



# Award of the 800MHz and 2.6GHz Spectrum bands

Guidance to potential applicants and bidders in the  
auction

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Table of substantive changes to the bidder guidance

<b>Reference (based on paragraph/section numbering in version 2)</b>	<b>Version amended</b>	<b>Detail (of minor amendments only)</b>
Paragraph 1.5	Amended in version 2	
Paragraph 1.6	Added in version 2	
Paragraph 1.7	Amended in version 2	Updating summary
Footnote 2	Added in version 2	
Footnote 4	Added in version 2	
Figure 2 note	Added in version 2	
Paragraph 3.17	Amended in version 2	Second sentence added
Footnote 5	Added in version 2	
Paragraph 4.11	Partially deleted in version 2	
Paragraph 4.13	Added in version 2	
Paragraph 4.16	Added in version 2	
Footnote 6	Added in version 2	
Paragraph 6.5	Amended in version 2	
Paragraph 7.7	Amended in version 2	
Footnote 7	Added in version 2	
Footnote 8	Added in version 2	
Paragraph 7.19	Added in version 2	
Paragraph 8.6	Amended in version 2	
Paragraph 8.10	Amended in version 2	Added the words “by the bidder”
Section 9	Amended in version 2	Amended some references to “verification” to “validation” for consistency
Section 10.11	Amended in version 2	
Section 11	Amended in version 2	Amended some references to “verification” to “validation” for consistency”
11.2	Partially deleted in version 2	Deleted duplicative sentence “The results of the principal stage will go through an independent verification process”
Section 12	Entire section added in version 2	
Section 13	Entire section added in version 2	
Annex A1.4	Amended in version 2	
Footnote 9	Added in version 2	
Annex 2	Amended in version 2	
Annex 4	Added in version 2	



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## Section 1

# Introduction

- 1.1 This document is designed to provide guidance to potential applicants and bidders in the 800 MHz and 2.6 GHz Auction (“the Auction”).
- 1.2 The rules of the Auction are as set out in the Wireless Telegraphy (Licence Award) Regulations 2012 (“the Regulations”). A copy of the Regulations as made by Ofcom was published on 12 November 2012, as an annex to the statement on the making of the Regulations.<sup>1</sup> The purpose of this document is to provide information about practical aspects of the Auction that are not covered by the Regulations. To the extent that there is any contradiction between this document and the Regulations, the Regulations will prevail. Unless otherwise stated, terminology relating to the Auction carries the same meaning in this document as in the Regulations.
- 1.3 The Auction is a dynamic process so we cannot be definitive about how certain aspects of the Auction will be conducted. Accordingly, you should note that we may need to depart from the guidance given in this document.
- 1.4 We would welcome comments from parties considering participating in the Auction on any aspect of the material published in this document, or on particular issues in relation to which further guidance would be welcomed.
- 1.5 Where necessary, we will publish further guidance by way of amendments or updates to this guidance. Interested parties should always ensure that they refer to the latest version of this guidance, as published on our website at <http://stakeholders.ofcom.org.uk/spectrum/spectrum-awards/awards-in-progress/>. Where there is a contradiction between different versions of the guidance, the later version should be regarded as definitive.
- 1.6 For ease of reference, a summary of the updates to the guidance is set out in the table at the front of the document. However, interested parties should not rely on this table, and should ensure that they review the entirety of each updated version of this document.
- 1.7 The subjects covered in this document are as follows:
  - Section 2 provides certain guidance in relation to applications to participate in the Auction.
  - Section 3 provides guidance on how the qualification process will be carried out, and guidance about bidder groups.
  - Section 4 provides guidance about access to the electronic auction system and arrangements for bidder training.
  - Section 5 provides guidance in relation to the requirement to make an additional deposit before the start of the opt-in round.
  - Section 6 provides guidance in relation to the opt-in round.

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/consultations/notice-proposal-regulations/statement/>

- Section 7 provides guidance in relation to primary bid rounds.
- Section 8 provides guidance in relation to the supplementary bids round
- Section 9 provides guidance in relation to the results of the principal auction stage.
- Section 10 provides guidance in relation to the assignment stage
- Section 11 provides guidance in relation to the final auction results.
- Section 12 provides guidance in relation to the payment of deposits
- Section 13 provides guidance about business continuity
- Annex 1 provides guidance in relation to the making of payments to Ofcom.
- Annex 2 provides guidance in relation to communications between bidders/applicants and Ofcom.
- Annex 3 provides an illustrative timeline for the Auction. Please note that Ofcom may change these timings as the Auction unfolds.
- Annex 4 is a suggested form for the provision of information about payments to Ofcom.

## Section 2

# Application

## Delivering the Application

- 2.1 To apply for a licence, a body corporate must deliver a sealed envelope to Ofcom containing certain things specified in the Regulations, between certain times on a date specified by Ofcom.
- 2.2 The sealed envelope must contain the following;
- An application form signed by two authorised persons, and containing:
    - the application information required by Schedule 4 to the Regulations; and
    - a warranty in the form set out in Schedule 4 to the Regulations..
  - A document containing the information required by Schedule 5 of the Regulations in relation to applicant group members who are not associates.
  - Details of the existing spectrum holdings of members of the applicant group and certain other persons, as required by Regulation 4(3)(a)(iii).
  - If applicable, a statement that the applicant wishes to participate in the opt-in round, as required by Regulation 4(4).
- 2.3 The application form (including the warranty) and the document containing the information required by Schedule 5 of the Regulations will both be available for download from Ofcom's website at <http://stakeholders.ofcom.org.uk/spectrum/spectrum-awards/awards-in-progress/>.
- 2.4 The provisional application date is 11 December 2012, and the provisional times on that date are between 10:00 and 16:00. We will confirm the application date and times on our website after the Regulations come into force on 23 November 2012.<sup>2</sup>
- 2.5 The sealed envelope should be delivered to Ofcom's premises at Riverside House, 2a Southwark Bridge Road, London SE1 9HA. It should be brought to the reception desk at the Southwark Bridge Road entrance (not the basement level entrance on Rose Alley). If for any reason (such as the unavailability of Ofcom's Riverside House building), an alternative address is to be used, the address and any other relevant information will be notified on Ofcom's website.
- 2.6 Each person delivering a sealed envelope in accordance with the instructions above will be given a receipt. If a prospective applicant is using a courier service to deliver its sealed envelope, it should make the courier aware of this.
- 2.7 If a sealed envelope is delivered after the time specified, a receipt may still be given, but this should not be taken as an indication that the application has been received in

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<sup>2</sup> Update for 7 December version of this guidance: The Regulations came into force on 23 December, and the notice specifying the application date and times is now published at <http://stakeholders.ofcom.org.uk/spectrum/spectrum-awards/awards-in-progress/notices/>

time. Applications must be delivered within the times specified by Ofcom. Applicants are strongly advised to ensure that they deliver their application well before the end of the specified period.

- 2.8 In the event that there is a delay in processing receipts on the application day, we will consider the sealed envelope to be delivered in time if the person delivering it has arrived at our reception desk at the Southwark Bridge Road entrance to Riverside House before the end of the specified period on the application day.
- 2.9 Ofcom will not check the contents of prospective applicants' sealed envelopes prior to delivery or at the point of delivery. It is the responsibility of each prospective applicant to ensure that their sealed envelope contains all of the documents and information required by the Regulations.

## Initial Deposit

- 2.10 The Regulations require applicants and bidders to pay an initial deposit to us of £100,000 before a specified deadline.<sup>3</sup> The deadline will be the end of the day on which applications are due to be delivered. Therefore, the provisional deadline is 23:59 on 11 December 2012. We will confirm the deadline on our website after the Regulations come into force on 23 November 2012.<sup>4</sup>
- 2.11 Bank details and other relevant information in relation to payment of the initial deposit are set out in Annex 1 to this document.

## The concept of “associates”

- 2.12 The Regulations require each applicant to provide information about each of its associates and details of the material interest that each associate holds in the applicant.
- 2.13 The Regulations define an associate as a person who has a material interest in the applicant or bidder. ‘Material interest’ means, whether held directly or indirectly:
- 2.13.1 any interest (construed in accordance with sections 820 to 825 of the Companies Act 2006) in –
- 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 (referred to below as the “25% rule”); or
  - 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
- 2.13.2 the right to appoint or remove a majority of the applicant’s or bidder’s board of directors.

