assignment stage bids for 2.6 GHz paired frequency lots having the highest total value of amounts bid.

(3) A combination of valid assignment stage bids is a valid combination of assignment stage bids for 2.6 GHz paired frequency lots if within that combination—

- (a) there is one valid assignment stage bid from each winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid;
- (b) each such valid assignment stage bid is for a block of 2.6 GHz paired frequency lots;
- (c) there is no overlap between the blocks of 2.6 GHz paired frequency lots comprised in those valid assignment stage bids;
- (d) the winning bidders that included a 2.6 GHz concurrent low power 20 MHz lot in their winning principal stage bids could, collectively, be assigned a block of 2.6 GHz paired frequency lots meeting the requirements of regulation 85(3)(b)(ii) that does not overlap with any of the blocks of 2.6 GHz paired frequency lots within the combination;
- (e) the combination of all of the blocks of 2.6 GHz paired frequency lots comprised in those valid assignment stage bids and the block of 2.6 GHz paired frequency lots meeting the requirements of (d) is a single block of 2.6 GHz paired frequency lots; and
- (f) that single block of 2.6 GHz paired frequency lots includes 2.6 GHz paired frequency lot 1.

(4) Where there is more than one valid combination of assignment stage bids for 2.6 GHz paired frequency lots for which the total value is equal highest OFCOM shall employ a method of random selection from amongst those valid combinations of assignment stage bids to determine the winning combination of assignment stage bids for 2.6 GHz paired frequency lots.

Determination of the winning assignment stage bids for 2.6 GHz individual frequency lots

101.—(1) The winning assignment stage bids for 2.6 GHz individual frequency lots will be those assignment stage bids that comprise the winning combination of assignment stage bids for 2.6 GHz individual frequency lots.

(2) The winning combination of assignment stage bids for 2.6 GHz individual frequency lots shall be the valid combination of assignment stage bids for 2.6 GHz individual frequency lots having the highest total value of amounts bid.

(3) A combination of valid assignment stage bids is a valid combination of assignment stage bids for 2.6 GHz individual frequency lots if within that combination—

- (a) there is one valid assignment stage bid from each winning bidder that included 2.6 GHz individual frequency lots in its winning principal stage bid;
- (b) each such valid assignment stage bid is for a block of 2.6 GHz individual frequency lots;
- (c) there is no overlap between the blocks of 2.6 GHz individual frequency lots comprised in those valid assignment stage bids;
- (d) the combination of all of the blocks of 2.6 GHz individual frequency lots comprised in those valid assignment stage bids is a single block of 2.6 GHz individual frequency lots; and
- (e) that single block of 2.6 GHz individual frequency lots includes 2.6 GHz individual frequency lot 9.

(4) Where there is more than one valid combination of assignment stage bids for 2.6 GHz individual frequency lots for which the total value is equal highest OFCOM shall employ a method of random selection from amongst those valid combinations of assignment stage bids to determine the winning combination of assignment stage bids for 2.6 GHz individual frequency lots.

Determination of additional prices for winning assignment stage bids

102. In respect of each winning assignment stage bid, OFCOM shall determine an amount in whole pounds in accordance with Schedule 8 (“additional price”) which shall be payable by the relevant winning bidder.

Notification of results of assignment stage

103. Following determination of the winning assignment stage bids and the winning combinations of assignment stage bids, and the determination of the additional price for each winning assignment stage bid, OFCOM shall notify each winning bidder of—

- (a) the frequencies in respect of which the bidder made winning assignment stage bids;
- (b) the additional price for each winning assignment bid made by the bidder.

CHAPTER 10

Grant Stage

Determination of the licence fee

104. The licence fee payable by a winning bidder shall be an amount equal to the total of—

- (a) the base price determined by OFCOM in accordance with regulation 61; and
- (b) the additional price for each winning assignment stage bid made by the bidder determined by OFCOM in accordance with regulation 102.

Procedure where the amount of a winning bidder’s deposit is less than the licence fee

105.—(1) Where after completion of the assignment stage, the total amount of a winning bidder’s deposit at that time is an amount that is less than the amount of the winning bidder’s licence fee calculated in accordance with regulation 104, the bidder must by a deadline specified by OFCOM pay into OFCOM’s bank account by a same day electronic transfer, with accompanying information which identifies the bidder, a sum in pounds calculated in accordance with paragraph (2).

(2) The sum which the bidder must pay to OFCOM shall be the difference between the amount of the winning bidder’s licence fee calculated in accordance with regulation 104 and the amount of the bidder’s deposit (including the initial deposit and any sum paid as a deposit under regulation 15, 52, 59, 63 or 88 but not including any sum forfeited under regulation 108).

