

2019 No.

DRAFT FOR CONSULTATION

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Licence Award) Regulations [2019]

Made - - - - - ***

Coming into force - - - - - ***

The Office of Communications (“OFCOM”), in exercise of the powers conferred by section 14(1), (2), (3), (4), (6) and (7) and section 122(7) of the Wireless Telegraphy Act 2006(a) (“the Act”), make the following Regulations.

Before making these Regulations OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the 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 Act.

PART 1

Introductory

Citation, commencement, and extent

1.—(1) These Regulations may be cited as the Wireless Telegraphy (Licence Award) Regulations 2019 and shall come into force on [] 2019.

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

Interpretation

2.—(1) In these Regulations—

“3.6 GHz assignment stage bid” shall be construed in accordance with regulation 100;

“3.6 GHz assignment stage option” has the meaning given in regulation 101;

“3.6 GHz assignment stage option list” has the meaning given in regulation 101;

“3.6 GHz licence” has the meaning given in regulation 111;

“700 MHz individual frequency assignment stage bid” shall be construed in accordance with regulation 95;

(a) 2006 c.36.

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“700 MHz individual frequency assignment stage option” has the meaning given in regulation 95;

“700 MHz individual frequency assignment stage option list” has the meaning given in regulation 95;

“700 MHz paired frequency assignment stage bid” shall be construed in accordance with regulation 90;

“700 MHz paired frequency assignment stage option” has the meaning given in regulation 90;

“700 MHz paired frequency assignment stage option list” has the meaning given in regulation 90;

“700 MHz licence” has the meaning given in regulation 110;

“additional deposit” has the meaning given in regulation 15(1);

“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 3;

“assignment stage” has the meaning given in regulation 19;

“assignment stage bid” means a 3.6 GHz assignment stage bid, an individual frequency assignment stage bid or a 700 MHz paired frequency assignment stage bid;

“assignment stage form” shall be construed in accordance with regulation 89;

“assignment stage option” means a 3.6 GHz assignment stage option, a 700 MHz individual frequency assignment stage option or a 700 MHz paired frequency assignment stage option;

“assignment stage round” shall be construed in accordance with regulation 88;

“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;

“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;

“chain bid” means a bid of that description which accompanies at relaxed primary bid or a relaxed supplementary bid;

“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 group, would be likely to affect decisions that such other applicant (or potential applicant) or bidder may make in relation to the award process;

“coverage obligation” shall be construed in accordance with regulation 20(2);

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

- (a) the time;
- (b) the date; or
- (c) 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 a bidder, a number of eligibility points which limits the bids that may be made by the bidder in a principal stage round;
- “excess demand” shall be construed in accordance with regulation 30;
- “existing spectrum holdings” has the meaning given in regulation 5(1);
- “GHz” means gigahertz;
- “grant stage” has the meaning given in regulation 19;
- “initial deposit” shall be construed in accordance with regulation 4;
- “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 comprised in one or more of the 3.6 GHz lots, 700 MHz individual frequency lots or 700 MHz paired frequency lots to be determined in accordance with the procedure set out in these Regulations;
- “material interest” means, whether held directly or indirectly—
- (a) 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 where 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
- (b) the right to appoint or remove a majority of the applicant’s or bidder’s board of directors;
- “MHz” means megahertz;
- “most recent round” means the principal stage round that has most recently ended;
- “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 website;
- “overall bid constraint” shall be construed in accordance with regulation 21;
- “overall initial eligibility rule” shall be construed in accordance with regulation 22;
- “pounds” means pounds sterling;
- “previous round” means the principal stage round that immediately preceded the most recent round;
- “primary chain bid” has the meaning given in regulation 25;
- “principal stage” has the meaning given in regulation 19;
- “principal stage bid” shall be construed in accordance with regulation 76;
- “recorded spectrum holdings” shall be construed in accordance with regulation 17(3);
- “relaxed primary bid” has the meaning given in regulation 25;
- “required assignment stage deposit” shall be construed in accordance with regulation 109;
- “required final principal stage deposit” shall be construed in accordance with regulation 109;
- “round” means a period of time specified by OFCOM during which bidders may make bids in accordance with the procedure set out in these Regulations;
- “round price” shall be construed in accordance with regulations 31 and 32;
- “third party” has the meaning given in regulation 4(3)(a)(iii)(ee);
- “third party parent” has the meaning given in regulation 4(3)(a)(iii)(ff);

(a) 2006 c.46.

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“total frequencies associated with a principal stage bid” has the meaning given in regulation 21;

“valid 3.6 GHz assignment stage bid” shall be construed in accordance with regulation 102;

“valid 700 MHz individual frequency lot assignment stage bid” shall be construed in accordance with regulation 97;

“valid 700 MHz paired frequency lot assignment stage bid” shall be construed in accordance with regulation 92;

“valid assignment stage bid” means a valid 3.6 GHz assignment stage bid, a valid 700 MHz individual frequency lot assignment stage bid or a valid 700 MHz paired frequency lot assignment stage bid;

“valid assignment stage form” shall be construed in accordance with regulation 89;

“valid combination of 3.6 GHz assignment stage bids” shall be construed in accordance with regulation 102;

“valid combination of 700 MHz individual frequency lot assignment stage bids” shall be construed in accordance with regulation 98;

“valid combination of 700 MHz paired frequency lot assignment stage bids” shall be construed in accordance with regulation 93;

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

“winning 3.6 GHz assignment stage bid” shall be construed in accordance with regulation 103;

“winning 700 MHz individual frequency lot assignment stage bid” shall be construed in accordance with regulation 98;

“winning 700 MHz paired frequency lot assignment stage bid” shall be construed in accordance with regulation 93;

“winning assignment stage bid” means a winning 3.6 GHz assignment stage bid, a winning 700 MHz individual frequency lot assignment stage bid or a winning 700 MHz paired frequency lot assignment stage bid;

“winning bidder for 3.6 GHz lots” means a bidder who made bids for 3.6 GHz lots which became winning principal stage bids;

“winning bidder for 700 MHz individual frequency lots” means a bidder who made bids for 700 MHz individual frequency lots which became winning principal stage bids;

“winning bidder for 700 MHz paired frequency lots” means a bidder who made bids for 700 MHz paired frequency lots which became winning principal stage bids;

“winning combination of valid 3.6 GHz assignment stage bids” shall be construed in accordance with regulation 103;

“winning combination of valid “700 MHz individual frequency lot assignment stage bids” shall be construed in accordance with regulation 98**Error! Reference source not found.**; and

“winning combination of valid “700 MHz paired frequency lot assignment stage bids” shall be construed in accordance with regulation 93**Error! Reference source not found.**

(2) A reference in these Regulations to a “3.6 GHz lot”, “700 MHz individual frequency lot” or a “700 MHz paired frequency lot” shall be construed in accordance with Schedule 1.

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

(4) A reference in these Regulations to a numbered “3.6 GHz lot”, “700 MHz individual frequency lot” or a “700 MHz paired frequency lot” or a “block” of such lots shall be construed in accordance with Schedule 1.

PART 2

Application stage

Applications for the grant of a licence

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

Application

- 4.—(1) Only a body corporate may apply to OFCOM for a licence.
- (2) A body corporate may only make one application.
- (3) To apply for a licence, a body corporate must—
- (a) on the day or days 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 or those days specified by OFCOM a sealed envelope containing—
 - (i) a document containing the application information required by, and the warranty set out in, Schedule 2, 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 3 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; and
 - (iii) a document setting out the details of the existing spectrum holdings of—
 - (aa) the applicant;
 - (bb) each other member of its applicant group;
 - (cc) each person in whom the applicant has a material interest;
 - (dd) each person in whom any other member of its applicant group has a material interest;
 - (ee) any person (“third party”) who has entered into a contract or arrangement with the applicant (or with any other member of its applicant group or any person in whom the applicant or any other member of its applicant group has a material interest) to acquire rights under a licence granted pursuant to the award process;
 - (ff) any person who has a material interest in a third party (“third party parent”);
 - (gg) any person in whom a third party has a material interest;
 - (hh) any person in whom a third party parent has a material interest; and
 - (b) by a deadline specified by OFCOM, pay into OFCOM’s bank account, with accompanying information which identifies the applicant, an initial deposit of one hundred thousand pounds.
- (4) OFCOM shall publish the day or days, times and deadline on their website.
- (5) The details of existing spectrum holdings that are required are—
- (a) the wireless telegraphy licence number; and
 - (b) the frequencies.

Meaning of existing spectrum holdings

- 5.—(1) In these Regulations “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 in the frequency bands listed in Schedule 8; and
 - (b) any contract or arrangement under which such an authorisation is to be acquired.

PART 3

Qualification stage

CHAPTER 1

Qualification

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 which each applicant must notify OFCOM under paragraph (3).
- (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 under regulation 4(3) 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 must 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 must deliver to OFCOM revised versions of the documents provided under regulations 4(3)(a)(i) to 4(3)(a)(iii) which comply with those provisions following that change.
- (2) OFCOM shall record the members of each applicant group, taking account of any changes notified under paragraph (1).
- (3) Each applicant group so recorded shall constitute a bidder group.

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(2), 118 and 120 if they apply to any such change.
- (2) If a change involves the addition or departure of an associate, the applicant or bidder must notify OFCOM of the change and deliver to OFCOM a revised version of the documents provided under regulations 4(3)(a)(i) and 4(3)(a)(iii) which comply with those provisions following the change.

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(3) If a change involves the addition of 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) a document in the form set out in Schedule 3 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; and
- (b) a revised version of the document provided under regulation 4(3)(a)(iii) which complies with that provision following the change.

Changes to existing spectrum holdings

9. If an applicant or, in relation to an applicant, any person referred to in regulation 4(3)(a)(iii) changes its existing spectrum holdings before existing spectrum holdings are recorded under regulation 19, the applicant must notify OFCOM and deliver to OFCOM a revised version of the document provided under regulation 4(3)(a)(iii) which complies with that provision following the change.

Fitness to hold a licence

10.—(1) OFCOM shall, for each applicant which has submitted an application in accordance with regulation 4, determine whether that applicant is fit to hold a licence.

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

- (a) any direction given by the Secretary of State to OFCOM under section 5 of the Communications Act 2003(a);
- (b) whether the applicant is a fit and proper person to hold a licence having regard to the probity of—
 - (i) the applicant;
 - (ii) each other member of the applicant's bidder group; and
 - (iii) each director of each member of the applicant's bidder group;
- (c) whether any of the information submitted to OFCOM by the applicant in connection with the award process is false or misleading;
- (d) whether 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) whether 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) whether 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) whether any member of the applicant's bidder group has obtained or is obtaining or attempting to obtain confidential information relating to another applicant;

(a) 2003 c.21.

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- (h) whether 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) whether any person who is a member or a director or an employee of a member of the applicant's bidder group and is also a director or an 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 because of that decision.

Qualification to participate in the award process

11.—(1) Each applicant—

- (a) which was not disqualified under regulation 10, and
- (b) which 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) An applicant which has a member of its bidder group which is also a member of the bidder group of another applicant shall not be qualified to participate in the award process.

(3) 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.—(1) OFCOM shall notify each applicant qualified to participate of—

- (a) the name of each other applicant who is so qualified; and
- (b) the names of their associates.

(2) OFCOM shall publish the names of all applicants who are so qualified on OFCOM's 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 (with refund of the initial deposit) on OFCOM's website.

(2) If, on or before the last day for withdrawal, OFCOM receives notice from an applicant that it wishes 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.

(5) An applicant may not withdraw from the award process after the last day for 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, their initial deposit (where such deposit has not been forfeited) but not any interest which has accrued on the deposit.
- (3) Where there are one or more bidders—
- (a) OFCOM shall refund to applicants which were not qualified, or withdrew in accordance with regulation 13, their initial deposit (where such deposit has not been forfeited) but not any interest which has accrued on the deposit; and
 - (b) OFCOM shall grant licences in accordance with the procedure set out in these Regulations.
- (4) OFCOM shall publish the names of the bidders on OFCOM's website.