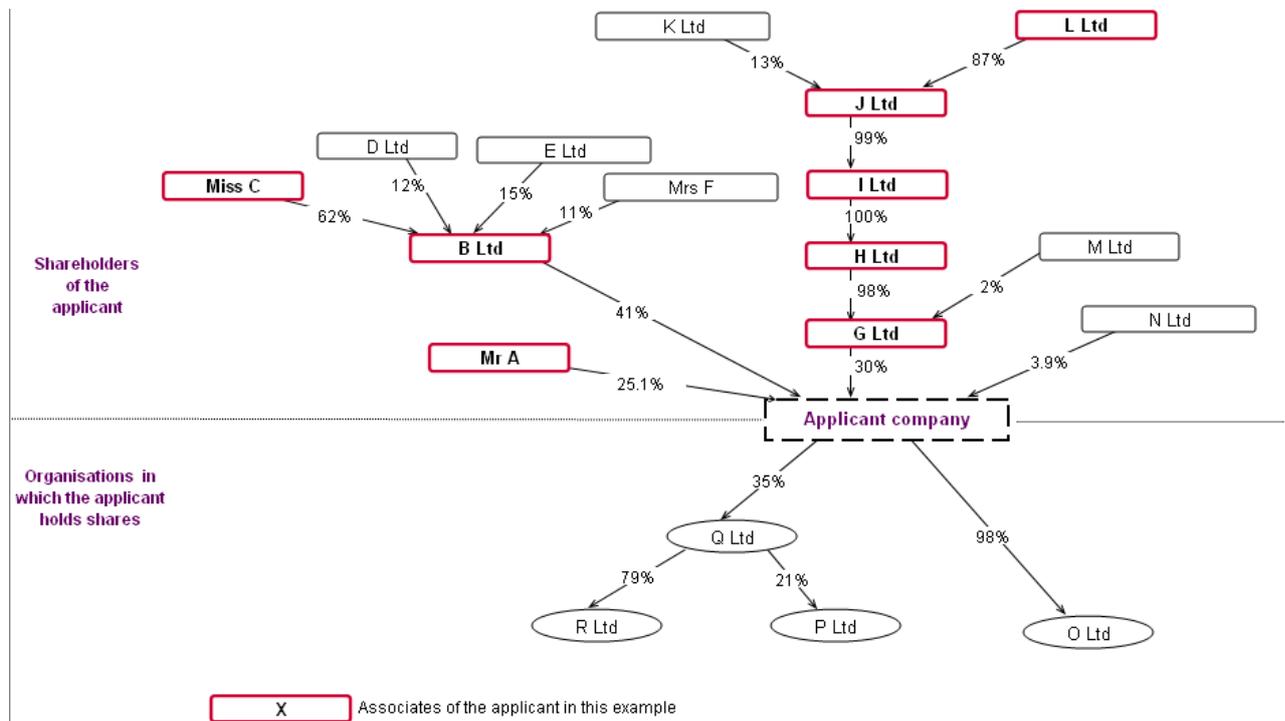
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<sup>3</sup> Regulation 4(3)(b)

<sup>4</sup> Update for 7 December version of this guidance: The Regulations came into force on 23 December, and the notice specifying the initial deposit deadline is now published at <http://stakeholders.ofcom.org.uk/spectrum/spectrum-awards/awards-in-progress/notices/>

2.14 We have set out in Figure 1 and Table 1 below an illustration of how the “25% rule” applies. Please be aware that persons that are not associates under the “25% rule” may still be associates if they satisfy the other limbs of the material interest test.

**Figure 1: Illustration of the concept of material interest under the “25% rule”**



Associate	Material interest in Applicant company
Mr A	Directly holds 25.1%
B Ltd	Directly holds 41%
Miss C	Indirectly holds 25.4% (62% x 41%)
G Ltd	Directly holds 30%
H Ltd	Indirectly holds 29.4% (98% x 30%)
I Ltd	Indirectly holds 29.4 % (100% x 98% x 30%)
J Ltd	Indirectly holds 29.106% (99% x 100% x 98% x 30%)

L Ltd	Indirectly holds 25.32222% (87% x 99% x 100% x 98% x 30%)
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**Table 1: Illustration of the concept of material interest under the “25% rule”**

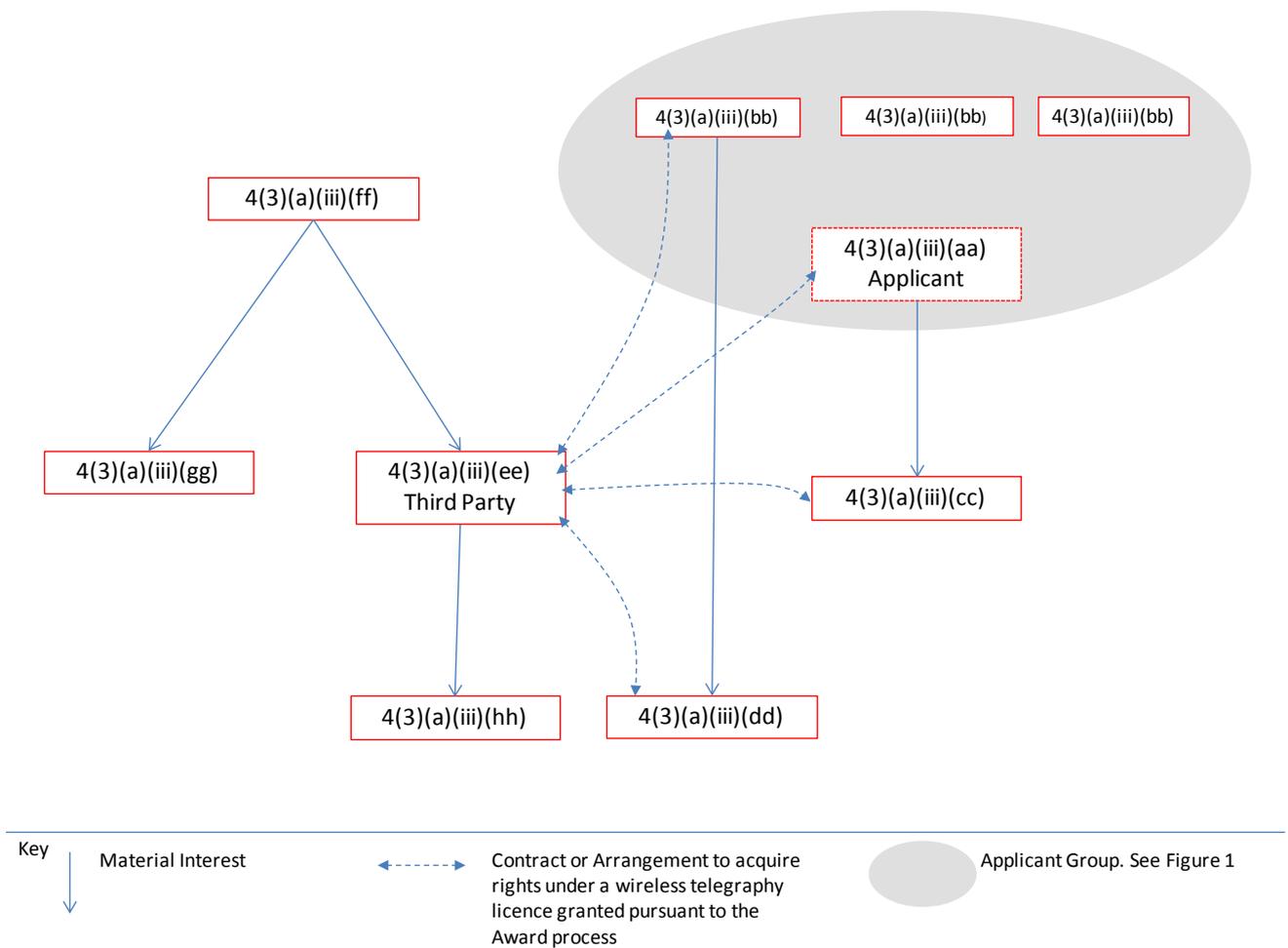
## **Members of an applicant or bidder group who are not associates**

- 2.15 Disclosure of confidential information of relevance to the auction to anyone that is not a member of the applicant’s or bidder’s bidder group (with certain limited exceptions, such as disclosure to providers of finance for the purpose of raising finance for a bid) may mean that the applicant does not qualify to take part in the award, or if already qualified, may lose their deposit and may be excluded from the award.
- 2.16 Applicants should therefore consider including in their applicant or bidder group (in addition to associates) all organisations with whom they may have discussions that may involve the disclosure of confidential information, including for example organisations providing advice to them in connection with the award (e.g. lawyers, auction experts, etc.).
- 2.17 In relation to each such person that an applicant wishes to join its applicant group, an applicant must provide to Ofcom a document in the form set out in Schedule 5 to the Regulations. This document must be completed by the applicant and signed by two authorised persons on behalf of the applicant. It must also be completed by, and signed by or on behalf of, the person in respect of whom the document is completed.

## **Spectrum holdings**

- 2.18 The Regulations require applicants to provide details of the spectrum holdings of various persons. For the avoidance of doubt, we are only expecting applicants to provide details of spectrum holdings in the United Kingdom, and only relating to the frequency bands listed in Schedule 3 to the Regulations. In each case the information required is the Wireless Telegraphy licence number and details of the relevant frequencies.
- 2.19 The persons whose existing spectrum holdings are relevant for this purpose are set out in Regulation 4(3)(a)(iii). Below at Figure 2 is an illustration of the categories of person that fall within the scope of Regulation 4(3)(a)(iii). The numbering in each box relates to the numbering of the relevant section of the Regulations. Please also refer to the diagram at Figure 1 above for an illustration of the concept of material interest under the “25% rule”, which is relevant here.

**Figure 2 Illustrative diagram of the scope of Regulation 4(3)(a)(iii)**



Note: This diagram is only intended to illustrate the categories of person that are caught by the different sub-paragraphs in Regulation 4(3)(a)(iii); the actual corporate structure of any particular applicant group and its relationships with relevant third parties will of course vary depending on that applicant's particular circumstances. In all cases, the provisions of the Regulations are definitive and will prevail.

## Section 3

# Qualification

- 3.1 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the final timing will depend on the particular circumstances at the time. In particular, this timeline assumes that no overlaps between bidder groups are identified.