(3) Where a bidder has paid such sum by the deadline, OFCOM shall grant the bidder a licence for—

- (a) the frequencies that have been assigned to the bidder in accordance with Chapter 9 of this Part;
- (b) the frequencies in the bidder’s winning assignment stage bid or winning assignment stage bids in accordance with Chapter 9 of this Part; and

(4) Where a bidder has not paid such sum by the deadline, the bidder shall not be entitled to the grant of a licence under these Regulations and shall not receive a refund of its initial deposit or any sum paid as a deposit under regulation 15, 52, 59, 63 or 88 which shall (where not forfeited under regulation 108) be forfeited.

Procedure where the amount of a winning bidder's deposit is greater than or equal to the licence fee

106.—(1) Where, after completion of the assignment stage, the total amount of a winning bidder's deposit at that time is an amount that is greater than or equal to the amount of the winning bidder's licence fee calculated in accordance with regulation 104, OFCOM shall—

- (a) grant the winning bidder a licence for—
 - (i) the frequencies that have been assigned to the bidder in accordance with Chapter 9 of this Part; and
 - (ii) the frequencies in the bidder's winning assignment stage bid or winning assignment stage bids in accordance with Chapter 9 of this Part; and
- (b) refund to the winning bidder a sum in pounds calculated in accordance with paragraph (2).

(2) The sum which OFCOM shall refund to a winning bidder shall be the difference (if any) between the amount of the winning bidder's deposit (including the initial deposit and any sum paid as a deposit under regulations 15, 52, 59, 63 or 88, but not including any sum forfeited under regulation 108) and the amount of the winning bidder's licence fee calculated in accordance with regulation 104, but not any interest which has accrued on the deposit.

Completion of the award process

107. After the grant of licences, OFCOM shall complete the award process by publishing on their internet website—

- (a) details of all valid principal stage bids and all valid assignment stage bids made by each bidder;
- (b) the names of the persons to whom licences were granted, and—
 - (i) details of the frequencies in respect of which the licences were granted; and
 - (ii) details of the licence fees paid;
- (c) the names of any persons who did not meet the requirements of regulation 105(1) including—
 - (i) details of the frequencies in respect of which licences would have been granted; and
 - (ii) details of the licence fees which would have been payable for those licences had they been granted.

PART 6

ACTIVITY RULES

Forfeit of deposit and exclusion from award process

108. If, in relation to an applicant which is qualified to bid or a bidder, OFCOM are satisfied that any of the events set out in regulation 110 are occurring (or have occurred) and that the occurrence would materially affect the outcome of the award process—

- (a) the initial deposit and any sum or sums paid as a deposit under regulation 15, 52, 59, 63 or 88 shall be forfeited by, and not refunded to, the applicant or bidder concerned; and
- (b) that applicant or bidder may also be excluded from the award process by OFCOM giving that applicant or bidder notice in writing.

Bids made by an excluded bidder

109.—(1) Where a bidder is excluded from the award process under regulation 108 during the principal stage, all of the principal stage bids submitted by the bidder shall be deemed to be invalid and shall not be taken into consideration for the purposes of determining—

- (a) the winning combination of principal stage bids in accordance with regulation 60;
- (b) the base price payable by a winning bidder in accordance with regulation 61.

(2) Where a bidder is excluded from the award process under regulation 108 during the assignment stage, all of the assignment stage bids submitted by the bidder (including any bids which the bidder is deemed to have submitted under regulation 96 shall be deemed to be invalid and shall not be taken into consideration for the purposes of determining—

- (a) the winning combination of assignment stage bids in accordance with regulation 97, 98, 99, 100 or 101;
- (b) the additional price payable by a winning bidder in accordance with regulation 102.

Events

110. The events referred to in regulation 108, in relation to an applicant or bidder, are—

- (a) the submission to OFCOM of any information in connection with the award process which is false or misleading;
- (b) any member of that applicant's or bidder's bidder group colluding or attempting to collude with another person to distort the outcome of the award process;
- (c) any member of that applicant's or bidder's bidder group acting in a way which is likely to distort the outcome of the award process;
- (d) any member of that applicant's or bidder's bidder group, or any person to whom confidential information has been disclosed, disclosing, or attempting to disclose, or inciting another person to disclose, any confidential information, whether directly or indirectly, to any person, except where the disclosure is—
 - (i) to OFCOM;
 - (ii) to a member of that applicant's or bidder's bidder group;
 - (iii) to a provider of finance for the purpose of raising finance for a bid; or
 - (iv) to a person for the purpose of enabling that person to decide whether to participate as a member of the applicant's or bidder's bidder group;
- (e) any member of that applicant's or bidder's bidder group obtaining or attempting to obtain confidential information relating to another applicant or bidder;
- (f) any member of that applicant's or bidder's bidder group receiving or attempting to receive services in relation to the award process from any person who has provided or is providing services to OFCOM in relation to the award process;
- (g) any person who is a member or a director or employee of a member of that applicant's or bidder's bidder group and also a director or employee of a member of another bidder group is—
 - (i) taking part in the preparation of both bidder groups for participation in the award process; or
 - (ii) receiving confidential information relating to both bidder groups;
- (h) a member of that applicant's or bidder's bidder group is or becomes a member of another applicant's or bidder's bidder group;
- (i) a change occurring in the membership of that applicant's or bidder's bidder group from that notified to OFCOM in its application except as a result of —
 - (i) a person ceasing to be a member of that bidder group;
 - (ii) a person joining that bidder group under the procedure in regulation 8(3);

- (iii) a person becoming an associate through merger or acquisition activity provided that such activity is not for a purpose related to the award process;
- (j) a change to the existing spectrum holdings of that applicant or bidder as notified to OFCOM in its application, except insofar as the change is a divestment of a part of or the whole of the existing spectrum holdings.