CHAPTER 2

Additional deposit and eligibility limit for the first principal stage round

Additional deposit before the first principal stage round

- 15.—(1) A bidder which wishes to participate in the principal stage must pay, in addition to the initial deposit, a deposit of at least nine hundred thousand pounds (the “additional 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 first principal stage round.
- (2) To pay the additional deposit, a bidder must, by a deadline specified by OFCOM, pay the additional deposit into OFCOM's bank account with accompanying information which identifies the bidder.
- (3) Where a bidder does not pay the additional deposit by the deadline, that bidder shall be excluded from the award process and shall not receive a refund of any sums which the bidder has paid as a deposit under these Regulations, which shall (where not already forfeited) be forfeited together with any interest which has accrued on the deposit.
- (4) After the deadline specified under paragraph (2), OFCOM shall determine each bidder's eligibility limit for the first principal stage round in accordance with regulation 16 and shall record each bidder's existing spectrum holdings in accordance with regulation 17.

Determination of a bidder's eligibility limit for the first principal stage round

- 16.—(1) A bidder's eligibility limit for the first principal stage round shall be—
- (a) where the amount which the bidder has on deposit (including the initial deposit and the additional deposit) is [*Subject to consultation. 4 x 700 MHz individual frequency lot reserve price*], the number which is the amount of such deposit in pounds divided by [*700 individual frequency lot reserve price*];
 - (b) where the amount which the bidder has on deposit (including the initial deposit and the additional deposit) is more than [*Subject to consultation. 4 x 700 MHz individual frequency lot reserve price*] but less than [*Subject to consultation. (4 x 700 MHz individual frequency lot reserve price) + (24 x 3.6 GHz lot reserve price)*] pounds, the number (*E*) which is calculated in accordance with the formula set out in paragraph (2); and
 - (c) where the amount which the bidder has on deposit (including the initial deposit and the additional deposit) is more than [*Subject to consultation. (4 x 700 individual frequency lot reserve price) + (24 x 3.6 GHz lot reserve price)*] million pounds but less than [*(4 x 700 individual frequency lot reserve price) + (24 x 3.6 GHz lot reserve price) + (6 x 700 MHz*

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paired frequency lot reserve price] millions pounds, the number (F) which is calculated in accordance with the formula set out in paragraph (3); and

- (d) where the amount which the bidder has on deposit (including the initial deposit and the additional deposit) is [*Subject to consultation. (4 x 700 individual frequency lot reserve price) + (24 x 3.6 GHz lot reserve price) + (6 x 700 MHz paired lot reserve price)*] million pounds or more, fifty two.

(2) The formula is $E = 4 + [(D - [4 \times 700 \text{ MHz individual frequency lot reserve price}]) / (3.6 \text{ GHz lot reserve price})]$, where “D” is the amount of the deposit in pounds.

(3) The formula is $F = 28 + [(D - [4 \times 700 \text{ MHz individual frequency lot reserve price} + 24 \times 3.6 \text{ GHz lot reserve price}]) / (700 \text{ MHz paired lot reserve price})]$, where “D” is the amount of the deposit.

(4) Where the number which results from the calculation in paragraphs (1)(a), 1(b) or 1(c) is not a whole number, the bidder’s eligibility limit shall be that number rounded down to the nearest whole number.

- (5) That number shall be expressed as a number of points.

CHAPTER 4

Recording of existing spectrum holdings and overall bid constraints

Recording of existing spectrum holdings

17.—(1) After the deadline specified in regulation 15(2), OFCOM shall, for each bidder, record the bidder’s existing spectrum holdings.

(2) A bidder’s existing spectrum holdings to be recorded are those which have been notified by that bidder under regulation 4(3)(a)(iii), as amended to take account of any notifications of subsequent changes to those spectrum holdings which may have been made under regulations 7(1), 8(2), 8(3) or 9.

(3) After the recording of spectrum holdings, the bidder and, in relation to the bidder, any person referred to in regulation 4(3)(a)(iii) may change its spectrum holdings but in relation to the award process—

- (a) the bidder shall be subject to regulations 118 and 120 if they apply to that change; and
(b) the bidder’s recorded spectrum holdings shall not be amended.

(4) If there is such a change, the bidder concerned must notify OFCOM of the change and deliver to OFCOM a revised version of the document provided under regulation 4(3)(a)(iii) which complies with that provision following the change.

Determination of overall bid constraints

18.—(1) Before the first principal stage round OFCOM shall—

- (a) determine for each bidder; and
(b) notify to each bidder an overall bid constraint.

(2) The overall bid constraint may be different for each bidder.

(3) The overall bid constraint shall be expressed as a number of frequencies in MHz and shall be calculated in accordance with paragraph (4).

(4) The number referred to in paragraph (3) shall be calculated in accordance with the formula [*Subject to consultation 416 MHz*] – z rounded down to the nearest multiple of 5 MHz, where z is the total in MHz of the bidder’s recorded existing spectrum holdings.

- (5) A bidder’s overall bid constraint shall not change during the principal stage.

PART 4

OVERVIEW OF AWARD PROCEDURE

Overview: principal stage, assignment stage and grant stage

Principal stage, assignment stage and grant stage

19.—(1) The process for the award of licences shall consist of the procedure set out in Part 5 (“principal stage”), the procedure Part 6 (“assignment stage”) and the procedure set out in Part 7 (“grant stage”).

(2) During the principal stage there shall be 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 (and coverage obligations) 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.

PART 5

THE PRINCIPAL STAGE

CHAPTER 1

Coverage obligation, overall bid constraint rule, overall initial eligibility constraint rule and primary bids

Coverage obligation

20.—(1) When making a primary bid or a supplementary bid a bidder must, in addition to bidding for frequency lots, indicate whether or not it wishes to bid for the coverage obligation such that the obligation will be included in a licence for those frequency lots.

(2) The coverage obligation is an obligation on the licensee to build out a network providing an electronic communications service to [*Subject to consultation: at least 90% of the landmass of the United Kingdom, deploy at least five hundred new coverage sites in rural areas and provide new outdoor coverage to at least one hundred and forty thousand premises which it does not currently serve.*]

(3) In determining winning principal stage bids, it is a requirement that the winning combination of principal stage bids must contain no more than two principal stage bids from different bidders which selected the coverage obligation.

Overall bid constraint rule

21.—(1) In addition to the other limitations on bidding, in relation to the selection of lots and coverage specified in a standard primary bid, relaxed primary bid, primary chain bid, supplementary bid, relaxed supplementary bid and relaxed supplementary chain bid, the total frequencies associated with a bidder’s principal stage bid must not exceed the number of MHz for that bidder which is that bidder’s overall bid constraint.

(2) The limitation in paragraph (1) is known as the overall bid constraint rule.

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(3) The “total frequencies associated with a principal stage bid” means, in relation to a bidder in a principal stage round, the total number of MHz which is the sum of A plus B plus C where—

- (a) “A” is, where that bidder has specified in its principal stage bid in that principal stage round that it wishes to bid for 3.6 GHz lots, the number of such bids multiplied by 5 MHz;
- (b) “B” is, where that bidder has specified in its principal stage bid in that principal stage round that it wishes to bid for 700 MHz individual frequency lots, the number of such bids multiplied by 5 MHz; and
- (c) “C” is, where that bidder has specified in its principal stage bid in that principal stage round that it wishes to bid for 700 MHz paired frequency lots, the number of such bids multiplied by 10 MHz.

Overall initial eligibility constraint rule

22.—(1) In addition to the other limitations on bidding, the selection of lots and coverage specified in a standard primary bid, relaxed primary bid, primary chain bid, supplementary bid, relaxed supplementary bid and relaxed supplementary chain bid must be such that the total number of eligibility points associated with the bid does not exceed the bidder’s eligibility limit for the first principal stage round.

(2) The limitation in paragraph (1) is known as the “overall initial eligibility rule”.

Primary bids

23.—(1) A primary bid must be for a selection of lots which would, if it were to be included in a licence granted to that bidder, comply with the overall bid constraint rule in respect of that bidder.

(2) A primary bid must be for a selection of lots which does not include more lots of a type than the number of lots available of that type in the award process.

(3) For each primary bid round there shall be a round price for each type of lot, which is the price at which each lot of that type is offered to bidders during that primary bid round.

(4) A bid made during a primary bid round (“primary bid”) shall be at an amount in whole pounds being—

- (a) the total amount of the round prices in that primary bid round for each lot included in the selection of lots specified in the bid; less
- (b) the discount (if any) attributable if the coverage obligation is selected for that bid.

(5) Where the application of the discount in paragraph (4) would result in an amount of less than one thousand pounds, or a negative sum, the amount shall be one thousand pounds.

(6) The round price shall be determined for each type of lot by OFCOM in accordance with regulation 30 and 21 shall be the prices at which lots are offered to bidders during a primary bid round.

(7) The coverage obligation discount for the first primary bid round is set out in regulation 32.

(8) The coverage obligation discount for subsequent primary bid rounds shall be determined in accordance with regulation 34.

(9) The amount of each primary bid made by a bidder (and any discount arising from selection of the coverage obligation) shall be recorded by OFCOM and made apparent to that bidder, before and after the bid is made.

Completing the primary bid form

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

- (i) specify the number of 700 MHz paired frequency lots it wishes to be included in a licence at the round price for those lots;

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- (ii) specify the number of 700 MHz individual frequency lots it wishes to be included in a licence at the round price for those lots;
- (iii) specify the number of 3.6 GHz frequency lots it wishes to be included in a licence at the round price for those lots; and
- (iv) indicate if it wishes the coverage obligation to apply to these lots.

(2) The selection in relation to lots and coverage specified in a primary bid made by a bidder must be such that either—

- (a) the total number of eligibility points associated with the primary bid does not exceed the bidder's eligibility limit for that primary bid round (determined in accordance with regulation 35 or 36 and notified to the bidder in accordance with regulation 59(c));
- (b) the selection in relation to lots and coverage complies with the rules on relaxed primary bids in Chapter 2; or
- (c) the selection in relation to lots and coverage complies with the rules on relaxed primary bids with added chain bids in Chapter 3.

(3) 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 9.

(4) With the exception of any chain bids required to accompany a relaxed primary bid, a bidder must not submit more than one primary bid in any one primary bid round.

Three types of primary bid

25.—(1) A primary bid which complies with regulation 24(2)(a) is known as “standard primary bid”.

(2) A primary bid which complies with regulation 24(2)(b) or 24(2)(c) is known as “relaxed primary bid”.

(3) Chain bids which accompany a relaxed primary bid in accordance with the regulations in Chapter 5 are known as “primary chain bids”.

Valid primary bids

26. A valid primary bid is a bid submitted during the primary bid rounds which is—

- (a) a standard primary bid;
- (b) a relaxed primary bid; or
- (c) a primary chain bid;

and which complies with the provisions or regulations 21, 22, 23 and 64 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 118) be forfeited.

Failure to submit a valid primary bid in subsequent primary bid rounds

28.—(1) Any bidder which does not submit a valid primary bid in a primary bid round occurring after the first primary bid round may not participate in subsequent primary bid rounds but may still participate in the supplementary bids round.

- (2) Any bid which is for zero lots at zero pounds is deemed to be an invalid primary bid.

Number of primary bid rounds

29.—(1) After each primary bid round OFCOM shall determine if there is excess demand in accordance with regulation 30.

(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 76;
- (b) the base price payable by a winning bidder in accordance with regulation 77.

(3) 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

30. There is excess demand in a given primary bid round if—

- (a) the demand for any type of lot is greater than the number of lots of that type that are available in the award process (not including chain bids); and
- (b) more than two bidders have indicated that it wished the coverage obligation to apply to its bid selection where the coverage discount is not zero.

Round prices for the first primary bid round

31. In the first primary bid round, the round price for—

- (a) each 700 MHz paired frequency lot shall be [*£ Subject to consultation*];
- (b) each 700 MHz individual frequency lot shall be [*£ Subject to consultation*]; and
- (c) each 3.6 GHz frequency lot shall be [*£ Subject to consultation*].

Determination of round prices for subsequent primary bid rounds

32.—(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 paragraph (3) applies, in which case the round price for a type of lot shall be higher than the round price for that type of lot in the previous round.

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

Coverage obligation discount for the first primary bid round

33. The coverage obligation discount for the first primary bid round is [*Subject to consultation. £300 million - £400 million*] pounds.