**Figure 3 Illustrative timings for Qualification Phase (business days)**

	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 9	Day 10	Day 11	Day 12
Application day	▲											
Ofcom notifies each applicant of other applicants and their associates		▲										
Applicants notify Ofcom regarding any bidder group overlaps						▲						
Ofcom notifies each applicant of qualification determination									▲			
Publication on Ofcom's website of names of qualified applicants									▲			
Ofcom notifies each applicant of the last day for withdrawal									▲			
Last day for withdrawal											▲	
Publication on Ofcom's website of names of bidders												▲

## Identifying bidder group overlaps

- 3.2 Applicants will receive a notice setting out the names of the other applicants and their associates. We expect to be able to send the notice on the business day after the application day. The notice will specify a deadline for applicants to respond, which we anticipate will be between two and four business days from when we send the notice, depending on the number of applicants and associates.
- 3.3 Applicants will need to review this carefully to identify any member of their applicant group that is also a member of another applicant group, and notify us of any overlaps between its own and other applicant groups by the deadline.
- 3.4 They will also need to notify the other applicant(s) with whom any overlap exists.
- 3.5 In parallel, we will consider whether it appears to us that there is any overlap in membership between applicant groups.

## Resolution of applicant group overlaps

- 3.6 Where it appears to us that a member of one applicant group is also a member of another applicant group we will notify each applicant concerned and specify a deadline for notifying us of any change in circumstance such that overlaps are resolved (and for providing revised documents).
- 3.7 We expect that the deadline will be five business days after we notify the applicants of the overlaps.

- 3.8 In a situation where applicant groups have common members it is the responsibility of the applicants concerned to resolve the situation by the deadline that we set and to notify us of changes and, if they do not, neither applicant will be qualified to bid.
- 3.9 Resolution may involve the common associate disposing of or reducing appropriately its material interest in one or both of the applicants concerned, or withdrawal by one or more of the applicants involved in an overlap.

### **Qualification and last day for withdrawal**

- 3.10 In parallel with the above, we will consider whether each applicant is fit to hold a licence in accordance with Regulation 9. As part of this process we may ask applicants to provide us with additional information or documentation. We may need to set a short deadline for the provision of such information or documentation. This will vary depending on the nature of the information or documentation requested but may be as little as one business day.
- 3.11 Following completion of this assessment and the deadline for resolution of any bidder overlaps, we will notify each applicant of our determination regarding qualification and of the last day for withdrawal. The last day for withdrawal will be no earlier than the second business day after the notification.
- 3.12 We will also publish the identity of the qualified applicants and the deadline for withdrawal on our website.
- 3.13 We do not anticipate giving the notification of qualification before the second business day after the deadline for applicants to notify us of any overlaps in bidder groups. Clearly, where any overlaps are notified, the notification of qualification will be later.
- 3.14 If notification of qualification is on or before 21 December 2012, the last day for withdrawal will be no earlier than 4 January 2013. In view of the Christmas holiday period, if our determination regarding qualification is not notified to applicants by 21 December 2012, then it will not be notified before 7 January 2013. We will, however, expect applicants to be available to answer any questions during business days on or after 2 January.
- 3.15 Applicants may withdraw from the award process on or before the last day for withdrawal (without losing their deposit for that reason) by sending us a notice to that effect signed by two authorised persons. Withdrawals will be notified to all other applicants.
- 3.16 We anticipate that we will publish the names of the bidders the business day following the last day for withdrawal.

### **Subsequent changes to bidder groups**

- 3.17 Any subsequent changes to bidder groups, and any changes to existing spectrum holdings, must be notified to Ofcom in writing. The relevant regulations are Regulations 7, 8 and 16. We will determine what impact, if any, the changes have on the bidder's eligibility to participate in the auction.

## Section 4

# Pre Bidding

## Overview of timings for this phase of the Auction

- 4.1 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the final timing will depend on the particular circumstances at the time.

**Figure 4 Illustrative timings for Pre-Bidding Phase (business days)**

	Day 11	Day 12	Day 13	Day 14	Day 15	Day 16	Day 17	Day 18
Last day for withdrawal	▲							
Publication on Ofcom's website of names of bidders		▲						
Ofcom provides each bidder with authentication information for use of EAS, manuals, details regarding bidder training, other passwords			▲					
Electronic auction system available for bidders to log in			▲					
Bidder training								

## Electronic Auction System

- 4.2 Bidding in the Auction will be conducted using an Electronic Auction System (EAS) hosted by DotEcon Ltd, unless in exceptional circumstances we agree to an alternative method of bidding. This section briefly explains:
- System requirements for the EAS;
  - What authentication information is required to use the EAS; and
  - What training will be offered to bidders before the start of the opt-in round.
- 4.3 Further information will be provided to bidders later in the process. This information will include a manual for use of the EAS and specific instructions regarding the collection of the authentication information for use of the EAS.
- 4.4 As explained further in Sections 6, 7, 8 and 10 below, our intention is that rounds will take place or be notified between 09:30 and 17:30 on business days. We plan to make the EAS available to bidders between 08:00 and 19:00 on business days to give bidders additional time to check their log in capability and download information from the EAS.

## Mock Auction

- 4.5 Before the application date, Ofcom plans to hold two mock auctions in which potential applicants and bidders may take part if they wish. We anticipate these will follow the approach we have used for similar events in the past. They will take place between approximately 10:00 and 17:00 on a business day. Our intention will be to go through all stages of the auction (subject to bidders' behaviour making this feasible in a day). We propose that the mock auctions will take place in the weeks

commencing 26 November and 3 December.<sup>5</sup> We will be sending out an invitation to interested parties shortly. If you wish to receive such an invitation please contact Ofcom at [combined.award@ofcom.org.uk](mailto:combined.award@ofcom.org.uk).

## Standalone WDP Software

4.6 We also intend to make available standalone winner determination software. This will be available on Ofcom's website along with a user guide. This software is designed to calculate:

- for a set of bidders, a list of permissible packages each bidder can bid on in the principal stage.
- from a set of principal stage bids, who the winning bidders are, how many lots of each of the available types they should win, and what the base prices should be; and
- from a set of assignment stage bids, what specific frequencies each bidder should receive and the corresponding price (i.e. 'additional' prices) they should pay for receiving these specific frequencies.

4.7 A user guide setting out full details on use of the software will be available when the software is made available. The software will run on machines using Windows, Mac OS, and Ubuntu operating systems. This software should only be run on a machine with at least 8GB of RAM. The hardware requirements, in particular with regards to the CPU and RAM are such that other programs may become unresponsive or stall when you launch this software. To use the graphical front-end, bidders need to have Java 1.6 or 1.7 installed. This can be downloaded from Sun Microsystems' website at [www.java.com](http://www.java.com).

## System requirements for the EAS

4.8 The EAS runs as a Java application in a standard web browser, and connects to the auction server over the Internet. The connection between the EAS client and the auction server is encrypted. To participate in the Auction bidders therefore need:

- a computer with:
  - a recent version of Java, e.g. 6.22 or later; and
  - a web browser that supports Java, JavaScript and cookies.
- a reliable Internet connection.

## Operating system and web browser

4.9 As a Java application, the EAS should work on most operating systems and web browsers. However, the process and required settings for installing and enabling the use of the digital certificates may differ depending on the combination of operating system and web browser you are using. A typical PC running Windows and using Internet Explorer or Firefox or an Apple Mac using Safari (Firefox is not supported) should usually be sufficient. Java (Version 6.22 or newer) will need to be installed on

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<sup>5</sup> Update for 7 December version of this guidance: the first mock auction took place on 30 November 2012. The second mock auction took place on 6 December 2012.

the bidder's computer to access the EAS (if not already available, this can be downloaded from [www.java.com](http://www.java.com) and installed).

- 4.10 Bidders will need to have a reliable Internet connection (512Kbit/s download speed or better, so a typical ADSL or E1/T1 connection will suffice). Ofcom recommends that bidders have at least a backup computer and backup Internet connection in place for the duration of the Auction.

### **Authentication information required to use the EAS**

- 4.11 There are three pieces of security information that bidders require to access the EAS. We will provide each of these pieces of information to bidders on the same day. A bidder manual will also be provided.
- 4.12 The three pieces of security information provided to each bidder will be:
- 4.12.1 a CD-ROM containing two digital certificates: the certification authority certificate and the client certificate;
  - 4.12.2 a bidder-specific installation password for the digital client certificate; and
  - 4.12.3 bidder-specific login details and password for the EAS (note that this is a different password to the one used for the client certificate).
- 4.13 The information will need to be collected in person from Ofcom and bidders must take appropriate measures to ensure the security of the information from the point of collection. The process for the provision of authentication information will be the following.
- 4.13.1 Ofcom will notify the bidder, by email to the contact email address on the application form, of the date of collection. Ofcom expects to give this notice when it notifies qualified applicants of the last date for withdrawal.
  - 4.13.2 The bidder should notify Ofcom by email of the name of the person(s) who will be collecting the information. This should be provided no later than two business days before the date for collection. While it is only strictly necessary for a single representative to collect the information, we recommend that the representative be accompanied by another person to provide additional security for the representative and the information.
  - 4.13.3 Ofcom will notify the bidder, by email to the contact email address on the application form, of a specific time on the date of collection when their representative should come to Ofcom. We expect to do this no later than the day before the day of collection.
  - 4.13.4 The bidder's representative(s) should arrive at Riverside House on the date for collection at the appointed time. They will need to bring photographic proof of identification, either a driving licence or passport. They should ask the reception staff to call a member of the auction team.
  - 4.13.5 The bidder's representative(s) will be escorted to a meeting room and their identity will be checked against the name of the person(s) notified by the bidder. If they are not the designated person(s) they will not be given the authentication information. If they are, a copy will be taken of the identification provided. If the identification is acceptable they will be

provided with a sealed envelope containing the necessary information and escorted back to reception.