PART 7

MISCELLANEOUS

General power of exclusion

111. OFCOM may, at any time, notify any applicant or bidder of its exclusion from the award process if, in their opinion, the grant of a licence to that applicant or bidder would be prejudicial to the interests of national security or if, following OFCOM's determination under regulation 10(1) (and notwithstanding that determination) in their opinion, the applicant or bidder is not a fit and proper person to hold a licence.

Notification to OFCOM

112. If, in accordance with any provision of these Regulations, an applicant or bidder is required, or wishes, to notify OFCOM of any fact or circumstance, it must do so by notice in writing which is marked for the attention of the OFCOM personnel who are specified by OFCOM for that purpose on OFCOM's internet website and must deliver that notice to OFCOM—

- (a) by electronic mail to an electronic mail address dedicated to the award process which is published by OFCOM on their internet website;
- (b) by personal delivery to Riverside House, 2a Southwark Bridge Road, London, SE1 9HA;
or
- (c) by fax to a number dedicated to the award process which is published by OFCOM on their internet website.

Changes to timing or location

113.—(1) Subject to regulations 114 and 115, paragraph (2) applies where OFCOM determine that it is impracticable for any reason—

- (a) for any document which is to be delivered to OFCOM under these Regulations to be delivered at the place specified or by the deadline specified under these Regulations; or
- (b) for any action which is required to be undertaken in accordance with these Regulations to be completed by the deadline specified.

(2) Where this paragraph applies, OFCOM shall take all reasonable steps to notify the applicants or bidders that—

- (a) delivery must be made on a different day or within different times on that day or at a different place;
- (b) the action must be completed on a different day or by a different deadline.

Changes to round times and use of electronic auction system

114.—(1) Where a time for the start of a round has been notified to bidders and OFCOM determine that it is impracticable for any reason to start the round at that time, OFCOM shall take reasonable steps to notify bidders of a revised time for the start of the round.

(2) Where a time for the end of a round has been notified to bidders and OFCOM determine that it is impracticable for any reason for the round to end at that time, OFCOM shall take reasonable steps to notify bidders of a revised time for the end of the round.

(3) Where OFCOM determine that it is impracticable for any reason to use the electronic auction system for any of the purposes specified in Part 5 of these Regulations, OFCOM shall take reasonable steps to notify bidders of an alternative method of participating in the award process and any requirements relating to the authentication of communications made by means of the alternative method.

(4) Bidders must use the alternative method of participating in the award process in accordance with a notification under paragraph (3).

Rerunning rounds

115.—(1) Paragraph (2) applies where a round is in progress and OFCOM determine that it is not possible to continue the round because of technical failure (or an event or circumstance with similar effect on the continuation of the round).

(2) Where this paragraph applies, OFCOM shall—

- (a) take reasonable steps to notify bidders of its determination under paragraph (1);
- (b) disregard the bids made in that round;
- (c) resume the award procedure from the end of the previous round (or, if there was no previous round, from the start of the opt-in round).

(3) Paragraph (4) applies where OFCOM determine that it is not possible to continue the award process in accordance with the provisions of Part 5 of these Regulations because of technical failure (or an event or circumstance with similar effect on the continuation of the award process).

(4) Where this paragraph applies, OFCOM shall—

- (a) determine the rounds for which bids made in those rounds should be disregarded in order to have a fair and efficient outcome to the award process;
- (b) take reasonable steps to notify bidders of its determinations under paragraph (3) and sub-paragraph (a); and
- (c) resume the award process from the end of the latest round for which bids are not disregarded under sub-paragraph (a), or, where all bids are to be disregarded under that sub-paragraph, to rerun the award process from the start of the first primary bid round.

Refunds

116. OFCOM may, in such cases as they think fit, refund, in whole or in part, sums which have been paid to them in accordance with any provision of these Regulations.