Determination by OFCOM of coverage obligation discount for subsequent primary bid rounds

34.—(1) In any primary bid round after the first round, the coverage obligation discount shall be the same as it was in the previous primary bid round, unless paragraph (2) applies.

(2) This paragraph applies where there is excess demand.

(3) Where paragraph (2) applies, the discount shall be a sum determined by OFCOM which is a smaller discount for that coverage obligation than in the previous round.

(4) When determining a smaller discount, OFCOM may determine the discount to be zero pounds if OFCOM considers that to be appropriate in light of demand (revealed to OFCOM from bids made) from more than two bidders for the coverage obligation.

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(5) OFCOM may not determine the discount to be less than zero.

Bidders' eligibility limit for second and subsequent primary bid rounds

35. 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 36.

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

36.—(1) OFCOM shall determine each bidder's eligibility limit under paragraph (2), (3) 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).

(3) The number of eligibility points for the next primary bid round 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 9.

(4) The bidder's eligibility limit for the next primary bid round shall be—

- (a) where the valid bid is a standard primary bid, a number equal to the number of eligibility points associated with that valid primary bid;
- (b) where the valid primary bid was a relaxed bid (without chain bids), the same limit as in the most recent round in which the bidder made a standard primary bid; and
- (c) where the valid primary bid was a relaxed bid (with accompanying chain bids), the same limit as in the most recent round in which the bidder made a standard 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 2

Primary bid round relaxed bids (without chain bids)

Primary bid round relaxed bids (without chain bids)

37.—(1) A bidder may make a bid for any selection of lots and coverage obligation (where doing so would exceed that bidder's eligibility limit for that primary bid round) if it complies with the following limitations in this regulation.

(2) Such a bid is referred to as a "relaxed primary bid".

(3) A bid for a selection of lots and coverage obligation at the round prices in the current round may be made, if the sum which would otherwise be bid for that selection (a "relaxed bid selection") is not (at the current round prices) greater than the upper limit.

(4) The upper limit is determined by reference to—

- (a) previous primary bid rounds in which the bidder submitted a valid primary bid having eligibility points below the bidder's eligibility limit in that round ("eligibility reducing rounds");
- (b) the most recent eligibility reducing round in which that relaxed bid selection could have been made by that bidder and submitted as a standard primary bid (taking into account the eligibility limit which pertained to that bidder in that round) (the "connected eligibility reducing round");
- (c) the selection of lots and coverage which the bidder actually bid for in the connected eligibility reducing round (the "connected round actual selection");
- (d) the sum (in pounds) bid for the connected round actual selection (the "connected round actual selection price");

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- (e) the highest sum (in pounds) bid in any previous primary bid round for the connected round actual selection (“maximum connected round selection price”); and
 - (f) the sum (in pounds) which would have been bid for the bidder’s relaxed bid selection if that selection had been made in a valid primary bid in the connected eligibility reducing round (the “connected relaxed bid selection price”).
- (5) The upper limit is the total in pounds of A plus B minus C where—
- (a) A is the maximum connected round selection price;
 - (b) B is the connected relaxed bid selection price; and
 - (c) C is the connected round actual selection price.

CHAPTER 3

Primary round relaxed bids (with accompanying chain bids)

Primary bid round relaxed bids (with accompanying chain bids)

38.—(1) If a bidder indicates on the electronic auction system during a round that it wishes to consider making a relaxed primary bid (with accompanying chain bids) it shall indicate the selection of lots and coverage which it wishes to make.

(2) OFCOM shall in response indicate on that system before the end of the round whether it is possible to make such a relaxed bid (in accordance with the regulations in this Chapter) and if it is possible OFCOM shall also indicate all of the accompanying chain bids which would also require to be made (including the selection of lots and coverage obligations which are to comprise each such chain bid and the amount to be bid for each such chain bid).

(3) Where OFCOM has made the indications referred to in paragraph (2), the bidder may make a bid for any selection of lots and coverage obligation (where doing so would exceed that bidder’s eligibility limit for that primary bid round and also where doing so would exceed the upper limit in regulation 37) if it complies with the requirement in paragraph (4).

(4) The requirement is that a bid for a selection of lots and coverage obligation at the round prices in the current round (“a relaxed bid selection”) must be accompanied by each of the additional new bids in the same round which are indicated by OFCOM as required on that system (“chain bids”).

(5) In such circumstances a bidder must make more than one bid in the same round: a relaxed primary bid and also one or more than one new chain bids in a primary round if required.

(6) Each chain bid which must be made relates to a bid in a previous round which the bidder has already made (a “previous related bid”).

(7) Where a chain bid is required, the selection of lots and coverage obligation which must be included in that chain bid is the same selection as that which was included in the previous related bid.

Identifying the previous related bids (and any accompanying new chain bids which must be made)

39. The previous related bids in respect of which a new chain bid must be made and the sum which is required to be bid for the chain bid are determined by reference to—

- (a) previous primary bid rounds in which the bidder submitted a bid having eligibility points below the bidder’s eligibility limit in that round (“eligibility reducing rounds”);
- (b) the most recent eligibility reducing round in which that relaxed bid selection could have been made by that bidder and submitted as a standard primary bid (taking into account the eligibility limit which pertained to that bidder in that round) (the “connected eligibility reducing round”);
- (c) the selection of lots and coverage which the bidder actually bid for in the connected eligibility reducing round (the “connected round actual selection”); and

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- (d) the sum in pounds bid for the connected round actual selection (the “connected round actual selection price”)
- (e) the highest sum (in pounds) bid in any previous primary bid round for the connected round actual selection (“maximum connected round selection price”);
- (f) the sum (in pounds) which would have been bid for the bidder’s relaxed bid selection if that selection had been included in a valid primary bid in the connected eligibility reducing round (the “connected round relaxed bid selection price”).

OFCOM to identify previous related bids by means of determining a chain of eligibility reducing rounds

40.—(1) The chain bids to be made are to be determined by OFCOM and the bidder shall be informed that they are required in addition to the relaxed bid itself in advance of any bid being made by the bidder on the electronic auction system.

(2) The chain bids to be made are determined by OFCOM by means of a process which identifies the first chain bid by reference to previous related bids in the connected eligibility reducing round and a chain of eligibility reducing rounds (if any) which arose between that connected eligibility reducing round and the current round.

(3) OFCOM will check sequentially (starting with the previously related bid in the connected eligibility reducing) each eligibility reducing round to establish if a chain bid is required in respect of the previous related bids made in those rounds.

Determination by OFCOM of the first accompanying chain bid to be made

41.—(1) The first previous related bid (in respect of which a new chain bid will be necessary and must be made) is the bid which that bidder made in the connected eligibility reducing round.

(2) The first chain bid (“CB1”) which must be made is a bid for the same selection of lots and coverage obligation as that comprised in the bid made in the connected eligibility reducing round.

(3) The sum which must be bid for CB1 is a sum which is higher than the maximum connected round selection price and is equal to the total in pounds of D minus B plus C where—

- (a) D is the sum (in pounds) of the relaxed primary bid which the bidder wishes to make a valid primary bid for (at current round prices);
- (b) B is the sum (in pounds) of the connected round relaxed bid selection price; and
- (c) C is the sum (in pounds) of the connected round actual selection price.

(4) It is not possible for a relaxed bid (with accompanying chain bids) to be made if the sum calculated in accordance with paragraph (3) in respect of CB1 would be greater than the cap referred to in paragraph (5).

(5) The cap referred to is the sum which would have been payable for the connected round actual selection at the round prices in the current round.

Determination by OFCOM of the second accompanying chain bid (if any) which may be necessary

42.—(1) The second previous related bid (in respect of which a new chain bid may be required) is the bid which that bidder made in the first eligibility reducing round which occurred after the connected eligibility reducing round (the “second eligibility reducing round”).

(2) The second chain bid (“CB2”) which must be made is a bid for the same selection of lots and coverage obligation as that comprised in the bid made in the second eligibility reducing round.

(3) CB2 is required to be made in respect of that previous related bid if (and only if) CB1 is greater than the total in pounds of E minus F plus G where—

- (a) E is the highest sum (in pounds) bid in any previous primary bid round for the selection of lots and coverage which are comprised in the selection made in the second eligibility reducing round;

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- (b) F is the sum (in pounds) which was bid in the second eligibility reducing round; and
- (c) G is the sum (in pounds) which would have been bid for the selection of lots and coverage bid for in the connected round if they were to be included in a valid primary bid at the prices which pertained during the second eligibility round.

(4) The sum which must be bid for CB2 is a sum equal to CB1 plus F minus G.

(5) If CB2 is required but the sum calculated in accordance with paragraph (4) in respect of CB2 would be greater than the cap referred to in paragraph (6), it is not possible for a relaxed bid (with accompanying chain bids) to be made.

(6) The cap referred to is the sum which would have been payable for the connected round actual selection at the round prices in the current round.

The third (if any) and any other accompanying chain bids which may be necessary

43.—(1) OFCOM shall consider the eligibility reducing round (if any) which is the first such eligibility reducing round to occur after the second eligibility reducing round to determine—

- (a) if a chain bid is required;
- (b) the selection of lots and coverage obligation which would comprise that chain bid; and
- (c) the sum to be bid for the chain bid to be made.

(2) When making that determination OFCOM shall, following the steps in regulation 42, treat the third eligibility reducing round as if it were the second eligibility reducing round and second chain bid made as if it were the selection of lots and coverage made and price bid in the connected eligibility reducing round.

(3) OFCOM shall then consider the bid made in each eligibility reducing round (if any) falling after the third eligibility reducing round in a chronological order manner which deals with the oldest eligibility reducing round before dealing with the next in time and follow the same steps to establish what (if any) chain bid is required.

(4) OFCOM shall indicate on that system before the end of the round all of the accompanying chain bids that must also be made, the selection of lots and coverage obligations which are to comprise each such chain bid and the amount of each such chain bid.

CHAPTER 4

The supplementary bids round

Supplementary bid selection

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

- (a) 700 MHz paired frequency lots;
- (b) 700 MHz individual frequency lots;
- (c) 3.6 GHz frequency lots; together with
- (d) an indication if it wishes the coverage obligation to apply to these lots.

Supplementary bids

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

- (a) specify the number of 700 MHz paired frequency lots it wishes to be included in a licence;
- (b) specify the number of 700 MHz individual frequency lots it wishes to be included in a licence;
- (c) specify the number of 3.6 GHz frequency lots it wishes to be included in a licence;

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- (d) indicate if it wishes the coverage obligation to apply to these lots; and
- (e) the amount in whole pounds that it is willing to pay for a licence which authorises the use of frequencies corresponding to the lots selected (and the coverage obligation selection made).

(2) The selection of lots and selection relation to the coverage obligation specified in a supplementary bid made by a bidder may be the same as or different from the selection of lots and coverage specified in any primary bid made by that bidder.

(3) A bidder may not submit more than one supplementary bid for each selection.

(4) A bidder may submit any number of supplementary bids in the supplementary bids round up to a maximum of [*Subject to consultation: three thousand*] supplementary bids (including relaxed supplementary bids but not including any chain bids).

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

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

Bidder indications during the supplementary bids round

46.—(1) During the supplementary bids round each bidder shall indicate to OFCOM on the electronic auction system all of the supplementary bids which it wishes to make in the round (“provisional list”).

(2) OFCOM shall, using the electronic auction system, check each of the proposed bids to ensure they meet the requirements of these Regulations and check whether, in respect of any proposed relaxed supplementary bids, the bidder must also submit supplementary chain bids.

(3) OFCOM shall, using the electronic auction system, respond to each bidder’s provisional list indicating whether it is possible to make the provisional bids and whether any provisional bids require additional supplementary chain bids to be made.

Supplementary round eligibility limit

47.—(1) Before the supplementary bids round OFCOM shall determine each bidder’s eligibility limit.

(2) A bidder’s eligibility limit shall be determined for each bidder by reference to the bids made in the final primary bid round (and previous primary bids round).

(3) Where a bidder makes a valid primary bid in the final primary bid round, OFCOM shall determine the bidder’s eligibility limit for the supplementary bids round by calculating the number of eligibility points associated with that valid primary bid.