4.13.6 When the bidder's representative has delivered the information to the bidder, the contents of the envelope should be checked against the check list provided therein, and should contact Ofcom immediately in the event that the contents of the envelope do not correspond with the checklist therein.

4.14 It is each bidder's responsibility to ensure that this information is kept safe and secure so that no third party can try to impersonate them in the Auction.

## Other Passwords

4.15 Ofcom will also provide bidders with a list of passwords. These will not be used to access the EAS but for other purposes. These may include submission of a bid by alternative method and proof of identification during a telephone conversation or email.

4.16 These one-time passwords will be provided at the same time, and in the same manner as the authentication information detailed above.

## Training for Bidders

4.17 We anticipate that bidders will be able to access the EAS once they have received the authentication information and bidder manual. This is intended to enable bidders to test their ability to login to the EAS. Ofcom will be available to provide assistance if this is needed.

4.18 In addition, we intend to provide some training for bidders before the start of the bidding in the Auction to give them the opportunity to check that they can navigate the EAS before the first round begins. We anticipate that the bidder training will begin on the first<sup>6</sup> or second business day after the authentication information required to use the EAS is sent to bidders. We anticipate that the bidder training may last between two and four business days.

4.19 We will provide bidders with further details about the timing and content of the bidder training nearer the time. We would welcome any feedback from potential bidders on the types of training they would find useful. One approach we are considering is give each bidder a dedicated session (for example half a day) in which they are the only bidder using the EAS. However this may not be feasible if there is a large number of bidders.

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<sup>6</sup> The original version of this guidance stated that we anticipated that bidder training would begin on the second business day after sending the authentication information. We now anticipate that it may be possible to begin the bidder training on the first business day after sending the authentication information.

## Section 5

# Before the Opt-in round

## Additional Deposit

- 5.1 The Regulations provide for the payment of an additional deposit before the opt-in round by a deadline specified by Ofcom. This deposit will be taken into account for the purpose of calculating each bidder's eligibility limit for the opt-in round and first primary bid round. The calculation of the eligibility limit is set out in the Regulations.
- 5.2 We anticipate giving notice before noon, with payment due by the end of the second business day thereafter. If notice is given after noon, payment will be due by the end of the third business day thereafter. Thus, for example, if notice is given at 11:00 on a Monday, payment will be due by 23:59 on the Wednesday, and if notice is given at 15:30 on a Tuesday, payment will be due by 23:59 on the Friday. The indicative timeline at Annex 3 implies that the deadline for paying this additional deposit will be no earlier than the week commencing 14 January 2013 and, in any event, not until after bidder training has been completed. It is conceivable, however, that if other activities can be completed more swiftly than planned, the additional deposit may fall due as early as the week commencing 7 January, and bidders should plan accordingly.
- 5.3 If possible, we will give further information about the likely timing of the additional deposit when we send out the authentication information detailed in Section 4 above.
- 5.4 Bank details and other relevant information in relation to payment of deposits are set out in Annex 1 to this document.
- 5.5 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the exact timing will depend on the particular circumstances at the time.

**Figure 5 Illustrative timings before opt-in round (business days)**

	Day 15	Day 16	Day 17	Day 18	Day 19	Day 20	Day 21
Bidder training							
Ofcom notifies each bidder of requirement to pay an additional deposit					▲		
Additional deposit due							▲

## Section 6

# Opt-in Round

## Overview of timing

- 6.1 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the final timing will depend on the particular circumstances at the time.

**Figure 6 Illustrative timings of opt-in round (business days)**

	Day 21	Day 22	Day 23
Additional deposit due	▲		
Provisional notification of the start of the opt in round		▲	
Opt in round			▲

## Schedule for opt-in round

- 6.2 We anticipate that the opt-in round will be held on the second business day after the deadline for paying the additional deposit.
- 6.3 We will give bidders notice of the provisional round time the day after the deadline for deposits and will give each eligible bidder at least 30 minutes' formal notice before the start of the opt-in round, by making an announcement via the EAS. The duration of the opt-in round will be decided by Ofcom in its sole discretion. We currently anticipate that it will start at 10:00 on the relevant day and last for 1 hour.

## Extensions

- 6.4 Where we have not received a complete opt-in bid from an eligible bidder by the scheduled end of the opt-in round, the EAS will automatically start the sixty minute extension period provided for by the Regulations.
- 6.5 If a bidder fails to make a bid during the scheduled period, they should immediately call Ofcom (to the auction telephone number in Annex 2) and explain any circumstances beyond the bidder's control (if they exist), as to why the bidder was not able to make a bid on time. The bidder should also send an email or fax to us confirming that reason. Assuming there are such circumstances, Ofcom expects that it would inform the bidder that it may make a bid during the sixty minute extension, but that there is no guarantee that such bid would be a valid bid. Ofcom expects that it would be likely to determine whether the extension period should apply to that bid, in accordance with the Regulations, after the sixty minute period has expired. In order for this to happen the bidder would also have to notify Ofcom in writing of the facts and circumstances as required by Regulation 116. We will notify that bidder whether the bid submitted during the extension period is valid before we announce how many bidders submitted valid opt-in bids.

## Submitting opt-in bids by alternative method

- 6.6 We recognise that exceptional circumstances might occur such that a bidder is unable to use the EAS, for example, due to technical failure. In the circumstances set out in Regulation 47, a bidder may be entitled to submit a bid by an alternative method.
- 6.7 In this case, the bidder should contact us immediately by phone to explain that they are unable to use the EAS and the reasons why. They should confirm this by email or fax. We will inform the bidder by phone how to submit their bid and we will send the following information by fax or email as appropriate:
- Notification of whether to use fax or email
  - An opt-in bid form
  - Details of the password to authenticate the bid.
- 6.8 Our preferred method of communication for submission of the bid in these circumstances will usually be fax.
- 6.9 Our approval of an alternative method for submission depends on whether or not the condition in Regulation 47(1) is met; that is, whether Ofcom is satisfied that the bidder was unable to submit its bid using the EAS because of technical failure or similar event.

## Results of the opt-in round

- 6.10 After the end of the opt-in round and before the start of the first primary bid round we will notify bidders of the number of bidders that submitted valid opt-in bids. We will need to validate the lists of permissible packages that will subsequently be available to bidders before we make this notification, but would expect to do so by 17:30 on the day of the opt-in round.

## Section 7

# Primary bid rounds

## Overview of timing

7.1 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the final timing will depend on the particular circumstances at the time.

**Figure 7 Illustrative timings for primary bid rounds (business days)**

	Day 23	Day 24	Day 25
Opt in round	▲		
Primary bid rounds begin			▲
Further primary bid rounds			

## Schedule for Primary Bid Rounds

7.2 In order to give bidders a reasonable opportunity to consider their bidding strategy following notification of the number of bidders that have opted-in (which may well not be announced until late on the day of the opt-in round for the reasons explained above), we anticipate that the first primary bid round will take place on the second business day after notification of the results of the opt-in round.

7.3 We expect to schedule primary bid rounds in accordance with the following principles and, if possible, follow the schedules provided in the tables below.

- The bidding day will run from no earlier than 09:30 to no later than 17:30 on business days only.
- Ofcom will give at least 15 minutes' notice prior to the start of each round.
- We expect that each primary bid round will last at least 15 minutes, but not more than one hour.
- The number of rounds that take place on any one business day will vary but we anticipate that it is unlikely to exceed six.
- We will try to ensure there is a lunch break of approximately 1 hour on each bidding day, which will usually fall between 12:00 and 14:00.
- If Ofcom considers it appropriate to give bidders more time to consider their bids Ofcom may, at any stage in the auction, give a longer notice period for the start of a round.

7.4 The tables below give the expected scheduling for the first day of bidding in the primary bid rounds, and for the second and subsequent days.

**Table 2 Expected scheduling for bidding in the primary bid rounds**

<b>Day 1</b>	
Notify round prices and schedule of 1st primary bid round (30 mins notice)	10:00
Start of 1st primary bid round (30 mins duration )	10:30
End of 1st primary bid round	11:00
Release results	11:05
Notify round prices and schedule of 2nd primary bid round (30 mins notice)	11:30
Start 2nd primary bid round (30 mins duration)	12:00
End 2nd primary bid round	12:30
Release results	12:35
Notify round prices and schedule of 3rd primary bid round (60 mins notice)	13:00
Break for Lunch	13:00 – 14:00
Start of 3rd primary bid round (30 mins duration)	14:00
End 3rd primary bid round	14:30
Release results	14:35
Notify round prices and schedule of 4th primary bid round (30 mins notice)	15:00
Start of 4th primary bid round (30 mins duration)	15:30
End 4th primary bid round	16:00
Release results	16:05
Notice to bidders giving guidance of planned schedule for next day	17:00

<b>Day 2 &amp; Subsequent Days</b>	
Notify round prices and schedule of 5th primary bid round (15 mins notice)	9:30
Start 5th primary bid round (30 mins duration )	9:45
End 5th primary bid round	10:15
Release results	10:20
Notify round prices and schedule of 6th primary bid round (15 mins notice)	10:45
Start of 6th primary bid round (30 mins duration)	11:00
End of 6th primary bid round	11:30
Release results	11:35
Notify round prices and schedule of 7th primary bid round (60 mins notice)	12:00
Break for Lunch	12:00 – 13:00
Start 7th primary bid round (30 mins duration)	13:00
End 7th primary bid round	13:30
Release results	13:35
Notify round prices and schedule of 8th primary bid round (15 mins notice)	14:00
Start 8th primary bid round (30 mins duration)	14:15
End 8th primary bid round	14:45
Release results	14:50
Notify round prices and schedule of 9th primary bid round (15 mins notice)	15:15
Start of 9th primary bid round (30 mins duration)	15:30
End of 9th primary bid round	16:00
Release results	16:05
Notice to bidders giving guidance of planned schedule for next day	17:00

## Primary bid increments (setting round prices)

7.5 The round prices for the first round will be as set out in the Regulations, and are reproduced for ease of reference below.