[Signature]

Date

SCHEDULE 1

FREQUENCY LOTS

In these Regulations—

- (a) “800 MHz paired frequency lot” means any one of the numbered 800 MHz paired frequency lots listed in Column (1) of Table 1 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (b) “2.6 GHz paired frequency lot” means any one of the numbered 2.6 GHz paired frequency lots listed in Column (1) of Table 2 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (c) “2.6 GHz individual frequency lot” means any one of the numbered 2.6 GHz individual frequency lots listed in Column (1) of Table 3 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (d) “800 MHz coverage obligation lot” means the frequencies 811-821 MHz and 852-862 MHz;
- (e) “1800 MHz lot” means the frequencies 1721.7-1736.7 MHz and 1816.7-1831.7 MHz;
- (f) “2.6 GHz concurrent low power 10 MHz lot” means any two sequentially numbered 2.6 GHz paired frequency lots (which will be licensed for use by up to ten licensees on a concurrent low power basis);
- (g) “2.6 GHz concurrent low power 20 MHz lot” means any four sequentially numbered 2.6 GHz paired frequency lots (which will be licensed for use by up to ten licensees on a concurrent low power basis);
- (h) “lot” shall mean any lot which falls within one of the different types of lots in paragraphs (a) to (g);
- (i) a reference to “type of lot” shall be construed as a reference to one of the different types of lot in paragraphs (a) to (g); and
- (j) any reference to a numbered individual frequency lot or a numbered paired frequency lot means the individual frequency lot or paired frequency lot with that number in Column 1 of Table 1, Table 2 or Table 3 (as the case may be).

Table 1

<i>Column (1)</i>	<i>Column (2)</i>
<i>800 MHz paired frequency lots</i>	<i>Frequencies (MHz)</i>
800 MHz paired frequency lot 1	791-796 and 832-837
800 MHz paired frequency lot 2	796-801 and 837-842
800 MHz paired frequency lot 3	801-806 and 842-847
800 MHz paired frequency lot 4	806-811 and 847-852

Table 2

<i>Column (1)</i>	<i>Column (2)</i>
<i>2.6 GHz paired frequency lots</i>	<i>Frequencies (MHz)</i>
2.6 GHz paired frequency lot 1	2500-2505 and 2620-2625
2.6 GHz paired frequency lot 2	2505-2510 and 2625-2630
2.6 GHz paired frequency lot 3	2510-2515 and 2630-2635
2.6 GHz paired frequency lot 4	2515-2520 and 2635-2640

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2.6 GHz paired frequency lot 5	2520-2525 and 2640-2645
2.6 GHz paired frequency lot 6	2525-2530 and 2645-2650
2.6 GHz paired frequency lot 7	2530-2535 and 2650-2655
2.6 GHz paired frequency lot 8	2535-2540 and 2655-2660
2.6 GHz paired frequency lot 9	2540-2545 and 2660-2665
2.6 GHz paired frequency lot 10	2545-2550 and 2665-2670
2.6 GHz paired frequency lot 11	2550-2555 and 2670-2675
2.6 GHz paired frequency lot 12	2555-2560 and 2675-2680
2.6 GHz paired frequency lot 13	2560-2565 and 2680-2685
2.6 GHz paired frequency lot 14	2565-2570 and 2685-2690

Table 3

<i>Column (1)</i>	<i>Column (2)</i>
<i>2.6 GHz individual frequency lots</i>	<i>Frequencies (MHz)</i>
2.6 GHz individual frequency lot 1	2570-2575
2.6 GHz individual frequency lot 2	2575-2580
2.6 GHz individual frequency lot 3	2580-2585
2.6 GHz individual frequency lot 4	2585-2590
2.6 GHz individual frequency lot 5	2590-2595
2.6 GHz individual frequency lot 6	2595-2600
2.6 GHz individual frequency lot 7	2600-2605
2.6 GHz individual frequency lot 8	2605-2610
2.6 GHz individual frequency lot 9	2610-2620

SCHEDULE 2

OPT-IN SELECTIONS AND PRICES

LIST A**First opt-in selection**

<i>Lots</i>	<i>Opt-in price for first opt-in selection</i>
Three 800 MHz paired frequency lots; and No other lots	Six hundred and seventy five million pounds (£675,000,000)

Second opt-in selection

<i>Lots</i>	<i>Opt-in price for second opt-in selection</i>
Two 800 MHz paired frequency lots; Two 2.6 GHz paired frequency lots; and No other lots	Four hundred and eighty million pounds (£480,000,000)

Third opt-in selection

<i>Lots</i>	<i>Opt-in price for third opt-in selection</i>
One 800 MHz paired frequency lots; One 1800 MHz lot; and No other lots	Four hundred and fifty million pounds (£450,000,000)

Fourth opt-in selection

<i>Lots</i>	<i>Opt-in price for fourth opt-in selection</i>
One 1800 MHz lot; Four 2.6 GHz paired frequency lots; and No other lots	Two hundred and eighty five million pounds (£285,000,000)

LIST B**Fifth opt-in selection**

<i>Lots</i>	<i>Opt-in price for fifth opt-in selection</i>
One 800 MHz paired frequency lot; The 800 MHz coverage obligation lot; and No other lots	Four hundred and seventy five million pounds (£475,000,000)

Sixth opt-in selection

<i>Lots</i>	<i>Opt-in price for sixth opt-in selection</i>
The 800 MHz coverage obligation lot; Two 2.6 GHz paired frequency lots ; and No other lots	Two hundred and eighty million pounds (£280,000,000)