(4) The number of eligibility points for the supplementary bids round 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 the valid primary bid in the final primary bid round in accordance with Schedule 9.

(5) The bidder’s eligibility limit for the supplementary bid round shall be—

- (a) where the valid bid was a standard primary bid, a number equal to the number of eligibility points associated with that valid primary bid;
- (b) where the valid primary bid was a relaxed bid (without chain bids), the same limit as in the most recent round in which the bidder made a standard primary bid; and
- (c) where the valid primary bid was a relaxed bid (with accompanying chain bids), the same limit as in the most recent round in which the bidder made a standard primary bid.

(6) Where a bidder does not make a valid primary bid in the final primary bid round, the bidder’s eligibility limit for the supplementary bids round shall be zero.

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(7) With an eligibility limit of zero a bidder may not make a standard supplementary bid but may proposed to make relaxed supplementary bids (without chain bids) and relaxed bids (with accompanying chain bids).

Application of the supplementary round eligibility limit

48.—(1) The selection in relation to lots and coverage specified in a supplementary bid made by a bidder must be such that either—

- (a) the total number of eligibility points associated with the supplementary bid does not exceed the bidder's eligibility limit for the supplementary bid round (determined in accordance with regulation 47 and notified to the bidder in accordance with regulation 59(c));
- (b) the selection in relation to lots and coverage complies with the rules on relaxed supplementary bids in Chapter 5; or
- (c) the selection in relation to lots and coverage complies with the rules on relaxed supplementary bids (with accompanying chain bids) in Chapter 6.

Amount of supplementary bid

49.—(1) The amount of any supplementary bid shall be determined by the bidder, subject to the restrictions in paragraph (2).

(2) The restrictions are—

- (a) that the amount of the supplementary bid must not be less than one thousand pounds;
- (b) the amount must be whole thousands of pounds;
- (c) the supplementary bid must meet the supplementary cap rule if it applies;
- (d) a supplementary bid may not be made for zero lots at a price greater than zero pounds; and
- (e) where the bidder makes a relaxed supplementary bid or a relaxed supplementary bid (with accompanying chain bids) the further limitations in relation to the bid amount of chain bids apply.

Supplementary cap rule

50.—(1) Where a bidder makes a supplementary bid for a selection of lots and coverage which is the same as the bidder's selection in the final primary bid round, any other supplementary bid may not be more than the supplementary cap.

(2) The supplementary cap is a sum equal to H minus G plus J where—

- (a) H is the highest sum (in pounds) which is bid for the selection of lots and coverage bid for in the final primary bid round in the supplementary bids round (including instances where such bid is being made simultaneously to the supplementary bid in question);
- (b) G is the sum (in pounds) bid for the selection of lots and coverage bid for in the final primary bid round (at the round prices in that round); and
- (c) J is the sum (in pounds) which would be payable for the selection of lots and coverage to be bid for in the supplementary bid if they had been included in a valid primary bid made at the round prices which pertained in the final primary bid round.

(3) Where a bidder does not make a supplementary bid for a selection of lots and coverage which is the same as the bidder's selection in the final primary bid round, any other supplementary bid may not be greater than the sum which would have been bid for that selection of lots and coverage if they had been included in a valid primary bid made at the round prices which pertained in the final primary bid round.

CHAPTER 5

Supplementary bid round relaxed bids (without chain bids)

Relaxed supplementary bids (without chain bids)

51.—(1) A bidder may make a bid for any selection of lots and coverage obligation (where doing so would exceed that bidder's eligibility limit for that supplementary bid round) if it complies with the following limitations in this regulation.

(2) Such a bid is referred to as a "relaxed supplementary bid".

(3) A bid for a selection of lots and coverage obligation may be made if the sum which would be bid for that selection (a "relaxed supplementary bid selection") is not, greater than the upper limit.

(4) The upper limit is determined by reference to—

- (a) previous primary bid rounds in which the bidder submitted a bid having eligibility points below the bidder's eligibility limit ("eligibility reducing rounds");
- (b) the most recent eligibility reducing round in which that relaxed bid selection could have been made by that bidder and submitted as a bid (taking into account the eligibility limit which pertained to that bidder in that round) (the "connected eligibility reducing round");
- (c) the selection of lots and coverage which the bidder actually bid for in the connected eligibility reducing round (the "connected round actual selection"); and
- (d) the sum (in pounds) bid for the connected round actual selection (the "connected round actual selection price");
- (e) the highest sum (in pounds) bid in any previous primary bid round (or in any other accompanying supplementary bid) for the connected round actual selection ("maximum supplementary connected round selection price");
- (f) the sum (in pounds) which would have been bid for the bidder's relaxed supplementary bid selection if that selection had been bid for in the connected eligibility reducing round (the "connected relaxed bid selection price").

(5) The upper limit is the total in pounds of A plus B minus C where—

- (a) A is the maximum supplementary connected round selection price;
- (b) B is the connected relaxed bid selection price; and
- (c) C is the connected round actual selection price.

CHAPTER 6

Supplementary round relaxed bids (with accompanying chain bids)

Relaxed supplementary bids (with accompanying chain bids)

52.—(1) If a bidder indicates on the electronic auction system during the supplementary round that it wishes to consider making a relaxed supplementary bid (with accompanying chain bids) it shall indicate the selection of lots and coverage which it wishes to make.

(2) OFCOM shall in its response indicate on that system before the end of the round whether it is possible to make such a relaxed bid (in accordance with the regulations in this Chapter) and if it is possible OFCOM shall also indicate all of the accompanying chain bids which would also require to be made (including the selection of lots and coverage obligations which are to comprise each such chain bid and the amount of each such chain bid).

(3) Where OFCOM has made the indications referred to in paragraph (2), the bidder may make a bid for any selection of lots and coverage obligation (where doing so would exceed that bidder's eligibility limit for that primary bid round and also where doing so would exceed the upper limit in regulation 48) if it complies with the following limitation in this regulation.

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(4) The limitation is that a bid for a selection of lots and coverage obligation at the round prices in the current round (“a relaxed supplementary bid selection”) must be accompanied by each of the additional new bids in the supplementary bids round which are indicated by OFCOM as required on that system (“chain bids”).

(5) Each chain bid which is to be made relates to a bid in a previous round which the bidder has already made (a “previous related bid”).

(6) Where a chain bid is required, the selection of lots and coverage obligation which must be included in that chain bid is the same selection as that which was included in the previous related bid.

Identifying the previous related bids (and any accompanying new chain bids which must be made)

53. The previous related bids in respect of which a new chain bid must be made and the sum which is required to be bid for the chain bid are determined by reference to—

- (a) previous primary bid rounds in which the bidder submitted a bid having eligibility points below the bidder’s eligibility limit in that round (“eligibility reducing rounds”);
- (b) the most recent eligibility reducing round in which that relaxed bid selection could have been made by that bidder and submitted as a standard primary bid (taking into account the eligibility limit which pertained to that bidder in that round) (the “connected eligibility reducing round”);
- (c) the selection of lots and coverage which the bidder actually bid for in the connected eligibility reducing round (the “connected round actual selection”); and
- (d) the sum in pounds bid for the connected round actual selection (the “connected round actual selection price”)
- (e) the highest sum (in pounds) bid in any previous primary bid round (or in any other accompanying supplementary bid) for the connected round actual selection (“maximum supplementary connected round selection price”);
- (f) the sum (in pounds) which would have been bid for the bidder’s relaxed bid selection if that selection had been bid for in the connected eligibility reducing round (the “connected relaxed bid selection price”).

OFCOM to identify previous related bids by means of determining a chain of eligibility reducing rounds

54.—(1) The chain bids to be made are to be determined by OFCOM and the bidder shall be informed that they are required in addition to the relaxed bid itself in advance of any supplementary bid being made by the electronic auction system.

(2) The chain bids to be made are determined by OFCOM by means of a process which identifies the first chain bid by reference to previous related bids in the connected eligibility reducing round and a chain of eligibility reducing rounds (if any) which arose between that connected eligibility reducing round and the current round.

(3) OFCOM will check sequentially (starting with the previously related bid in the connected eligibility reducing) each eligibility reducing round each round to establish if a chain bid is required in respect of the previous related bids made in those rounds.

Determination by OFCOM of the first accompanying chain bid to be made

55.—(1) The first previous related bid (in respect of which a new chain bid will be necessary and must be made) is the bid which that bidder made in the connected eligibility reducing round.

(2) The first chain bid (“CB1”) which must be made is a bid for the same selection of lots and coverage obligation as that comprised in the bid made in the connected eligibility reducing round.

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(3) The sum which must be bid for CB1 is a sum which is higher than the maximum supplementary connected round selection price and is equal to the total in pounds of D minus B plus C where—

- (a) D is the sum (in pounds) of the relaxed supplementary bid which the bidder wishes to make;
- (b) B is the sum (in pounds) of the connected relaxed bid selection price; and
- (c) C is the sum (in pounds) of the connected round actual selection price.

(4) It is not possible for a relaxed supplementary bid (with accompanying chain bids) to be made if the sum calculated in accordance with paragraph (3) in respect of CB1 would be greater than the supplementary cap in regulation 50(2) if applied as if Regulation 50(2)(c) read as follows—

“J is the sum (in pounds) which would be payable for the selection of lots and coverage to be bid for in CB1 if they had been included in a valid primary bid made at the round prices which pertained in the final primary bid round.”

Determination by OFCOM of the second accompanying chain bid (if any) which may be necessary

56.—(1) The second previous related bid (in respect of which a new chain bid may be required) is the bid which that bidder made in the first eligibility reducing round which occurred after the connected eligibility reducing round (the “second eligibility reducing round”).

(2) If the second chain bid (“CB2”) is required it is a bid for the same selection of lots and coverage obligation as that comprised in the bid made in the second eligibility reducing round.

(3) CB2 is required to be made in respect of that previous related bid if (and only if) CB1 is greater than the total in pounds of E minus F plus G where—

- (a) E is the highest sum (in pounds) bid in any previous primary bid round for the selection of lots and coverage which are comprised in the selection made in the second eligibility reducing round;
- (b) F is the sum (in pounds) which was bid in the second eligibility reducing round; and
- (c) G is the sum (in pounds) which would have been bid for the selection of lots and coverage bid for in the connected round if they were bid for at the prices which pertained during the second eligibility round.

(4) The sum which must be bid for CB2 is a sum equal to CB1 plus F minus G.

(5) It is not possible for a relaxed supplementary bid (with accompanying chain bids) to be made if the sum calculated in accordance with paragraph (3) in respect of CB2 would be greater than the supplementary cap in regulation 50(2) if applied as if Regulation 51(2)(c) read as follows—

“J is the sum (in pounds) which would be payable for the selection of lots and coverage to be bid for in CB2 if they had been included in a valid primary bid made at the round prices which pertained in the final primary bid round.”

The third (if any) and any other accompanying chain bids which may be necessary

57.—(1) OFCOM shall consider the eligibility reducing round (if any) which is the first such eligibility reducing round to occur after the second eligibility reducing round to determine—

- (a) if a chain bid is required;
- (b) the selection of lots and coverage obligation which would comprise that chain bid; and
- (c) the sum to be bid for the chain bid to be made.

(2) When making that determination OFCOM shall, following the steps in regulation 53, treat the third eligibility reducing round as if it were the second eligibility reducing round and second chain bid made as if it were the selection of lots and coverage made and price bid in the connected eligibility reducing round.

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(3) OFCOM shall then consider the bid made in each eligibility reducing round (if any) falling after the third eligibility reducing round in a chronological order manner which deals with the oldest eligibility reducing round before dealing with the next in time and follow the same steps to establish what (if any) chain bid is required.

(4) OFCOM shall indicate on that system before the end of the supplementary bids round all of the accompanying chain bids that must also be made, the selection of lots and coverage obligations which are to comprise each such chain bid and the amount of each such chain bid.

Valid supplementary bids

58. A supplementary bid is a valid supplementary bid if the bidder complies with regulations 21, 22, 45, and 70 in respect of that supplementary bid.