**Table 3 Round prices for first primary bid round**

Description of type of lot	Price in the first primary bid round (£)
Each 800 MHz paired frequency	225,000,000
Each 2.6 GHz paired frequency	15,000,000
Each 2.6 GHz individual frequency	100,000
The 800 MHz coverage obligation	250,000,000
Each 2.6 GHz concurrent low power 10 MHz	3,000,000
Each 2.6 GHz concurrent low power 20 MHz	6,000,000

7.6 After each primary bid round Ofcom must set the round prices for each type of lot in the next primary bid round. We cannot increase the price for a lot to more than twice the amount of the round price for that type of lot in the previous primary bid round, except in the case of low power lots.

7.7 For lots with higher reserve prices (the 800 MHz and 2.6 GHz paired frequency lots and the 800 MHz coverage obligation lot), we expect the increments for each primary bid round to be around 5%<sup>7</sup>. If we consider that it is likely to be necessary to use price increments that are materially greater than 5%, we will endeavour to notify bidders of our intention to do so before the end of the business day prior to using such higher increments. However, there may be circumstances in which we decide it is appropriate to use price increments that are materially greater than 5% notwithstanding that we have not been able to give such prior notice.<sup>8</sup>

7.8 For lots with lower reserve prices (the 2.6 GHz individual frequency lots and the 2.6 GHz low power lots), we may use higher bid increments where it is appropriate to do so.

7.9 We will notify bidders of the round prices for a round at the same time as notifying the schedule for that round.

## Extensions

7.10 During the primary bid rounds only, bidders are entitled to two bid round extensions of thirty minutes. The EAS will automatically trigger an extension period when the scheduled end of a round is reached and a bidder with one or more extensions remaining has not submitted its bid.

7.11 We may grant a further extension to a bidder where we are satisfied that the use of an extension has been due to circumstances beyond the bidder's control. If a bidder uses an extension and wishes this to be viewed as an extension due to factors beyond its control, the following procedure is expected to apply:

<sup>7</sup> Price increments may be slightly higher than 5% if this would allow round prices to be a round number of, say, millions of pounds.

<sup>8</sup> The original version of this guidance stated that we expected to set price increments for these lots in the range of 5 to 15%. We have provided this additional clarification in response to requests for more specific guidance on this point.

- Immediately after the round has ended the bidder should contact us in writing (by email) to explain the reasons for using the extension.
- We will consider, usually before the next primary bid round is scheduled, whether that bidder should be granted a further extension in accordance with the Regulations.
- We will notify the bidder through the EAS (unless we are aware that the bidder cannot use the EAS at that time) whether it has been granted an additional extension when the next primary bid round is scheduled.

## **Submitting primary bids by alternative method**

- 7.12 We recognise that exceptional circumstances might arise such that bidders are unable to use the EAS for one or more rounds due, for example, to technical failure. In the circumstances set out in Regulation 55, bidders may be entitled to submit a bid by an alternative method.
- 7.13 In this case, bidders should contact us immediately by phone to explain that they are unable to use the EAS and the reasons why. They should confirm this by email or fax. We will inform the bidder by phone whether to submit its bid by email or fax and we will send the following information (by fax or email as appropriate):
- Notification of whether to use fax or email
  - A primary bid form
  - Details of the password to authenticate the bid.
- 7.14 Our preferred method of communication in these circumstances will usually be fax.
- 7.15 Please note that our approval of an alternative method of submission depends on whether or not the condition in Regulation 55(1) is met; that is, whether Ofcom is satisfied that the bidder was unable to submit its bid using the EAS because of technical failure or similar event.

## **Deposit payments**

- 7.16 If a bidder places a primary bid that is more than double the total amount it has on deposit, we may require that bidder to pay additional sums to us by way of a further deposit in accordance with the Regulations. Bidders should be prepared to top up their deposits to the value of 50% of their highest valid bid at any stage during the auction.
- 7.17 If we consider that an increase in bid deposits is required we will notify bidders accordingly, and we expect to do so before 14:00 on a business day. If the notice is given before 14:00 on a business day, we would expect to require payment at the end of the following business day. If the notice is given after 14:00 on a given business day, we would expect to allow an additional business day for payment. The deadline for receiving the deposit payment will be 23:59. By way of example, if notice is given at 13:00 on a Tuesday, payment must be received by 23:59 on the Wednesday (assuming both days are business days). If notice is given at 15:00 on a Tuesday, payment must be received by 23:59 on the Thursday (assuming all three days are business days).

- 7.18 We will send you such notification requiring the payment of additional sums through the EAS, unless we are aware that you are unable to use the EAS at that time. If you receive a notification to pay additional sums, you must ensure that you pay the required sum by the deadline otherwise, in accordance with the Regulations, you will be notified that your eligibility will be reduced to zero for the remainder of the primary bid rounds.
- 7.19 It is not possible to anticipate precisely when such notifications are likely to be given, but in light of our proposed approach to price increments in the primary bid rounds (see above) and our guidance on the number of rounds we expect to run in a day, we anticipate that the first such notification is unlikely to be given before approximately the fifth day of primary bid round bidding. Thereafter further deposits may be required, but we do not expect to have to give any one bidder notices in this regard more frequently than every other day.
- 7.20 Please note, for the avoidance of doubt, that we may issue a notice requiring payment of a deposit in circumstances where the deadline for payment of a deposit under a previous notification has not yet expired.
- 7.21 Bank details and other relevant information in relation to payment of deposits are set out in Annex 1 to this document.

## Section 8

# Supplementary bids round

## Overview of timing

- 8.1 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the final timing will depend on the particular circumstances at the time. As the duration of the primary bid rounds, which precede the supplementary bids round, cannot be known in advance, the illustrative timing in Figure 8 is stated relative to the end of the last primary bid round.

**Figure 8 Illustrative timings for supplementary bid rounds (business days)**

	Day 1	Day 2	Day 3	Day 4	Day 5
Last primary bid round	▲				
Provisional notification of the start of the supplementary bids round	▲				
Notification of requirement for further deposit (50% of highest bid)	▲				
Supplementary bids round				▲	
Further bid deposit (50% of highest bid) due					▲

## Schedule of supplementary bids round

- 8.2 We expect that the supplementary bids round will take place between 10:00 and 16:00 on a single business day. Immediately after the last primary bid round we will give provisional notice of the start of the supplementary bids round. We anticipate that there will be at least two clear business days between the conclusion of the primary bid rounds and the start of the supplementary bids round.
- 8.3 We will give bidders at least 30 minutes' formal notice, prior to the start of the supplementary bids round, of the schedule within which bidders may make supplementary bids. We expect that this notification will be given through the EAS.

## Number of bids

- 8.4 Bidders have a choice regarding the number of packages on which they bid in the supplementary bids round in addition to those they bid on during the primary bid rounds. Failing to include a supplementary bid for a package that would be profitable risks impacting the outcome of the principal stage in a number of ways, such as reducing a bidder's chances of winning at all, reducing a bidder's chances of winning its most profitable package or affecting the base prices payable by others. We encourage parties interested in taking part in the auction to consider carefully the range of supplementary bids to make in the auction, taking appropriate advice as necessary.
- 8.5 In accordance with the Regulations, the maximum number of bids that a bidder may submit in the supplementary bids round is four thousand.

## Extensions

8.6 As set out in the Regulations, if a bidder is unable to submit its supplementary bids within the time specified for the round it may be entitled to an extension of a further 60 minutes (under Regulation 63(2)). In these circumstances we expect to follow the same procedure as that outlined for the opt-in round set out at paragraph 6.4 and 6.5 above.

## Submitting supplementary bids by alternative method

8.7 We recognise that exceptional circumstances might occur such that a bidder is unable to use the EAS during the supplementary bids round due, for example, to technical failure. In the circumstances set out in Regulation 62, the bidder may be entitled to submit a bid by an alternative method.

8.8 In this case, the bidder should contact us immediately by phone to explain that it is unable to use the EAS and the reasons why. It should confirm this by email or fax.

8.9 In the case of the supplementary bids round, we believe it may be easiest for a bidder to create a spreadsheet containing its supplementary bids in the required form which can then be emailed or delivered by hand to Ofcom as a password protected Excel file. In view of the likely urgency and possible complexity of a supplementary bid submission, we recommend that bidders download the template supplementary bids file from the supplementary bids editor on the EAS as soon as it is available, when the opt-in round results are published, so as to have that template available during the supplementary bids round should the need arise. bidders should then download updated versions of that file at least at the end of the primary bid rounds (and they may want to do so on other occasions, e.g. after each round), so as to have the latest version reflecting all primary bids (and any provisional supplementary bids they added), at the start of the supplementary bids round. Bidders should then use that file to record their supplementary bids during the round so that it can be either uploaded to the EAS, or delivered to Ofcom should the EAS not be available to that bidder.