Seventh opt-in selection

<i>Lots</i>	<i>Opt-in price for seventh opt-in selection</i>
The 800 MHz coverage obligation lot; and One 1800 MHz lot; and No other lots	Four hundred and seventy five million pounds (£475,000,000)

LIST C

First opt-in selection

<i>Lots</i>	<i>Opt-in price for first opt-in selection</i>
Three 800 MHz paired frequency lots; and No other lots	Six hundred and seventy five million pounds (£675,000,000)

Second opt-in selection

<i>Lots</i>	<i>Opt-in price for second opt-in selection</i>
Two 800 MHz paired frequency lots; Two 2.6 GHz paired frequency lots; and No other lots	Four hundred and eighty million pounds (£480,000,000)

LIST D

Third opt-in selection

<i>Lots</i>	<i>Opt-in price for second opt-in selection</i>
One 800 MHz paired frequency lot; and The 800 MHz coverage obligation lot	Four hundred and seventy five million pounds (£475,000,000)

Fourth opt-in selection

<i>Lots</i>	<i>Opt-in price for second opt-in selection</i>
The 800 MHz coverage obligation lot; and Two 2.6 GHz paired frequency lots	Two hundred and eighty million pounds (£280,000,000)

LIST E

First opt-in selection

<i>Lots</i>	<i>Opt-in price for first opt-in selection</i>
One 800 MHz paired frequency lot; and No other lots	Two hundred and twenty five million pounds (£225,000,000)

Second opt-in selection

<i>Lots</i>	<i>Opt-in price for second opt-in selection</i>
Four 2.6 GHz paired frequency lots; and No other lots	Sixty million pounds (£60,000,000)

LIST F

Third opt-in selection

<i>Lots</i>	<i>Opt-in price for third opt-in selection</i>
The 800 MHz coverage obligation lot	Two hundred and fifty million pounds (£250,000,000)

SCHEDULE 3
SPECTRUM CAP

List A

Frequency bands

791 to 821 MHz
832 to 862 MHz
880.1 to 914.9 MHz
925.1 to 959.9 MHz
1710.1 to 1781.7 MHz
1805.1 to 1876.7 MHz
1920.0 to 1979.7 MHz
2110.3 to 2168.7 MHz
2500 to 2615 MHz
2620 to 2690 MHz

List B

Frequency bands

880.1 to 914.9 MHz
925.1 to 959.9 MHz
791 to 821 MHz
832 to 862 MHz

SCHEDULE 4

APPLICATION FORM AND WARRANTY

1. Details of the applicant

Provide the following details for the applicant—

Applicant's full name

Registered number of company

Registered office of company

Applicant's contact address (if different from registered office)

Contact telephone number

Contact fax number

Contact electronic mail address

Bank sort code and account number

2. Authorised persons

Provide details of the name and position in the applicant of at least three and no more than five persons, each of whom has authority to bind the applicant for all purposes relating to the award process. Also provide a specimen signature of each of these persons.

3. Directors or members of managing body

Provide the name and job title of each of the directors of the applicant or each of the members of the managing body of the applicant.

4. Applicant group

Provide the names of the applicant's associates (as defined in the Wireless Telegraphy (Licence Award) Regulations 2012 ("the Regulations")) and for each provide details of their material interest (as defined in the Regulations) in the applicant.

Provide the names of all other members of the applicant group (as defined in the Regulations) in respect of which the applicant has completed a document in the form set out in Schedule 5 to the Regulations in accordance with regulation 5(3)(a)(ii) of the Regulations.

5. Qualification to bid

In relation to the determination by the Office of Communications ("OFCOM") under regulation 11 of the Regulations concerning whether or not to qualify the applicant to bid in the award process—

- (a) provide details of any reason why the grant of a licence to the applicant may be prejudicial to the interests of national security;
- (b) provide details of any reason why the applicant may not be a fit and proper person to hold a licence;
- (c) state whether any member of the applicant's applicant group has colluded, or attempted to collude, or is colluding or attempting to collude, with another person to distort the outcome of the award process and provide a description of any such collusion;
- (d) state whether any member of the applicant's applicant group has acted or is acting in a way which is likely to distort the outcome of the award process and provide a description of any such actions;

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- (e) state whether any member of the applicant's applicant group, or any person to whom confidential information has been disclosed, has disclosed confidential information, whether directly or indirectly, to any person, and provide a description of the circumstances of any disclosure and the information disclosed, except where the disclosure—
 - (i) was to a member of the applicant's applicant group; or
 - (ii) was to OFCOM;
- (f) state whether any member of the applicant's applicant group has obtained or is obtaining or attempting to obtain confidential information relating to another applicant and provide a description of any such circumstances;
- (g) state whether any member of the applicant's applicant group is receiving or is attempting to receive services in relation to the award process from any person who has provided or is providing services to OFCOM in relation to the award process and provide a description of the services concerned; and
- (h) state whether (and provide a description of any circumstances in which) any person who is a member or a director or employee of a member of the applicant's applicant group and also a director or employee of a member of another applicant group is—
 - (i) taking part in the preparation of both applicant groups for participation in the award process; or
 - (ii) receiving confidential information relating to both applicant groups.