CHAPTER 7

Procedure for primary bid rounds

Notice to be given to bidders before primary bid rounds

59. 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) 700 MHz paired frequency lots;
 - (ii) 700 MHz individual frequency lots;
 - (iii) 3.6 GHz frequency lots;
- (c) the coverage obligation discount; and
- (d) the bidder's eligibility limit for that primary bid round.

Extensions to rounds

60.—(1) The time notified by OFCOM under regulation 56 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 (2) 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 59(a).

(2) 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 (1);
- (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.

Ofcom discretion to close a round early

61. Where all bidders in a round have placed bids, OFCOM may close a round before the expiry of the end of round time.

Release of information on primary bids in principal stage

62.—(1) 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 each bidder of—

- (a) the total number of—
 - (i) 700 MHz paired frequency lots;
 - (ii) 700 MHz individual frequency lots;
 - (iii) 3.6 GHz frequency lots,included in that bidder's valid primary bids and the sums bid;
- (b) whether the coverage obligation is included in that bidder's valid primary bids; and
- (c) the remaining number of occasions on which a round extension may occur in respect of that bidder;

(2) After the end of each primary bid round (but excepting the final primary round), and before the start of the next primary bid round OFCOM shall notify each bidder of—

- (a) for 700 MHz paired frequency lots, the amount in MHz which is the smallest strictly positive whole multiple of twenty which is greater than or equal to the excess demand as determined in accordance with paragraph (3);
- (b) for 700 MHz individual frequency lots, the amount in MHz which is the smallest strictly positive whole multiple of twenty which is greater than or equal to the excess demand as determined in accordance with paragraph (4) and
- (c) for 3.6 GHz lots, the amount in MHz which is the smallest strictly positive whole multiple of twenty which is greater than or equal to the excess demand as determined in accordance with paragraph (5).

(3) The formula for excess demand for 700 MHz paired frequency lots is $Ed_{700\text{paired}} = (e - 6) \times 10$ where—

- (a) "e" is the total number of valid (standard and relaxed) primary bids (not including any chain bids) for 700 MHz paired lots made by all bidders in the most recent round;

(4) The formula for excess demand for 700 MHz individual frequency lots is $Ed_{700\text{individual}} = (f - 4) \times 5$ where—

- (a) "f" is the total number of valid (standard and relaxed) primary bids for 700 MHz paired lots made by all bidders in the most recent round;

(5) The formula for excess demand for 3.6 GHz lots is $Ed_{3.6} = (g - 24) \times 5$ where—

- (a) "g" is the total number of valid (standard and relaxed) primary bids for 3.6 GHz paired lots made by all bidders in the most recent round.

Publication of information at the end of each day during the principal stage

63.—(1) After the end of the latest primary bid round to take place on any given day, OFCOM shall publish on their website, in relation to that latest principal stage round for each lot type separately, the amount in MHz which is the smallest positive whole multiple of twenty which is greater than or equal to excess demand.

(2) After the end of the last primary bid round, OFCOM shall publish on their website the fact that all of the primary bid rounds have ended (and OFCOM will announce the time for the start of the supplementary bids round in accordance with regulation 69).

Submission of primary bid form to OFCOM

64.—(1) Except as provided for in regulation 65, 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

65.—(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

66.—(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

67. 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.

Further deposit during primary bid rounds

68.—(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 the full 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 an 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 8

Procedure and further deposit for supplementary bids round

Notice to be given to bidders before supplementary bids round

69. 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;

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- (b) the deadline by when bidders must pay a further sum in pounds as a deposit calculated in accordance with regulation 75; and
- (c) if applicable, the proportion referred to in regulation 75(1)(a).

Submission of supplementary bids form to OFCOM

70.—(1) Following OFCOM's response to a bidder's provisional list of bids under regulation 46, before the end of the round (except as provided for in regulation 71) a bidder must submit the completed supplementary bids form to OFCOM by using the electronic auction system.

(2) Except as provided for in regulation 72, the completed supplementary bids form must be received by OFCOM within the times notified to bidders under regulation 69(a).

Alternative method for submission of supplementary bids form

71.—(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

72.—(1) Where—

- (a) OFCOM have not received a completed supplementary bids form from a bidder by the time notified to bidders under regulation 69(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 69(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

73.—(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

74. 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

75.—(1) By the deadline notified to bidders under regulation 69(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 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, 68 or paragraph (2) of this regulation which shall (where not forfeited under regulation 118) be forfeited, and all of that principal stage bids (if any) shall be deemed to be invalid.

CHAPTER 9

Determination of winning principal stage bids and base prices

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

76.—(1) The winning principal stage bids shall be those valid standard primary bids, relaxed primary bids, primary chain bids, supplementary bids, relaxed supplementary bids and relaxed supplementary chain bids (“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) 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, 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 and there are no more than two bids which were for a selection which included the coverage obligation.

(4) 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 first order of precedence set out in paragraph (5) and then in accordance with the second order of precedence set out in paragraph (6) and then in accordance with the method to establish a third order of precedence set out in paragraph (8) if necessary.

(5) The first order of precedence shall be determined by the number of selections which included the coverage obligation included within the valid combination, such that valid

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combinations of principal stage bids with which a greater number of coverage obligation selections prevail over valid combinations of principal stage bids which include a lesser number of coverage selections (or no coverage selections).

(6) The second order of precedence shall be determined by the total number of eligibility points associated with each such valid combination of principal stage bids in accordance with paragraph (9) 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.

(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 9.

(8) If after the provisions in paragraphs (5) to (7) 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.

(9) The total value of a combination of bids (“*TV*”) shall be calculated in accordance with the formula $TV = A + L$ where —

- (a) “*A*” is the total amount of amounts bid in the combination; and
- (b) “*L*” is the sum of
 - (i) the total of round prices in the first primary bid round (as set out in regulation 28) for each lot that is available in the award process but was not included in that combination; and
 - (ii) the total of the coverage obligation discount in the primary bid round (as set out regulation [*first primary bid coverage discount*]) for each (of the two) coverage obligations that is available in the award process but was not included in that combination (if that is the case), converted to a negative amount.

Determination of base price for each winning principal stage bid

77. In respect of each winning principal stage bid OFCOM shall determine an amount in accordance with Schedule 4 (“base price”) which shall be payable by the relevant winning bidder.

Notification of results of principal stage and refund of deposits

78. Following the determination of the winning principal stage bids under regulation 76, and the determination of the base price for each winning principal stage bid under regulation 77, OFCOM shall—

- (a) notify—
 - (i) each winning bidder of—
 - (aa) the selection of lots and coverage 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 79 (“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, 68 or 775 (where such deposits have not been forfeited under regulation 118), but not any interest which has accrued on the deposits.

Final principal stage deposit

79.—(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 77.

(2) The final principal stage deposit must be paid into OFCOM's bank account by 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, 68, 75 or paragraph (2), which shall be forfeited.

Publication of results of principal stage

80. After the deadline specified under regulation 79(2), OFCOM shall publish on their internet website—

- (a) the names of the winning bidders that have satisfied the requirements of regulation 79(2);
- (b) in respect of each such winning bidder—
 - (i) the selection of lots and coverage 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 79(2) and who have been excluded from the award process in accordance with regulation 79(3);
- (d) in respect of each winning bidder that has not satisfied the requirements of regulation 79(2) and has been excluded from the award process in accordance with regulation 79(3)—
 - (i) the selection of lots and coverage 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.

PART 6

Assignment stage

CHAPTER 1

Assignment stage: Preliminary

Assignment stage

81.—(1) Where there are no winning bidders following completion of the principal stage and either there shall be no assignment stage and no licences shall be granted.

(2) Where there are winning bidders following completion of the principal stage OFCOM shall assign lots in a single assignment stage round in accordance with the procedure set out in chapters 2 to 6.

CHAPTER 2

Assignment without bidding

Assignment of numbered 700 MHz paired frequency lots without bidding

82. Where there is only one winning bidder for all of the 700 MHz paired frequency lots, OFCOM shall assign all of the 700 MHz paired frequency lots to that winning bidder.

Assignment of numbered 700 MHz individual frequency lots without bidding

83. Where there is only one winning bidder for all of the 700 MHz individual frequency lots, OFCOM shall assign all of the 700 MHz individual frequency lots to that winning bidder.

Assignment of numbered 3.6 GHz frequency lots without bidding

84. Where there is only one winning bidder for all of the 3.6 GHz frequency lots, OFCOM shall assign all of the 3.6 GHz frequency lots to that winning bidder.

CHAPTER 3

Assignment by bidding

Assignment of numbered 700 MHz paired frequency lots by bidding

85. Except where regulation 82 applies, the particular numbered 700 MHz paired frequency lots that are to be assigned to the winning bidder or bidders for the 700 MHz paired frequency lots shall be determined by bidding in one further round of bidding (the “assignment stage round”) in accordance with the procedure set out in regulations 90 to 94.

Assignment of numbered 700 MHz individual frequency lots by bidding

86. Except where regulation 83 applies, the particular numbered 700 MHz individual frequency lots that are to be assigned to the winning bidder or bidders for the 700 MHz individual frequency lots shall be determined by bidding in one further round of bidding (the “assignment stage round”) in accordance with the procedure set out in regulations 95 to 99.

Assignment of numbered 3.6 GHz lots by bidding

87. Except where regulation 84 applies, the particular numbered 3.6 GHz frequency lots that are to be assigned to the winning bidder or bidders for the 3.6 GHz frequency lots shall be determined by bidding in the assignment stage round in accordance with the procedure set out in regulations 100 to 104.

Assignment stage round

88.—(1) Only the following bidders may bid in the assignment stage round—

- (a) winning bidders for 700 MHz paired frequency lots;
- (b) winning bidders for 700 MHz individual frequency lots; and
- (c) winning bidders for 3.6 GHz lots.

(2) The assignment stage round shall begin and end at the times notified by OFCOM under regulation 105.

Assignment stage form

89.—(1) OFCOM shall provide each winning bidder with an assignment stage form.

(2) To bid in the assignment stage round, a bidder must specify on the assignment stage form—

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- (a) the bidder's 700 MHz paired frequency assignment stage bids, if any, in accordance with regulation 970;
 - (b) the bidder's 700 MHz individual frequency assignment stage bids, if any, in accordance with regulation 975; and
 - (c) the bidder's 3.6 GHz assignment stage bids, if any, in accordance with regulation 100;
- (3) An assignment stage form is a valid assignment stage form if—
- (a) the bidder has complied with regulations 90(1), 95(1) or 100(1) in respect of all assignment stage bids specified on the form; and
 - (b) the bidder has submitted the form in accordance with regulation 106 or 107.
- (4) Where a bidder submits an assignment stage form which is not a valid assignment stage form, OFCOM shall, after the end of the assignment stage round, notify the bidder of that fact and shall give the reasons why the assignment stage form is not a valid assignment stage form.

CHAPTER 4

700 MHz paired frequency assignments determined by bidding

Bidding for numbered 700 MHz paired frequency lots in the assignment stage

90.—(1) A 700 MHz paired frequency assignment stage bid shall be a bid for one or more licences that authorise the use of frequencies corresponding to the particular numbered 700 MHz paired frequency lots comprised in a block of numbered 700 MHz paired frequency lots.

(2) OFCOM shall determine which blocks of numbered 700 MHz paired frequency lots a bidder may bid for, and notify that bidder of its determination.

(3) The list of possible blocks of numbered 700 MHz paired frequency lots provided to each bidder may be different for each bidder.

(4) The list shall be known as the “700 MHz paired frequency assignment stage option list” and each block of 700 MHz paired frequency lots in that list shall be known as a “700 MHz paired frequency assignment stage option”.

Preparing a 700 MHz paired frequency assignment stage option list for each bidder

91.—(1) OFCOM shall determine which 700 MHz paired frequency assignment stage options shall be included in the 700 MHz paired frequency assignment stage option list for each bidder which is eligible to bid.

(2) A bidder's 700 MHz paired frequency assignment stage options shall be each of those blocks of numbered 700 MHz paired frequency lots which satisfy the following conditions—

- (a) the number of 700 MHz paired frequency lots contained in the block is equal to the number of that bidder's winning principal stage bids for 700 MHz paired frequency lots; and
- (b) if that bidder were assigned the 700 MHz paired frequency lots contained in the block the following conditions would be satisfied—
 - (i) each other bidder could be assigned 700 MHz paired frequency lots contained in a block that, in respect of that other bidder's winning principal stage bids for 700 MHz paired frequency lots, satisfies the condition in sub-paragraph (a); and
 - (ii) the 700 MHz paired frequency lots not assigned to that bidder or any other bidder would form a single block of numbered 700 MHz paired frequency lots.