8.10 We will inform the bidder by phone whether it should submit its bid by email or personal delivery and then we will send the following information (by fax or email as appropriate):

- Notification of whether to deliver by hand or by email;
- A supplementary bids form (if required by the bidder); and
- Details of the password to authenticate the bid.

8.11 Our approval of an alternative method of submission depends on whether or not the condition in Regulation 62(1) is met; that is, whether Ofcom is satisfied that the bidder was unable to submit its bids using the EAS because of technical failure or similar event.

## Deposit payment

8.12 As set out in the Regulations, when we notify each bidder of the date and times for the supplementary bids round, we will also notify the deadline for paying a further deposit. We anticipate that this deadline will be 23:59 on the next business day after

the end of the supplementary bids round. We expect to require bidders to make a full deposit equal to 50% of the value of that bidder's highest bid.

- 8.13 Bidders must ensure that they pay the required sum by the deadline, otherwise, in accordance with the Regulations, they will be excluded from the award process.
- 8.14 Bank details and other relevant information in relation to payment of deposits are set out in Annex 1 to this document.

## Section 9

# Principal auction stage results

## Timing

- 9.1 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the final timing will depend on the particular circumstances at the time. (Note that the illustrative timings shown in Figure 9 below are defined relative to the end of the last of the primary bid rounds).

**Figure 9 Illustrative timings for principal auction stage results (business days)**

	Day 5	Day 6	Day 7	Day 8	Day 9	Day 10	Day 11	Day 12	Day 13
Further bid deposit (50% of highest bid) due	▲								
Validation of principal auction stage results		■							
Notification to bidders of principal auction stage results						▲			
Notification to winners of further deposit requirement (100% of base price)						▲			
Publication on Ofcom's website of principal auction stage results							▲		
Further deposit due								▲	
End of principal auction stage (confirmation of results)									▲

- 9.2 After the submission of all the primary bids and supplementary bids, we will determine the results of the principal stage in accordance with the Regulations. The results of the principal stage will go through an independent validation process. The results determined by the EAS will be checked against independent implementations prepared by Cramton Associates and the Smith Institute. In addition the Smith Institute will provide a certificate showing that the results are correct.
- 9.3 We expect that the process of validating the principal stage results will take a number of business days after the end of the supplementary bids round (Figure 9 assumes four days for the purpose of illustrating the sequence of events). The period of time is likely to depend on the complexity. If we are able to give a clearer estimate of the time it will take to validate the results of the principal stage nearer the time, we will do so.
- 9.4 Before the results of the principal stage are made available through EAS, we will notify bidders of when we expect to notify the results to bidders and when we intend to publish the results on our website.
- 9.5 We anticipate that we will notify each bidder of their result immediately after the validation process is complete. We expect to publish the full results of the principal auction stage on our website the following day. In accordance with Ofcom's normal approach for market sensitive information, publication will take place at 7am.

## Final principal stage deposits

- 9.6 As set out in the Regulations, winning bidders will be required to pay a final principal stage deposit, such that the amount that the bidder has on deposit is not less than the amount of the base price for that bidder's winning principal stage bid.

- 9.7 We anticipate that the deadline for the payment of the final principal stage deposit will be 23:59 on the business day following publication of the results of the principal stage.
- 9.8 Bank details and other relevant information in relation to payment of deposits are set out in Annex 1 to this document.

### **Refund of deposits**

- 9.9 After the winners of the principal stage have been determined and base prices established, we will refund the deposits of those applicants which withdrew their applications by the deadline set under Regulation 12 and the deposits of those bidders which were not winners. We will not pay any interest which has accrued to these sums.

## Section 10

# Assignment stage

## Overview of Timing

10.1 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the final timing will depend on the particular circumstances at the time. (Note that the illustrative timings shown in Figure 10 below are defined relative to the end of the last of the primary bid rounds).

**Figure 10 Illustrative timings for assignment stage (business days)**

	Day 13	Day 14	Day 15
End of principal auction stage (confirmation of results)	▲		
Provisional notification of the start of the assignment round	▲		
Notification of requirement for further deposit (100% of highest assignment round bid)	▲		
Assignment round			▲
Further deposit due			▲

## Schedule of assignment stage round

10.2 At the end of the principal auction stage, we will give provisional notice of the start of the assignment stage round. We anticipate that there will be at least one clear business day between the end of the principal stage and the start of the assignment stage round.

10.3 We plan to give formal notice to bidders of the start time of the assignment stage round at 09:30 on the morning of the day when the assignment stage round is to take place. We anticipate that the assignment stage round will start at 14:00 and run until 16:00 on that day (unless extended in accordance with the Regulations).

## Submitting assignment stage bids by alternative method

10.4 We recognise that exceptional circumstances might occur such that a bidder is unable to use the EAS due, for example, to technical failure. In the circumstances set out in Regulation 98, a bidder may be entitled to submit its bids by an alternative method.

10.5 In this case, the bidder should contact us immediately by phone to explain that it is unable to use the EAS and the reasons why. The bidder should confirm this by email or fax. We will inform the bidder by phone whether it should submit its bids by email or fax and then we will send the following information (by fax or email as appropriate):

- Notification of whether to use fax or email
- An assignment stage bid form
- Details of the password to authenticate the bid.

- 10.6 Our preferred method of communication in these circumstances will usually be fax.
- 10.7 You should note that our approval of an alternative method of submission depends on whether or not the condition in Regulation 98(1) is met; that is, whether Ofcom is satisfied that the bidder was unable to submit its bids using the EAS because of technical failure or similar event.

## **Deposit**

- 10.8 As set out in the Regulations, when we notify each bidder of the date and times for the assignment stage round, we will also notify the deadline for paying a further deposit after the end of the assignment stage round. We expect this deadline to be 23:59 on the business day on which the end of the assignment stage round takes place.
- 10.9 Bidders must ensure that they pay the required sum by the deadline, otherwise, in accordance with the Regulations, all of their assignment stage bids will be invalid (and the bidder will consequently be deemed to have submitted a bid of zero for each of the assignment stage options available to it).
- 10.10 Bank details and other relevant information in relation to payment of deposits are set out in Annex 1 to this document.

## **Extensions**

- 10.11 As set out in the Regulations, if a bidder is unable to submit its assignment stage bids within the time specified for the round it may be entitled to an extension of a further 60 minutes (under Regulation 99(2)). In these circumstances we expect to follow the same procedure as that outlined for the opt-in round set out at paragraph 6.4 and 6.5 above.

## Section 11

# Final auction results

## Timing and publication

11.1 We set out below an illustration of the timing we envisage for this phase of the auction. Please note the final timing will depend on the particular circumstances at the time. (Note that the illustrative timings shown in Figure 11 below are defined relative to the end of the last of the primary bid rounds).

**Figure 11 Illustrative timings for final auction results (business days)**

	Day 15	Day 16	Day 17	Day 18	Day 19	Day 20	Day 21	Day 22	Day 23
Assignment round	▲								
Further deposit due	▲								
Validation of final auction results									
Notification to bidders of final results						▲			
Publication on Ofcom's website of final auction results							▲		
Grant of licences									▲

11.2 We will determine the results of the assignment stage in accordance with the Regulations. The results of the assignment stage will go through an independent validation process. The results determined by the EAS will be checked against independent implementations prepared by Cramton Associates and the Smith Institute. In addition the Smith Institute will provide a certificate showing that the results are correct.

11.3 We expect that the process of validating the results will take a number of business days. For the sake of illustration, Figure 11 assumes that this will take four days. If we are able to give a clearer estimate of the time it will take to validate the results nearer the time, we will do so.

11.4 Before the results of the assignment stage are made available through the EAS, we will inform bidders of when we expect to notify and publish the results.

11.5 We anticipate that we will notify each bidder of their result immediately after the validation process is complete. We expect to publish the following day on our website the full results of the auction.

## Procedure where deposit exceeds licence fee

11.6 If the total deposit held by us is greater than the winning bidder's licence fee, calculated in accordance with the Regulations, we will refund the difference calculated in accordance with the Regulations when we grant the licence.

## Issue of licences

11.7 We anticipate being able to grant licences to successful bidders two business days after validated results have been published.

## **Completion of the award process**

- 11.8 After granting the licences, Ofcom is required to publish, amongst other things, details of the bids and winning bidders on its website. We anticipate doing this within a few days after granting the licences.

## Section 12

# Deposit Payments

12.1 This section sets out some additional information about paying deposits and licence fees to Ofcom.

## Process for making Payments

12.2 Ofcom's preferred process for making a payment to Ofcom is outlined below. Each step is then explained in further detail.

- a) Applicant or Bidder receives a notification from Ofcom setting a deadline for payment of a deposit and (where applicable) the amount of the deposit.
- b) Applicant or Bidder makes the payment.
- c) Applicant or Bidder sends Ofcom details of the payment they have instructed their bank to make.
- d) Ofcom will endeavour to provide confirmation to the Applicant or Bidder that it has received notification of receipt of funds, before the expiry of the deadline.
- e) After the deadline for payment, Ofcom will determine if the Applicant or Bidder has complied with the notification and if not will take the required action as specified in the Regulations including notifying the Applicant or Bidder.