6. Other information

Provide a brief description of the substance of—

- (a) agreements (if any) relating to the management of the applicant; and
- (b) any criminal investigations or proceedings in the United Kingdom or overseas of which the applicant is aware relating to the applicant or any member of its applicant group or its directors or officers.

7. Warranty

Provide the following warranty as part of your application—

“[Insert name of applicant] (the “applicant”) represents and warrants to the Office of Communications that—

- (a) the persons authorised in section 2 of this application have read and understood the Regulations, the terms of the licence to be granted under the Regulations, and the Wireless Telegraphy Act 2006;
- (b) the applicant has the legal authority to participate in the award process under the Regulations and to have a licence granted to it, and has in place all necessary consents, permissions and internal approvals for this purpose;
- (c) the information provided in, or in support of, the application is, to the best of the knowledge and belief of the applicant true, accurate and complete in all material respects; and
- (d) the applicant is aware of the provisions in regulations 108 and 110 of the Regulations, including the provisions about disclosure of confidential information (as defined in the Regulations) and obtaining confidential information relating to another applicant or bidder and that any such activities may lead to forfeiture of sums on deposit and exclusion from the award process.

SCHEDULE 5

DOCUMENT FOR MEMBER OF APPLICANT'S APPLICANT OR BIDDER GROUP WHO IS NOT AN ASSOCIATE

[Insert name of applicant or bidder] (the "applicant/bidder") wishes to include [insert name and address of person to be included in applicant or bidder group who is not an associate] as a member of the applicant/bidder's applicant or bidder group as defined in the Wireless Telegraphy (Licence Award) Regulations 2012 ("the Regulations") for the purpose of the award process under the Regulations.

Under regulation 11 of the Regulations an applicant shall not be qualified to bid in the award process where a member of its bidder group is also a member of another applicant's bidder group. Regulations 108 and 110 contain provisions on disclosure of confidential information (as defined in the Regulations) and obtaining confidential information relating to another applicant or bidder. Under the Regulations such activities may lead to forfeiture of sums on deposit and exclusion from the award process.

1. Application/bidder

In relation to regulations 11, 108 and 110 of the Regulations, the applicant/bidder represents and warrants to the Office of Communications ("OFCOM") that so far as it is aware, having made all reasonable enquiries, [insert name of person to be included in applicant or bidder group who is not an associate] is not a member of any other applicant's or bidder's applicant or bidder group.

The applicant/bidder undertakes to inform OFCOM immediately if it becomes aware that [insert name of person to be included in applicant or bidder group who is not an associate]—

- (a) has ever been or becomes a member of any other applicant's or bidder's applicant or bidder group;
- (b) has ever been or becomes a subsidiary of a member of any other applicant's or bidder's applicant or bidder group during the award process; or
- (c) has ever obtained or ever obtains confidential information (as defined in the Regulations) relating to another applicant or bidder.

2. [Insert name of person to be included in applicant or bidder group who is not an associate]

[Insert name of person to be included in applicant or bidder group who is not an associate] represents and warrants to OFCOM that it—

- (a) consents to be a member of the applicant/bidder's applicant or bidder group;
- (b) is not a member of any other applicant's or bidder's applicant or bidder group; and
- (c) is aware of the provisions in regulations 108 and 110 of the Regulations about disclosure of confidential information (as defined in the Regulations) and obtaining confidential information relating to another applicant or bidder.

[Insert name of person to be included in bidder applicant or group who is not an associate] undertakes to OFCOM that it will immediately inform OFCOM and the applicant/bidder—

- (a) if it has ever been or becomes a member of any other applicant's or bidder's applicant or bidder group;
- (b) if it has ever been or becomes a subsidiary of a member of any other applicant's or bidder's applicant or bidder group during the award process; or
- (c) if it has ever obtained or if it ever obtains confidential information (as defined in the Regulations) relating to another applicant or bidder.

SCHEDULE 6

ELIGIBILITY POINTS ASSOCIATED WITH LOTS

The number of eligibility points associated with a lot of a type mentioned in an entry in Column (1) is the number of points shown in the corresponding entry in Column (2) or, in the case of a 2.6 GHz individual frequency lot, the number derived from applying the formula set out in the corresponding entry in Column (2).

<i>Column (1)</i> <i>Type of lot</i>	<i>Column (2)</i> <i>Number of eligibility points</i>
800 MHz paired frequency lot	2250
2.6 GHz paired frequency lot	150
2.6 GHz individual frequency lot	$n - 1$, where n is the number of lots selected
800 MHz coverage obligation lot	4500
1800 MHz lot (if available)	2250
2.6 GHz concurrent low power 10 MHz lot	30
2.6 GHz concurrent low power 20 MHz lot	60

SCHEDULE 7

DETERMINATION OF BASE PRICE

Base price

1.—(1) OFCOM shall determine a base price for each winning principal stage bid by imposition of the requirements that the base prices must satisfy that are set out in paragraphs 2 to 5.