700 MHz paired frequency assignment stage bids

92.—(1) In order to bid for a 700 MHz paired frequency assignment stage option, a bidder must, on the assignment stage form, specify an amount in whole thousands of pounds that it is willing to pay, in addition to the total 700 MHz paired frequency base price for that bidder's winning principal stage bids for 700 MHz paired frequency lots, for a licence that authorises the use of the

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frequencies corresponding to the block of numbered 700 MHz paired frequency lots that is the 700 MHz paired frequency assignment stage option.

(2) A bidder may make no more than one 700 MHz paired frequency assignment stage bid for each 700 MHz paired frequency assignment stage option.

(3) A bidder is not required to make a 700 MHz paired frequency assignment stage bid.

(4) A 700 MHz paired frequency assignment stage bid is a valid 700 MHz paired frequency assignment stage bid if—

- (a) the bid is specified on a valid assignment stage form; and
- (b) the bidder has paid the full sum of the required assignment stage deposit by the deadline specified by OFCOM.

(5) Where a bidder does not make a valid 700 MHz paired frequency assignment stage bid for a 700 MHz paired frequency assignment stage option that bidder will be deemed to have made a valid 700 MHz paired frequency assignment stage bid with a value of zero pounds for that 700 MHz paired frequency assignment stage option.

Determination of the winning 700 MHz paired frequency assignment stage bids

93.—(1) OFCOM shall determine the winning 700 MHz paired frequency assignment stage bids in accordance with this regulation after the deadline for paying the required assignment stage deposit under regulation 109.

(2) The winning 700 MHz paired frequency assignment stage bids shall be those valid 700 MHz paired frequency assignment stage bids that comprise the winning combination of valid 700 MHz paired frequency assignment stage bids.

(3) The winning combination of valid 700 MHz paired frequency assignment stage bids shall be the valid combination of 700 MHz paired frequency assignment stage bids having the highest total value of amounts bid.

(4) A combination of valid 700 MHz paired frequency assignment stage bids is a valid combination of 700 MHz paired frequency assignment stage bids if—

- (a) within that combination there is one valid 700 MHz paired frequency assignment stage bid from each winning bidder for 700 MHz paired frequency lots;
- (b) each of those valid 700 MHz paired frequency assignment stage bids is for a 700 MHz paired frequency assignment stage option as determined by OFCOM for the bidder;
- (c) no numbered 700 MHz paired frequency lot is included in more than one of the 700 MHz paired frequency assignment stage bids included in the combination of valid 700 MHz paired frequency assignment stage bids; and
- (d) the numbered 700 MHz paired frequency lots not included in that combination of valid 700 MHz paired frequency assignment stage bids, taken together, form a single block of numbered 700 MHz paired frequency lots.

(5) Where there is more than one valid combination of 700 MHz paired frequency assignment stage bids for which the total value is equal highest, OFCOM shall employ a method of random selection from amongst those valid combinations of 700 MHz paired frequency assignment stage bids for which the value is equal highest to determine the winning combination of valid 700 MHz paired frequency assignment stage bids.

Determination of 700 MHz paired frequency additional prices

94. In respect of each winning 700 MHz paired frequency assignment stage bid, OFCOM shall determine an amount in whole pounds (“700 MHz paired frequency additional price”) which shall be payable by the relevant winning bidder in accordance with Schedule 6.

CHAPTER 5

700 MHz individual frequency assignments determined by bidding

Bidding for numbered 700 MHz individual frequency lots in the assignment stage

95.—(1) A 700 MHz individual frequency assignment stage bid shall be a bid for one or more licences that authorise the use of frequencies corresponding to the particular numbered 700 MHz individual frequency lots comprised in a block of numbered 700 MHz individual frequency lots.

(2) OFCOM shall determine which blocks of numbered 700 MHz individual frequency lots a bidder may bid for, and notify that bidder of its determination.

(3) The list of possible blocks of numbered 700 MHz individual frequency lots provided to each bidder may be different for each bidder.

(4) The list shall be known as the “700 MHz individual frequency assignment stage option list” and each block of 700 MHz individual frequency lots in that list shall be known as a “700 MHz individual frequency assignment stage option”.

Preparing a 700 MHz individual frequency assignment stage option list for each bidder

96.—(1) OFCOM shall determine which 700 MHz individual frequency assignment stage options shall be included in the 700 MHz individual frequency assignment stage option list for each bidder which is eligible to bid.

(2) A bidder’s 700 MHz individual frequency assignment stage options shall be each of those blocks of numbered 700 MHz individual frequency lots which satisfy the following conditions—

- (a) the number of 700 MHz individual frequency lots contained in the block is equal to the number of that bidder’s winning principal stage bids for 700 MHz individual frequency lots; and
- (b) if that bidder were assigned the 700 MHz individual frequency lots contained in the block the following conditions would be satisfied—
 - (i) each other bidder could be assigned 700 MHz individual frequency lots contained in a block that, in respect of that other bidder’s winning principal stage bids for 700 MHz individual frequency lots, satisfies the condition in sub-paragraph (a); and
 - (ii) the 700 MHz individual frequency lots not assigned to that bidder or any other bidder would form a single block of numbered 700 MHz individual frequency lots.

700 MHz individual frequency assignment stage bids

97.—(1) In order to bid for a 700 MHz individual frequency assignment stage option, a bidder must, on the assignment stage form, specify an amount in whole thousands of pounds that it is willing to pay, in addition to the total 700 MHz individual frequency base price for that bidder’s winning principal stage bids for 700 MHz individual frequency lots, for a licence that authorises the use of the frequencies corresponding to the block of numbered 700 MHz individual frequency lots that is the 700 MHz individual frequency assignment stage option.

(2) A bidder may make no more than one 700 MHz individual frequency assignment stage bid for each 700 MHz individual frequency assignment stage option.

(3) A bidder is not required to make a 700 MHz individual frequency assignment stage bid.

(4) A 700 MHz individual frequency assignment stage bid is a valid 700 MHz individual frequency assignment stage bid if—

- (a) the bid is specified on a valid assignment stage form; and
- (b) the bidder has paid the full sum of the required assignment stage deposit by the deadline specified by OFCOM.

(5) Where a bidder does not make a valid 700 MHz individual frequency assignment stage bid for a 700 MHz individual frequency assignment stage option that bidder will be deemed to have

made a valid 700 MHz individual frequency assignment stage bid with a value of zero pounds for that 700 MHz individual frequency assignment stage option.

Determination of the winning 700 MHz individual frequency assignment stage bids

98.—(1) OFCOM shall determine the winning 700 MHz individual frequency assignment stage bids in accordance with this regulation after the deadline for paying the required assignment stage deposit under regulation 109.

(2) The winning 700 MHz individual frequency assignment stage bids shall be those valid 700 MHz individual frequency assignment stage bids that comprise the winning combination of valid 700 MHz individual frequency assignment stage bids.

(3) The winning combination of valid 700 MHz individual frequency assignment stage bids shall be the valid combination of 700 MHz individual frequency assignment stage bids having the highest total value of amounts bid.

(4) A combination of valid 700 MHz individual frequency assignment stage bids is a valid combination of 700 MHz individual frequency assignment stage bids if—

- (a) within that combination there is one valid 700 MHz individual frequency assignment stage bid from each winning bidder for 700 MHz individual frequency lots;
- (b) each of those valid 700 MHz individual frequency assignment stage bids is for a 700 MHz individual frequency assignment stage option as determined by OFCOM for the bidder;
- (c) no numbered 700 MHz individual frequency lot is included in more than one of the 700 MHz individual frequency assignment stage bids included in the combination of valid 700 MHz individual frequency assignment stage bids; and
- (d) the numbered 700 MHz individual frequency lots not included in that combination of valid 700 MHz individual frequency assignment stage bids, taken together, form a single block of numbered 700 MHz individual frequency lots.

(5) Where there is more than one valid combination of 700 MHz individual frequency assignment stage bids for which the total value is equal highest, OFCOM shall employ a method of random selection from amongst those valid combinations of 700 MHz individual frequency assignment stage bids for which the value is equal highest to determine the winning combination of valid 700 MHz individual frequency assignment stage bids.

Determination of 700 MHz individual frequency additional prices

99. In respect of each winning 700 MHz individual frequency assignment stage bid, OFCOM shall determine an amount in whole pounds (“700 MHz individual frequency additional price”) which shall be payable by the relevant winning bidder in accordance with Schedule 5.

CHAPTER 6

3.6 GHz assignments determined by bidding

Bidding for numbered 3.6 GHz lots in the assignment stage

100.—(1) A 3.6 GHz assignment stage bid shall be a bid for one or more licences that authorise the use of frequencies corresponding to the particular numbered 3.6 GHz lots comprised in a block of numbered 3.6 GHz lots.

(2) OFCOM shall determine which blocks of numbered 3.6 GHz lots a bidder may bid for, and notify that bidder of its determination.

(3) The list of possible blocks of numbered 3.6 GHz lots provided to each bidder may be different for each bidder.

(4) The list shall be known as the “3.6 GHz assignment stage option list” and each block of 3.6 GHz lots in that list shall be known as a “3.6 GHz assignment stage option”.

Preparing a 3.6 GHz assignment stage option list for each bidder

101.—(1) OFCOM shall determine which 3.6 GHz assignment stage options shall be included in the 3.6 GHz assignment stage option list for each bidder which is eligible to bid.

(2) A bidder's 3.6 GHz assignment stage options shall be each of those blocks of numbered 3.6 GHz lots which satisfy the following conditions—

- (a) the number of 3.6 GHz lots contained in the block is equal to the number of that bidder's winning principal stage bids for 3.6 GHz lots; and
- (b) if that bidder were assigned the 3.6 GHz lots contained in the block the following conditions would be satisfied—
 - (i) each other bidder could be assigned 3.6 GHz lots contained in a block that, in respect of that other bidder's winning principal stage bids for 3.6 GHz lots, satisfies the condition in sub-paragraph (a); and
 - (ii) the 3.6 GHz lots not assigned to that bidder or any other bidder would form a single block of numbered 3.6 GHz lots.

3.6 GHz assignment stage bids

102.—(1) In order to bid for a 3.6 GHz assignment stage option, a bidder must, on the assignment stage form, specify an amount in whole thousands of pounds that it is willing to pay, in addition to the total 3.6 GHz base price for that bidder's winning principal stage bids for 3.6 GHz lots, for a licence that authorises the use of the frequencies corresponding to the block of numbered 3.6 GHz lots that is the 3.6 GHz assignment stage option.

(2) A bidder may make no more than one 3.6 GHz assignment stage bid for each 3.6 GHz assignment stage option.

(3) A bidder is not required to make a 3.6 GHz assignment stage bid.

(4) A 3.6 GHz assignment stage bid is a valid 3.6 GHz assignment stage bid if—

- (a) the bid is specified on a valid assignment stage form; and
- (b) the bidder has paid the full sum of the required assignment stage deposit by the deadline specified by OFCOM.

(5) Where a bidder does not make a valid 3.6 GHz assignment stage bid for a 3.6 GHz assignment stage option that bidder will be deemed to have made a valid 3.6 GHz assignment stage bid with a value of zero pounds for that 3.6 GHz assignment stage option.

Determination of the winning 3.6 GHz assignment stage bids

103.—(1) OFCOM shall determine the winning 3.6 GHz assignment stage bids in accordance with this regulation after the deadline for paying the required assignment stage deposit under regulation 109.

(2) The winning 3.6 GHz assignment stage bids shall be those valid 3.6 GHz assignment stage bids that comprise the winning combination of valid 3.6 GHz assignment stage bids.

(3) The winning combination of valid 3.6 GHz assignment stage bids shall be the valid combination of 3.6 GHz assignment stage bids having the highest total value of amounts bid.