## Notification from Ofcom

12.3 There are a number of occasions when applicants or bidders must make a payment to Ofcom. These are all specified in the Regulations. The table below summarises these payments and gives details of how Ofcom expects to give the notification.

<b>Payment</b>	<b>Method of notification</b>
Initial deposit	Notification on Ofcom's website – <a href="http://stakeholders.ofcom.org.uk/binaries/spectrum/spectrum-awards/awards-in-progress/notices/date-receipt.pdf">http://stakeholders.ofcom.org.uk/binaries/spectrum/spectrum-awards/awards-in-progress/notices/date-receipt.pdf</a>
Additional deposit to determine a bidder's initial eligibility	Email to nominated individual contact on the contact electronic email address provided on the application form
Further deposits during the primary bid rounds	Notification through the Electronic Auction System
Further deposit in connection with the supplementary bids round	Notification through the Electronic Auction System
Final principal stage deposit	Notification through the Electronic Auction System
Assignment stage bid deposit	Notification through the Electronic Auction System

## **Applicant or Bidder makes the payment**

- 12.4 Following receipt of a notification from Ofcom, applicants or bidders must make a payment such that the money arrives in Ofcom's bank account by the deadline set out in the notification.
- 12.5 All payments must be made to the Ofcom bank account, the details of which are set out in Annex 1 to this guidance. Payments must be by a same day electronic transfer.

## **Applicant or Bidder sends details of the payment to Ofcom**

- 12.6 After an applicant or bidder has instructed their bank to make the payment and received the unique payment reference number from their bank, they should send Ofcom the following details regarding the payment:
- Remitting bank account name
  - Remitting bank account number
  - Remitting bank sort code
  - Remitting International Bank Account Number (IBAN) – where appropriate
  - Date of payment instruction
  - Time of payment instruction
  - Beneficiary account number (Ofcom's auction account number)
  - Beneficiary sort code (Ofcom's bank's sort code)
  - Amount
  - Unique Payment Number or an equivalent unique payment reference number
  - Payment Reference (should be used to identify the applicant or bidder)
- 12.7 A suggested form is set out at Annex 4 to this guidance. It is Ofcom's understanding that an applicant or bidder could request its Bank to provide it with a form containing this information when it instructs the bank to make the payment.
- 12.8 This information should be sent to Ofcom by fax to +44 (0)20 7981 3950 (or such other number as Ofcom may notify to the applicant or bidder from time to time).

## **Confirmation from Ofcom**

- 12.9 Following notification that a deposit is due, Ofcom will monitor its payment notification system at regular intervals during the day.
- 12.10 When Ofcom receives notification from its bank that a payment has been received, it will check the reference number and amount against the details provided by applicants or bidders. If the details match, it will provide confirmation to the applicant

or bidder by email, to the contact email address provided on the applicant or bidder's application form. An example of the text of the email we expect to send is:

- "With regard to your payment reference (insert unique payment number). We can confirm that we have received notification of receipt of funds."

- 12.11 At this point Ofcom will not carry out any assessment of whether the payment meets the requirements set out in Ofcom's notice. Such assessment will be carried out after the deadline has expired and so will occur the following day.
- 12.12 However, if Ofcom identifies that the amount received by Ofcom is less than the amount that an applicant or bidder has purported to send, as set out in the information it sends to Ofcom, and Ofcom has received notification of receipt of funds prior to 17:00, Ofcom will endeavour to inform the bidder of this.
- 12.13 Please note that a bidder should not rely on Ofcom to identify whether or not there is a discrepancy. It is the bidder's sole responsibility to ensure the correct payment is made to Ofcom by the specified deadline. Accordingly, if a bidder fails to make the correct payment then the consequences set out in the Regulations will apply, regardless of any confirmation that Ofcom may or may not have provided to the bidder before the expiry of the deadline.
- 12.14 Ofcom will endeavour to provide confirmation when it receives notification of receipt of funds from its bank during normal working hours. However, it is Ofcom's understanding that payments made through CHAPS can take until 17:00 to be received in Ofcom's bank account. Accordingly, it may not be possible to provide the confirmation referred to above until after 17:00. Applicants or bidders should contact Ofcom at 17:00 if they have not received confirmation by then, but not before. Ofcom will endeavour to provide confirmation of notification of receipt of funds received up to 17:00 each day, but not thereafter. Any funds received after this time will not be confirmed by Ofcom.

### **Notification from Ofcom after the deadline for payment**

- 12.15 After the deadline for payment has expired, Ofcom will determine if the correct payments have been made. If they have not, Ofcom will take appropriate action in accordance with the Regulations. Ofcom will only issue a specific notice to an applicant or bidder if they have not made a correct payment.

## Section 13

# Business continuity

- 13.1 Some stakeholders have requested further guidance on the situation where a bidder suffers a technical failure or other similar event that impacts its ability to make bids during the auction.
- 13.2 The first point to make is that it is for each individual bidder to make their own assessment of the risk of being unable to submit a bid form satisfying the requirements of the Regulations, and to put in place appropriate business continuity measures to mitigate that risk as they see fit (seeking their own advice as appropriate).
- 13.3 To the extent that a bidder may need additional time in which to submit their bid form, or to use an alternative method of bid submission because they are unable to submit their bid form using the EAS, the Regulations already provide for the possibility of extensions to rounds and the submission of bids by an alternative method where circumstances exist which are beyond the bidder's control which have the effect that the bidder cannot submit its bid form so that it is received by Ofcom on time, or where the bidder is unable to submit a bid form by using the EAS. We would strongly recommend that bidders make the necessary contingency plans to ensure that they will always be able to submit their bid form using the EAS or (where applicable) an alternative method within the scheduled round time or any applicable extension period.
- 13.4 Regulation 118 does provide Ofcom with a discretion to change the times for the start and/or end of rounds, but only where we determine that it is impracticable for any reason to start and/or end a round at the notified time. Likewise Regulation 119 provides Ofcom with a discretion to rerun a round, but only where we 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). However, it may not be appropriate for Ofcom to exercise these discretions, and bidders should therefore not rely on this.
- 13.5 The Regulations do not provide for any particular timetable for the holding of rounds, and we therefore have discretion to schedule the start time for each round as we see fit. Hence, if we are made aware that one or more bidders has a technical or similar problem which could make it difficult for them to submit their bid in the next round on time using the EAS if the round were scheduled as normal, provided that we know about this before we give notice of the schedule for the next round we may take that fact into account when deciding upon the schedule for that round.
- 13.6 If a situation arises at any time which appears likely to make it difficult for a bidder to access the EAS and/or submit a bid, the bidder should contact us as soon as possible, so that we can consider what measures (if any) it is appropriate for us to take based on the specific factual circumstances at that time.

## Annex 1

# Payment of deposits and other sums

- A1.1 Any payments required to be made to Ofcom by way of deposit or otherwise should be made by same day electronic bank transfer. This annex provides details of the bank account and other relevant information regarding such payments.
- A1.2 If these details change at any time, amended details will be published on Ofcom's website, and where possible, notified to applicants and/or bidders.

### Bank Account Details

- A1.3 The bank account details for payment of deposits are as follows:
- a) Bank: Lloyds TSB
  - b) Account name: Office of Communications
  - c) Account number: 00741379
  - d) Sort code: 309790
  - e) BIC number: LOYDGB21351
  - f) IBAN number: GB 43 LOYD 3097 9000 7413 79
  - g) Swift address: LOYDGB2L
- A1.4 Payment details must include information which identifies the applicant or bidder. This is a requirement of the Regulations. Ofcom's preference is for all payments to Ofcom to be made in GBP from one bank account, but this does not necessarily have to be in the name of the applicant or bidder. The details of this bank account should be provided on the application form. However, in relation to any refunds payable by Ofcom to an applicant or bidder in accordance with the Regulations, Ofcom will only pay such refunds to a bank account in the name of the applicant or bidder. Applicants or bidders should therefore ensure that they have a bank account open in their own name for this purpose, and should provide details of this account (if different from the account they will use to make payments to Ofcom), on their application form. If any applicant is not in a position to provide details on its application form of the account to which refunds are to be made, it should provide these details to Ofcom as soon as possible after application.
- A1.5 It is the bidder's<sup>9</sup> responsibility to ensure that the bank that they choose to use sends the money by a same day electronic transfer to the correct account as set out above and that it is received by Ofcom's bank by the deadline specified by Ofcom.
- A1.6 In the case of transfers from UK banks, it is Ofcom's understanding that the cut off times for CHAPS payments to be made may vary within the different banking organisations. All applicants are strongly advised to check with their own banks to

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<sup>9</sup> References in this section to the 'bidder' should be read as references to the 'applicant or bidder' as appropriate.

ascertain when the transfer of money into the CHAPS system must be made to ensure it is received by Ofcom by the deadline specified by Ofcom.

- A1.7 In the case of transfers from non-UK banks, it is Ofcom's understanding that the time required to complete the transfer may vary. Bidders should take their own advice as to the steps they will need to take to make payments by the relevant deadlines. They may wish to consider transferring an appropriate sum to a UK bank in advance and then arrange the transfer into Ofcom's bank account with that UK bank.

### **Information identifying the bidder**

- A1.8 It is a requirement of the Regulations that the electronic transfer contains information which identifies the bidder. Accordingly, bidders must ensure that their banks include information to accompany the electronic transfer which clearly identifies that the payment has been made on behalf of the bidder.