(2) Where a base price so determined includes a fraction of a pound, the base price shall be that price rounded up to the nearest whole pound.

First requirement

2. The base price for each winning principal stage bid shall be—

- (a) no less than the total of the round prices in the first primary bid round for the lots included in the selection of lots specified in that winning principal stage bid; and
- (b) no greater than the amount of that winning principal stage bid.

Second requirement

3.—(1) Taking the base prices for the winning principal stage bids together, the base prices shall be such that if—

- (a) the amount bid by each winning bidder in respect of its winning principal stage bid had been the base price rather than the amount of its winning principal stage bid (“reduced winning principal stage bid”), and
- (b) subject to paragraph (2), the amount bid by each winning bidder in respect of each other valid principal stage bid made by that bidder had been reduced by an amount equal to the difference between the amount of its winning principal stage bid and the base price for that winning principal stage bid,

the combination of the reduced winning principal stage bids submitted by the winning bidders would have been the valid combination of principal stage bids or one of the valid combinations of principal stage bids (as the case may be) for which the total value of the combination calculated in accordance with regulation 60(8) is the highest.

(2) Where the amount of a bid has been reduced in accordance with sub-paragraph (1)(b) and is less than the total of the round prices in the first primary bid round for the lots included in the selection of lots specified in that bid, the amount of that bid shall be treated as if it were the total of the round prices in the first primary bid round for the lots included in the selection of lots specified in that bid for the purposes of this paragraph.

(3) The bids mentioned in sub-paragraphs (1)(a) and (1)(b) shall, after reduction of the amount of those bids in accordance with those paragraphs, be treated as valid principal stage bids for the purposes of those paragraphs.

Third requirement

4. Taking the base prices for the winning principal stage bids together, the total of those base prices shall be no greater than the total of any other prices for the winning principal stage bids that satisfy the requirements set out in paragraphs 2 and 3.

Fourth requirement

5.—(1) Taking the base prices for the winning principal stage bids together, the opportunity cost variance of those base prices calculated in accordance with sub-paragraph (2) shall be less than the opportunity cost variance, calculated in accordance with sub-paragraph (2), of any other prices for the winning principal stage bids that satisfy the requirements set out in paragraphs 2 to 4.

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(2) The opportunity cost variance (“ OCV_B ”) of prices mentioned in sub-paragraph (1), is the amount calculated in accordance with the formula—

$$OCV_B = \sum (p_B - c_B)^2$$

where—

“ p_B ” is the price for a winning principal stage bid; and

“ c_B ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning principal stage bid.

(3) The formula is—

$$c_B = u_B - t_B + b_B$$

where—

“ u_B ” is the amount calculated in accordance with sub-paragraph (4);

“ t_B ” is the total value of the winning combination of bids calculated in accordance with regulation 60(8); and

“ b_B ” is the amount of the winning principal stage bid for which p_B is the price.

(4) The amount calculated in accordance with this sub-paragraph is the total value of the valid combination of principal stage bids or one of the valid combinations of principal stage bids (as the case may be) for which the total value of the combination calculated in accordance with regulation 60(8) is the highest where the valid combination or combinations of principal stage bids do not include any of the primary bids or supplementary bids made by the winning bidder that submitted the winning principal stage bid for which p_B is the price, but may include valid opt-in bids made by that bidder (if any).

Interpretation

6. In this Schedule “valid combination of principal stage bids” shall be construed in accordance with regulation 60.

SCHEDULE 8

DETERMINATION OF ADDITIONAL PRICE

Additional price

1.—(1) OFCOM shall determine an additional price for each winning assignment stage bid by imposition of the requirements that the additional prices must satisfy that are set out in paragraphs 2 to 5.

(2) Where an additional price so determined includes a fraction of a pound, the additional price shall be that price rounded up to the nearest whole pound.

First requirement

2. The additional price for each winning assignment stage bid shall be no less than zero and no greater than the amount of that winning assignment stage bid.