(4) A combination of valid 3.6 GHz assignment stage bids is a valid combination of 3.6 GHz assignment stage bids if—

- (a) within that combination there is one valid 3.6 GHz assignment stage bid from each winning bidder for 3.6 GHz lots;
- (b) each of those valid 3.6 GHz assignment stage bids is for a 3.6 GHz assignment stage option as determined by OFCOM for the bidder;
- (c) no numbered 3.6 GHz lot is included in more than one of the 3.6 GHz assignment stage bids included in the combination of valid 3.6 GHz assignment stage bids; and

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(d) the numbered 3.6 GHz lots not included in that combination of valid 3.6 GHz assignment stage bids, taken together, form a single block of numbered 3.6 GHz lots.

(5) Where there is more than one valid combination of 3.6 GHz assignment stage bids for which the total value is equal highest, OFCOM shall employ a method of random selection from amongst those valid combinations of 3.6 GHz assignment stage bids for which the value is equal highest to determine the winning combination of valid 3.6 GHz assignment stage bids.

Determination of 3.6 GHz additional prices

104. In respect of each winning 3.6 GHz assignment stage bid, OFCOM shall determine an amount in whole pounds (“3.6 GHz additional price”) which shall be payable by the relevant winning bidder in accordance with Schedule 7.

CHAPTER 7

Procedure and further deposit for assignment stage

Notice to bidders before the assignment stage round

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

- (a) the 700 MHz paired frequency, 700 MHz individual frequency and 3.6 GHz assignment stage options that are available to that bidder in the assignment stage round; and
- (b) the date on which, and the times on that date within which, the assignment stage round will take place.

Submission of assignment stage form to OFCOM

106.—(1) A bidder must submit the completed assignment stage form to OFCOM by using the electronic auction system, except as provided for in regulation 107.

(2) The completed assignment stage form must be received by OFCOM by the time notified to bidders under regulation 105(b) as the end of the assignment stage round.

Alternative method for submission of assignment stage form

107.—(1) Where OFCOM are satisfied that a bidder is unable to submit an assignment stage 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 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 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 assignment stage form

108.—(1) Where, due to the manner of completion, an assignment stage 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 that OFCOM have correctly ascertained the bidder’s intention, the assignment stage form in its entirety shall be accepted by OFCOM on that basis.

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(3) Where the bidder does not give such confirmation, the assignment stage form in its entirety shall be rejected by OFCOM and none of the assignment stage bids made on that assignment stage form shall be valid, and regulations 92(5), 97(5) and 102(5) shall apply.

Required assignment stage deposit

109.—(1) A further sum in pounds must be paid into OFCOM’s bank account, with accompanying information which identifies the bidder, by a deadline specified by OFCOM (the “required assignment stage deposit”).

(2) The required assignment stage deposit shall be an amount such that the total amount that the bidder has on deposit is not less than the amount which is the sum of—

- (a) The amount which is the bidder’s base price for its winning principal stage bid;
- (b) the amount which is the bidder’s highest 700 MHz paired frequency assignment stage bid for a 700 MHz paired frequency assignment stage option;
- (c) the amount which is the bidder’s highest 700 MHz individual frequency assignment stage bid for a 700 MHz individual assignment stage option; and
- (d) the amount which is the bidder’s highest 3.6 GHz assignment stage bid for a 3.6 GHz assignment stage option.

Notification of results of the assignment stage

110. After the determination of the winning 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 700 MHz paired frequency, 700 MHz individual frequency and 3.6 GHz assignment stage options for which the bidder made winning assignment stage bids; and
- (b) the additional price determined for each winning assignment stage bid made by the bidder.

PART 7

CHAPTER 1

Grant Stage

Licences available, the determination of licence fees and the precise frequencies for particular licences

Interpretation

111. In these Regulations—

- (a) a “3.6 GHz licence” is a licence that authorises the use of particular frequencies corresponding to a block of such number of 3.6 GHz lots as that bidder won in accordance with regulation 103; and
- (b) a “700 MHz licence” is a licence that authorises the use of particular frequencies corresponding to a block of such number of 700 MHz individual frequency lots and 700 MHz paired frequency lots that bidder won (if any) in accordance with regulation 93 and 98.

Determination of licences, licence fees and frequencies associated with particular licences

112. After notification of the results of the assignment stage under regulation 110, OFCOM shall determine—

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- (a) the licences which may be granted; and
- (b) for each licence—
 - (i) the licence fee payable to OFCOM, in accordance with regulations 114; and
 - (ii) the particular frequencies.

Licences which may be granted under this award process

113.—(1) The licences which may be granted to a bidder under this award process are—

(2) for a bidder which won 3.6 GHz lots, a 3.6 GHz licence;

- (a) for a bidder which won 700 MHz individual frequency lots a 700 MHz licence;
- (b) for a bidder which won 700 MHz paired frequency lots, a 700 MHz licence; and
- (c) for a bidder which won both 700 MHz paired frequency lots and 700 MHz frequency lots, a 700 MHz licence.

(3) If a bidder wins a licence which includes the coverage obligation, the coverage obligation will be a condition of the licence which is granted.

(4) If a bidder wins more than one licence and at least one of those licences was won by reason of the bidder winning a selection of lots and coverage which included the coverage obligation, that obligation shall be a condition of each licence which is granted to that bidder.

Determination of the licence fee

114. 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 77; and
- (b) the additional price for each winning assignment stage bid made by the bidder determined by OFCOM in accordance with regulations 94, 99 and 104.

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

115.—(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 114, the bidder must by a deadline specified by OFCOM pay into OFCOM's bank account by 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 114 and the amount of the bidder's deposit (including the initial deposit and any sum paid as a deposit under regulation 15, 68, 75, 70 and 109 but not including any sum forfeited under regulation 11820).

(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, 68, 75, 70 and 109 which shall (where not forfeited under regulation 11820) be forfeited.

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

116.—(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 114, 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, 68, 75, 70 and 109 , but not including any sum forfeited under regulation 120) and the amount of the winning bidder's licence fee calculated in accordance with regulation 114, but not any interest which has accrued on the deposit.

Completion of the award process

117. After the grant of licences, OFCOM shall complete the award process by publishing on their 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;
 - (ii) details of the licence fees paid; and
 - (iii) whether the licences included the coverage obligation.
- (c) the names of any persons who did not meet the requirements of regulation 109(1) including—
 - (i) details of the frequencies in respect of which licences would have been granted; and
- (d) Details of the licence fees which would have been payable for those licences had they been granted.

PART 8

FORFEIT OF DEPOSIT AND EXCLUSION FROM THE AWARD PROCESS

Forfeit of deposit and exclusion from award process

118. 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 120 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 regulations 15, 68, 75, 70 and 109 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

119.—(1) Where a bidder is excluded from the award process under regulation 118 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 76;
- (b) the base price payable by a winning bidder in accordance with regulation 77.

(2) Where a bidder is excluded from the award process under regulation 118 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 93, 98, 99, 103;
- (b) the additional price payable by a winning bidder in accordance with regulation 102.

Events

120. The events referred to in regulation 118, 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;

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- (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 9

MISCELLANEOUS

General power of exclusion

121. 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 9 (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

122. 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

123.—(1) Subject to regulations 124 and 125, 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

124.—(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.

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(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

125.—(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.

(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

126. 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.

SCHEDULE 1

Ref

Lots

In these Regulations—

- (a) “700 MHz paired frequency lot” means any of the six numbered 700 MHz pairs of lots listed in Column (1) of Table 1 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (b) “700 MHz individual frequency lot” means any of the four numbered 700 MHz lots listed in Column (1) of Table 2 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (c) “3.6 GHz lot” means any of the twenty-four 3.6 GHz lots listed in Column (1) of Table 2 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (d) “lot” means a 700 MHz paired frequency lot, a 700 MHz individual frequency lot or a 3.6 GHz lot;
- (e) a reference to “lot type” shall be construed as a reference to any of the three different lot types in paragraphs (a), (b) and (c);
- (f) a reference to a numbered 700 MHz paired frequency lot, a 700 MHz individual frequency lot or a 3.6 GHz lot means the lot with that number in Column (1) of Table 1, Table 2, or Table 3 (as the case may be);
- (g) a reference to a “block” of 700 MHz paired frequency lot, a 700 MHz individual frequency lot or a 3.6 GHz lot is to be construed as a reference to a block of sequentially numbered lots;

Table 1

<i>700 MHz paired frequency lots</i>	<i>Frequencies</i>
700 MHz paired frequency lot 1	703-708 MHz and 758-763 MHz
700 MHz paired frequency lot 2	708-713 MHz and 763-768 MHz
700 MHz paired frequency lot 3	713-718 MHz and 768-773 MHz
700 MHz paired frequency lot 4	718-723 MHz and 773-778 MHz
700 MHz paired frequency lot 5	723-728 MHz and 778-783 MHz
700 MHz paired frequency lot 6	728-733 MHz and 783-788 MHz

Table 2

<i>700 MHz individual frequency lots</i>	<i>Frequencies</i>
700 MHz individual frequency lot 1	738-743 MHz
700 MHz individual frequency lot 2	743-748 MHz
700 MHz individual frequency lot 3	748-753 MHz
700 MHz individual frequency lot 4	753-758 MHz

Table 3

<i>3.6 GHz frequency lots</i>	<i>Frequencies</i>
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3.6 GHz frequency lot 1	3680-3685 MHz
3.6 GHz frequency lot 2	3685-3690 MHz
3.6 GHz frequency lot 3	3690-3695 MHz
3.6 GHz frequency lot 4	3695-3700 MHz
3.6 GHz frequency lot 5	3700-3705 MHz
3.6 GHz frequency lot 6	3705-3710 MHz
3.6 GHz frequency lot 7	3710-3715 MHz
3.6 GHz frequency lot 8	3715-3720 MHz
3.6 GHz frequency lot 9	3720-3725 MHz
3.6 GHz frequency lot 10	3725-3730 MHz
3.6 GHz frequency lot 11	3730-3735 MHz
3.6 GHz frequency lot 12	3735-3740 MHz
3.6 GHz frequency lot 13	3740-3745 MHz
3.6 GHz frequency lot 14	3745-3750 MHz
3.6 GHz frequency lot 15	3750-3755 MHz
3.6 GHz frequency lot 16	3755-3760 MHz
3.6 GHz frequency lot 17	3760-3765 MHz
3.6 GHz frequency lot 18	3765-3770 MHz
3.6 GHz frequency lot 19	3770-3775 MHz
3.6 GHz frequency lot 20	3775-3780 MHz
3.6 GHz frequency lot 21	3780-3785 MHz
3.6 GHz frequency lot 22	3785-3790 MHz
3.6 GHz frequency lot 23	3790-3795 MHz
3.6 GHz frequency lot 24	3795-3800 MHz

SCHEDULE 2

Ref

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

Bank sort code and account number

Name of individual contact within applicant

Contact address (if different from registered office)

Contact telephone number

Contact mobile telephone number

Contact fax number

Contact electronic mail address

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 2019 ("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 3 to the Regulations in accordance with regulation 4(3)(a)(ii) of the Regulations.

5. Qualification to bid

In relation to the determination by the Office of Communications ("OFCOM") under regulation 9 of the Regulations—

- (h) provide details of any reason why the applicant may not be a fit and proper person to hold a licence;
- (i) 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;

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- (j) 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;
- (k) state whether any member of the applicant's applicant 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, and provide a description of the circumstances of any disclosure and the information disclosed, except where the disclosure—
 - (i) is or was to a member of the applicant's applicant group;
 - (ii) is or was to OFCOM;
 - (iii) is or was to a provider of finance for the purpose of raising finance for the applicant's application; or
 - (iv) is or was to a person for the purpose of enabling that person to decide whether to participate as a member of the applicant's bidder group;
- (l) 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;
- (m) 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
- (n) 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—

- (o) agreements (if any) relating to the management of the applicant; and
- (p) 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. Existing spectrum holdings

Confirm that the applicant has provided the details of existing spectrum holdings required under regulation 4(3)(a)(iii) of the Regulations.

8. Warranty

Provide the following warranty—

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

- (q) the persons authorised in section 2 of this application have read and understood the Regulations, the terms of the licences to be granted under the Regulations, and the Wireless Telegraphy Act 2006;
- (r) 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;

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- (s) 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
- (t) the applicant is aware of the provisions in regulations 118 and 120 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.”