### **Charges for Transfers**

- A1.9 It is the bidder's responsibility to meet any charges associated with the transfer of the funds such that the correct sum is received in Ofcom's bank account. This will include checking not only for any charges levied by the bidder's own bank, but also any charges levied by Ofcom's receiving bank (Lloyds TSB) – see further paragraphs below.

#### Transfer from a UK bank

- A1.10 In the case of payments made from UK banks. Ofcom can confirm that its bank (Lloyds TSB) will not charge a fee for receiving electronic payments using the CHAPS system unless the issuer specifically requires that charges associated to the transaction are covered by the receiving bank, i.e. Ofcom's bank (Lloyds TSB). Where the issuer requires that charges are paid by Ofcom's bank, bidders must ensure that they adjust the amount transferred accordingly.
- A1.11 Separately, bidders' banks (the remitting banks) are likely to charge for the transfer and it is the bidder's responsibility to meet those charges in such a way that the correct sum is transferred to Ofcom's bank account.

#### Transfer from a non-UK bank

- A1.12 In the case of payments from non-UK banks, Ofcom's bank, Lloyds TSB, will levy a small charge for receiving such payments unless the remitting bank undertakes to pay "all" charges for the transaction. It is for bidders to determine the level of the fee at the time of transaction. Accordingly, any bidder who chooses to use a non-UK bank to pay a deposit must take this position into account when paying the deposit and ensure that the correct sum is transferred to Ofcom's bank account.
- A1.13 Separately, bidders' banks (the remitting banks) are likely to charge for the transfer and it is the bidder's responsibility to meet those charges in such a way that the correct sum is transferred to Ofcom's bank account.

## Annex 2

# Communications between Ofcom and applicants / bidders

## General information for applicants and bidders

- A2.1 Information will be placed on the Spectrum Awards home page of Ofcom's website – see <http://stakeholders.ofcom.org.uk/spectrum/spectrum-awards/>

## Contacting Ofcom

- A2.2 Pursuant to Regulation 116, Ofcom has now published relevant contact details for any notice in writing to be given by an applicant or bidder to Ofcom by electronic mail, personal delivery or fax.<sup>10</sup> Applicants or bidders should refer to this notice.
- A2.3 Please also note the following:
- 2.3.1 Applicants or bidders may contact us by phone on +44 (0)20 7981 3342, and we would encourage them to do so where the communication is urgent. However applicants or bidders must also ensure that they comply with any requirements of the Regulations in relation to the provision of written notice.
  - 2.3.2 When contacting us by telephone, we may ask for a specific password from the issued list of passwords to ensure that we are speaking to a representative of the relevant bidder.
  - 2.3.3 When sending emails, applicants or bidders should make sure that the subject given identifies the email as relating to the 800 MHz and 2.6 GHz Award.
  - 2.3.4 When making a personal delivery to Riverside House, the person making the delivery should come to the main reception and ask for Robert Emson and should personally give the delivery to him or one of his colleagues in the auction team. If applicants or bidders choose to use a courier to make any deliveries they should ensure that the courier is aware of these particular requirements.

## Contacting applicants / bidders

- A2.4 If we need to contact an applicant or bidder during the auction process, we will use the contact details provided in that bidder's application form.
- A2.5 If you wish to change any of these contact details, or include additional contact details, you should notify the amended or additional contact details to us in writing, signed by two authorised persons.

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<sup>10</sup> <http://stakeholders.ofcom.org.uk/binaries/spectrum/spectrum-awards/awards-in-progress/notices/requirements.pdf>

- A2.6 If you provide the names of more than one contact, we may use any one of those contacts at any given time (although where you have given us more than one electronic mail address, we will endeavour to copy the email to all of those addresses).

## Annex 3

# Illustrative Timeline

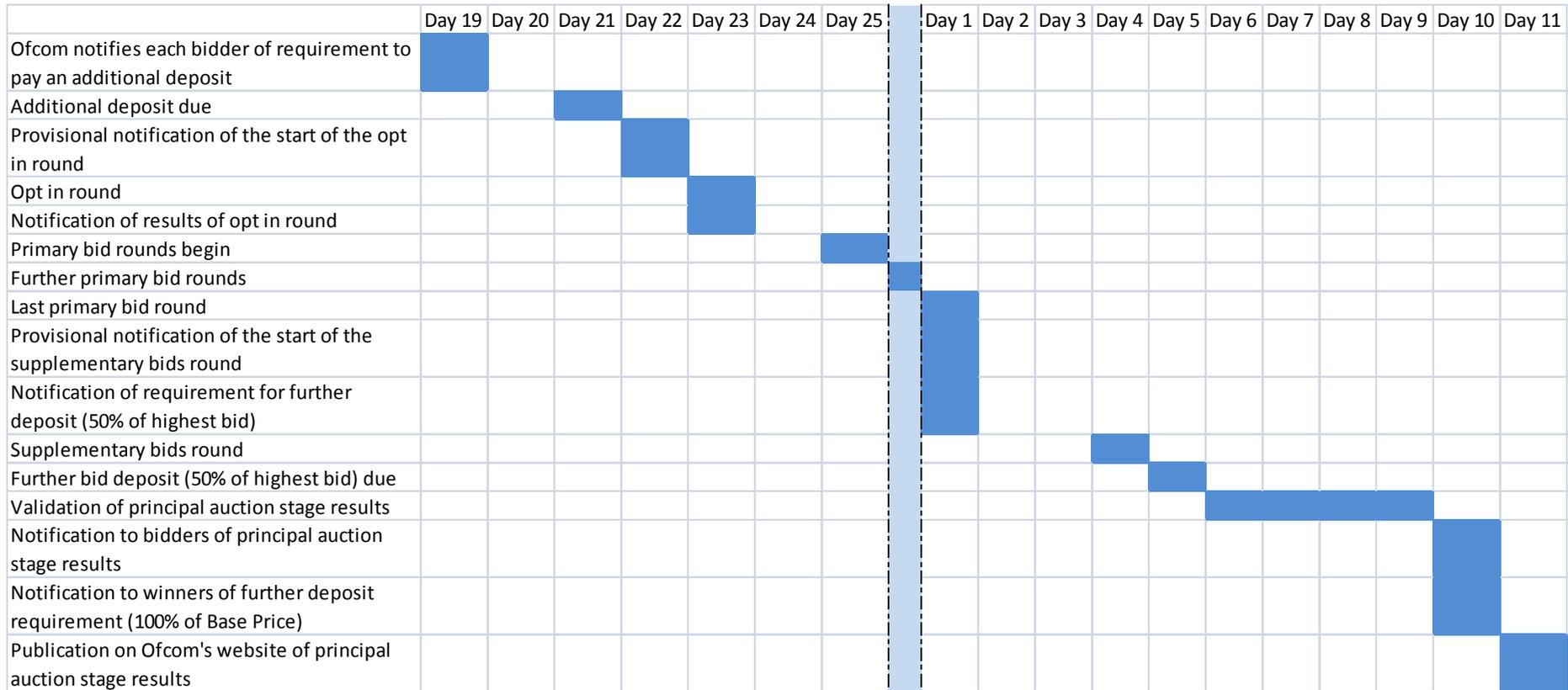
### Illustrative Timeline for the Auction

#### Preparative phase

	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 9	Day 10	Day 11	Day 12	Day 13	Day 14	Day 15	Day 16	Day 17	Day 18
Application Day	█																	
Ofcom notifies each applicant of other applicants and their associates		█																
Applicants notify Ofcom regarding any bidder group overlaps						█												
Ofcom notifies each applicant of qualification determination									█									
Publication on Ofcom's website of names of qualified applicants									█									
Ofcom notifies each applicant of the last day for withdrawal									█									
Last day for withdrawal											*							
Publication on Ofcom's website of names of bidders												█						
Ofcom provide each bidder with authentication information for use of EAS, manuals, details regarding bidder training, other passwords													█					
Electronic Auction System Available for bidders to log in														█				
Bidder training															█	█	█	█

\* For the purposes of this timeline we have not included the business days falling over the Christmas period. As stated at paragraph 3.14, the last day for withdrawal will be no earlier than 4 January 2012.

### Principal bidding phase



### Assignment phase and finalisation

	Day 12	Day 13	Day 14	Day 15	Day 16	Day 17	Day 18	Day 19	Day 20	Day 21	Day 22	Day 23
Further deposit due	█											
End of principal auction stage (confirmation of results)		█										
Provisional notification of the start of the assignment round		█										
Notification of requirement for further deposit (100% of highest assignment round		█										
Assignment round				█								
Further deposit due				█								
Validation of final auction results					█	█	█	█	█			
Notification to bidders of final results									█			
Publication on Ofcom's website of final auction results										█		
Grant of licences												█

**Annex 4**

# Deposit payment form

<b>Fax to:</b>	<b>+44 (0)20 7981 3950</b>
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<b>Remitting Account Details</b>	
<b>Account Name:</b>	
<b>Account Number:</b>	
<b>Sort Code:</b>	
<b>IBAN Number:</b>	

<b>Payment Details</b>						
<b>Date Instructed</b>	<b>Time Sent</b>	<b>Sort Code</b>	<b>Account Number</b>	<b>Amount (GBP)</b>	<b>Unique Payment Number (UPN)</b>	<b>Payment Ref (bidder name)</b>

<b>Contact Name</b>	
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