Second requirement

3.—(1) Taking the additional prices for the winning assignment stage bids in respect of 800 MHz paired frequency lots together, in respect of 2.6 GHz paired frequency lots together and in respect of 2.6 GHz individual frequency lots together, the additional prices for winning assignment stage bids in respect of 800 MHz paired frequency lots, 2.6 GHz paired frequency lots and 2.6 GHz individual frequency lots (as the case may be) shall be such that if—

- (a) the amount bid by each winning bidder for the assignment stage option selected in its winning assignment stage bid in respect of 800 MHz paired frequency lots, 2.6 GHz paired frequency lots or 2.6 GHz individual frequency lots (as the case may be) had been the additional price rather than the amount of its winning assignment stage bid (“reduced winning assignment stage bid”), and
- (b) subject to sub-paragraph (2), the amount bid by each winning bidder in respect of each other valid assignment stage bid made by that bidder in respect of 800 MHz paired frequency lots, 2.6 GHz paired frequency lots or 2.6 GHz individual frequency lots (as the case may be) had been reduced by an amount equal to the difference between the amount of its winning assignment stage bid in respect of 800 MHz paired frequency lots, 2.6 GHz paired frequency lots or 2.6 GHz individual frequency lots (as the case may be) and the additional price for that relevant winning assignment stage bid,

the combination of the reduced winning assignment stage bids submitted by the winning bidders would have been the valid combination of assignment stage bids or one of the valid combinations of assignment stage bids (as the case may be) in respect of 800 MHz paired frequency lots, 2.6 GHz paired frequency lots or 2.6 GHz individual frequency lots (as the case may be) having the highest total value of amounts bid.

(2) Where the amount of a bid has been reduced in accordance with sub-paragraph (1)(b) and is less than zero, the amount of that bid shall be treated as if it were zero for the purposes of this paragraph.

(3) The bids mentioned in sub-paragraphs (1)(a) and (1)(b) shall, after reduction of the amount of those bids in accordance with those paragraphs, be treated as valid assignment stage bids for the purposes of this paragraph.

Third requirement

4. Taking the additional prices for the winning assignment stage bids in respect of 800 MHz paired frequency lots together, in respect of 2.6 GHz paired frequency lots together and in respect of 2.6 GHz individual frequency lots together, the total of those additional prices for winning assignment stage bids in respect of 800 MHz paired frequency lots, in respect of 2.6 GHz paired frequency lots or in respect of 2.6 GHz individual frequency lots (as the case may be) shall be no greater than the total of any other prices for the winning assignment stage bids in respect of 800 MHz paired frequency lots, in respect of 2.6 GHz paired frequency lots or in respect of 2.6 GHz

individual frequency lots (as the case may be) that satisfy the requirements set out in paragraphs 2 and 3.

Fourth requirement

5.—(1) Taking the additional prices for the winning assignment stage bids in respect of 800 MHz paired frequency lots together, in respect of 2.6 GHz paired frequency lots together and in respect of 2.6 GHz individual frequency lots together, the opportunity cost variance of those additional prices for winning assignment stage bids in respect of 800 MHz paired frequency lots, in respect of 2.6 GHz paired frequency lots or in respect of 2.6 GHz individual frequency lots (as the case may be) calculated in accordance with sub-paragraph (2) shall be less than the opportunity cost variance, calculated in accordance with sub-paragraph (2), of any other prices for the winning assignment stage bids in respect of 800 MHz paired frequency lots, in respect of 2.6 GHz paired frequency lots or in respect of 2.6 GHz individual frequency lots (as the case may be) that satisfy the requirements set out in paragraphs 2 to 4.

(2) The opportunity cost variance (“ OCV_A ”) of prices mentioned in sub-paragraph (1) is the amount calculated in accordance with the formula—

$$OCV_A = \sum (p_A - c_A)^2$$

where—

“ p_A ” is the price for a winning assignment stage bid; and

“ c_A ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning assignment stage bid.

(3) The formula is—

$$c_A = u_A - t_A + b_A$$

where—

“ u_A ” is the amount calculated in accordance with sub-paragraph (4);

“ t_A ” is the total amount of the winning assignment stage bids in respect of 800 MHz paired frequency lots, 2.6 GHz paired frequency lots or 2.6 GHz individual frequency lots (as the case may be); and

“ b_A ” is the amount of the winning assignment stage bid for which p_A is the price.

(4) The amount calculated in accordance with this sub-paragraph is the total amount of the valid combination of assignment stage bids or one of the valid combinations of assignment stage bids (as the case may be) in respect of 800 MHz paired frequency lots, in respect of 2.6 GHz paired frequency lots or in respect of 2.6 GHz individual frequency lots (as the case may be) having the highest total value of amounts bid, where, for each assignment stage bid for an assignment stage option relating to 800 MHz paired frequency lots, to 2.6 GHz paired frequency lots or to 2.6 GHz individual frequency lots (as the case may be) made by the winning bidder that submitted the winning assignment stage bid for which p_A is the price, the amount of that assignment stage bid is treated as if it were zero for the purposes of this sub-paragraph.

(5) Where the amount of an assignment stage bid is treated as if it were zero in accordance with sub-paragraph (4), that assignment stage bid shall be treated as a valid assignment stage bid for the purposes of that sub-paragraph.

Interpretation

6. In this Schedule “valid combination of assignment stage bids” shall be construed in accordance with regulation 97, 98, 99, 100 or 101 (as the case may be).

DRAFT FOR CONSULTATION

EXPLANATORY NOTE

(This note is not part of the Regulations)

[Text to follow]