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SCHEDULE 3

Ref

**Document for member of applicant's applicant group 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 2019 ("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 118 and 120 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.

Applicant/bidder

In relation to regulations 10, 118 and 120 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.

[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—

- (d) consents to be a member of the applicant/bidder's applicant or bidder group;
- (e) is not a member of any other applicant's or bidder's applicant or bidder group; and
- (f) is aware of the provisions in regulations 10, 118 and 120 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 applicant or bidder group who is not an associate] undertakes to OFCOM that it will immediately inform OFCOM and the applicant/bidder—

- (g) if it has ever been or becomes a member of any other applicant's or bidder's applicant or bidder group;
- (h) 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
- (i) if it has ever obtained or if it ever obtains confidential information (as defined in the Regulations) relating to another applicant or bidder.

SCHEDULE 4

Determination of base prices

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 additional 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 highest between—
 - (i) 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
 - (ii) one thousand pounds; 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 sub-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 76(9) 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 this paragraph.

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.

(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—

- (a) “ p_B ” is the price for a winning principal stage bid; and
- (b) “ 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—

- (a) “ u_B ” is the amount calculated in accordance with sub-paragraph (4);
- (b) “ t_B ” is the total amount of the winning principal stage bids; and
- (c) “ 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 amount 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 76(9) 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.

Interpretation

6. In this Schedule “valid combination of principal stage bids” shall be construed in accordance with regulation 76.

SCHEDULE 5

Determination of 700 MHz individual frequency lot additional price

Additional price

7.—(1) OFCOM shall determine an additional price for each winning 700 MHz individual frequency 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

8. The additional price for each winning 700 MHz individual frequency assignment stage bid shall be no less than zero and no more than the amount of that winning 700 MHz individual frequency assignment stage bid.

Second requirement

9.—(1) Taking the additional prices for the winning 700 MHz individual frequency assignment stage bids together, the additional prices shall be such that if—

- (a) the amount bid by each winning bidder for the 700 MHz individual frequency assignment stage option selected in its winning 700 MHz individual frequency assignment stage bid had been the additional price rather than the amount of its winning 700 MHz individual frequency assignment stage bid (“reduced winning 700 MHz individual frequency assignment stage bid”), and
- (b) subject to sub-paragraph (2), the amount bid by each winning bidder in respect of each other valid 700 MHz individual frequency assignment stage bid made by that bidder had been reduced by an amount equal to the difference between the amount of its winning 2.3 GHz assignment stage bid and the additional price for that relevant winning 700 MHz individual frequency assignment stage bid,

the combination of the reduced winning 700 MHz individual frequency assignment stage bids submitted by the winning bidders would have been the valid combination of 700 MHz individual frequency assignment stage bids or one of the valid combinations of 700 MHz individual frequency assignment stage bids (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 700 MHz individual frequency assignment stage bids for the purposes of this paragraph.

Third requirement

10. Taking the additional prices for the winning 700 MHz individual frequency assignment stage bids together, the total of those additional prices shall be no greater than the total of any other prices for the winning 700 MHz individual frequency assignment stage bids that satisfy the requirements set out in paragraphs 2 and 3.

Fourth requirement

11.—(1) Taking the additional prices for the winning 700 MHz individual frequency assignment stage bids together, the opportunity cost variance of those additional 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 2.3 GHz assignment stage bids 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—

- (a) “ p_A ” is the price for a winning 700 MHz individual frequency assignment stage bid; and
- (b) “ c_A ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning 700 MHz individual frequency assignment stage bid.

(3) The formula is $c_A = u_A - t_A + b_A$ where—

- (a) “ u_A ” is the amount calculated in accordance with sub-paragraph (4);
- (b) “ t_A ” is the total amount of the winning 700 MHz individual frequency assignment stage bids; and
- (c) “ b_A ” is the amount of the winning 700 MHz individual frequency 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 700 MHz individual frequency assignment stage bids or one of the valid combinations of 700 MHz individual frequency assignment stage bids (as the case may be) having the highest total value of amounts bid where, for each 700 MHz individual frequency assignment stage bid made by the winning bidder that submitted the winning 700 MHz individual frequency assignment stage bid for which p_A is the price, the amount of that 700 MHz individual frequency assignment stage bid is treated as if it were zero for the purposes of this sub-paragraph.

(5) Where the amount of a 700 MHz individual frequency assignment stage bid is treated as if it were zero in accordance with sub-paragraph (4), that 700 MHz individual frequency assignment stage bid shall be treated as a valid 700 MHz individual frequency assignment stage bid for the purposes of that sub-paragraph.

Interpretation

12. In this Schedule “valid combination of 700 MHz individual frequency assignment stage bids” shall be construed in accordance with regulation 97.

SCHEDULE 6

Determination of 700 MHz paired frequency lot additional price

Additional price

13.—(1) OFCOM shall determine an additional price for each winning 700 MHz paired frequency lot 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

14. The additional price for each winning 700 MHz paired frequency lot assignment stage bid shall be no less than zero and no more than the amount of that winning 700 MHz paired frequency lot assignment stage bid.

Second requirement

15.—(1) Taking the additional prices for the winning 700 MHz paired frequency lot assignment stage bids together, the additional prices shall be such that if—

- (a) the amount bid by each winning bidder for the 700 MHz paired frequency lot assignment stage option selected in its winning 700 MHz paired frequency lot assignment stage bid had been the additional price rather than the amount of its winning 700 MHz paired frequency lot assignment stage bid (“reduced winning 700 MHz paired frequency lot assignment stage bid”), and
- (b) subject to sub-paragraph (2), the amount bid by each winning bidder in respect of each other valid 700 MHz paired frequency lot assignment stage bid made by that bidder had been reduced by an amount equal to the difference between the amount of its winning 700 MHz paired frequency lot assignment stage bid and the additional price for that relevant winning 700 MHz paired frequency lot assignment stage bid,

the combination of the reduced winning 700 MHz paired frequency lot assignment stage bids submitted by the winning bidders would have been the valid combination of 700 MHz paired frequency lot assignment stage

(2) Where the amount of a bid bids or one of the valid combinations of 700 MHz paired frequency lot assignment stage bids (as the case may be) having the highest total value of amounts 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 700 MHz paired frequency lot assignment stage bids for the purposes of this paragraph.

Third requirement

16. Taking the additional prices for the winning 700 MHz paired frequency lot assignment stage bids together, the total of those additional prices shall be no greater than the total of any other prices for the winning assignment stage bids that satisfy the requirements set out in paragraphs 2 and 3.

Fourth requirement

17.—(1) Taking the additional prices for the winning 700 MHz paired frequency lot assignment stage bids together, the opportunity cost variance of those additional 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 700 MHz paired frequency lot assignment stage bids 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—

- (a) “ p_A ” is the price for a winning 700 MHz paired frequency lot assignment stage bid; and
- (b) “ c_A ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning 700 MHz paired frequency lot assignment stage bid.

(3) The formula is $c_A = u_A - t_A + b_A$ where—

- (a) “ u_A ” is the amount calculated in accordance with sub-paragraph (4);
- (b) “ t_A ” is the total amount of the winning 700 MHz paired frequency lot assignment stage bids; and
- (c) “ b_A ” is the amount of the winning 700 MHz paired frequency lot 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 700 MHz paired frequency lot assignment stage bids or one of the valid combinations of 700 MHz paired frequency lot assignment stage bids (as the case may be) having the highest total value of amounts bid where, for each 700 MHz paired frequency lot assignment stage bid made by the winning bidder that submitted the winning 700 MHz paired frequency lot assignment stage bid for which p_A is the price, the amount of that 700 MHz paired frequency lot assignment stage bid is treated as if it were zero for the purposes of this sub-paragraph.

(5) Where the amount of a 700 MHz paired frequency lot assignment stage bid is treated as if it were zero in accordance with sub-paragraph (4), that 700 MHz paired frequency lot assignment stage bid shall be treated as a valid 700 MHz paired frequency lot assignment stage bid for the purposes of that sub-paragraph.

Interpretation

18. In this Schedule “valid combination of 700 MHz paired frequency lot assignment stage bids” shall be construed in accordance with regulation 93.

SCHEDULE 7

Determination of 3.6 GHz lot additional price

Additional price

19.—(1) OFCOM shall determine an additional price for each winning 3.6 GHz 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

20. The additional price for each winning 3.6 GHz assignment stage bid shall be no less than zero and no more than the amount of that winning 3.6 GHz assignment stage bid.

Second requirement

21.—(1) Taking the additional prices for the winning 3.6 GHz assignment stage bids together, the additional prices shall be such that if—

- (a) the amount bid by each winning bidder for the 3.6 GHz assignment stage option selected in its winning 3.6 GHz assignment stage bid had been the additional price rather than the amount of its winning 3.6 GHz assignment stage bid (“reduced winning 3.6 GHz assignment stage bid”), and
- (b) subject to sub-paragraph (2), the amount bid by each winning bidder in respect of each other valid 3.6 GHz assignment stage bid made by that bidder had been reduced by an amount equal to the difference between the amount of its winning 3.6 GHz assignment stage bid and the additional price for that relevant winning 3.6 GHz assignment stage bid,

the combination of the reduced winning 3.6 GHz assignment stage bids submitted by the winning bidders would have been the valid combination of 3.6 GHz assignment stage bids or one of the valid combinations of 3.6 GHz assignment stage bids (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 3.6 GHz assignment stage bids for the purposes of this paragraph.

Third requirement

22. Taking the additional prices for the winning 3.6 GHz assignment stage bids together, the total of those additional prices shall be no greater than the total of any other prices for the winning 3.6 GHz assignment stage bids that satisfy the requirements set out in paragraphs 2 and 3.

Fourth requirement

23.—(1) Taking the additional prices for the winning 3.6 GHz assignment stage bids together, the opportunity cost variance of those additional 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 3.6 GHz assignment stage bids 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—

- (a) “ p_A ” is the price for a winning 3.6 GHz assignment stage bid; and
- (b) “ c_A ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning 3.6 GHz assignment stage bid.

(3) The formula is $c_A = u_A - t_A + b_A$ where—

- (a) “ u_A ” is the amount calculated in accordance with sub-paragraph (4);
- (b) “ t_A ” is the total amount of the winning 3.6 GHz assignment stage bids; and
- (c) “ b_A ” is the amount of the winning 3.6 GHz 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 3.6 GHz assignment stage bids or one of the valid combinations of 3.6 GHz assignment stage bids (as the case may be) having the highest total value of amounts bid where, for each 3.6 GHz assignment stage bid made by the winning bidder that submitted the winning 3.6 GHz assignment stage bid for which p_A is the price, the amount of that 3.6 GHz assignment stage bid is treated as if it were zero for the purposes of this sub-paragraph.

(5) Where the amount of a 3.6 GHz assignment stage bid is treated as if it were zero in accordance with sub-paragraph (4), that 3.6 GHz assignment stage bid shall be treated as a valid 700 MHz individual frequency assignment stage bid for the purposes of that sub-paragraph.

Interpretation

In this Schedule “valid combination of 3.6 GHz assignment stage bids” shall be construed in accordance with regulation 102.

SCHEDULE 8

Ref

Frequency bands for existing spectrum holdings

Frequency bands

791 to 821 MHz

832 to 862 MHz

880.1 to 914.9 MHz

925.1 to 959.9 MHz

1452 to 1492 MHz

1710.1 to 1781.7 MHz

1805.1 to 1876.7 MHz

1920.0 to 1979.7 MHz

2110.3 to 2169.7 MHz

2350 to 2390 MHz

2500 to 2570 MHz

2575 to 2595 MHz

2600 to 2615 MHz

2620 to 2690 MHz

3410 to 3800 MHz

DRAFT

SCHEDULE 9

Ref

Eligibility points associated with lots

The number of eligibility points associated with a lot of a type mentioned in an entry in Column (1) of the table is the number of points shown in the corresponding entry in Column (2).

<i>Column (1): Type of lot</i>	<i>Column (2): Number of eligibility points</i>
700 MHz paired frequency lot	4
700 MHz individual frequency lot	1
3.6 GHz frequency lot	1