



## Consultation Document

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# Modifications to rights of use of radio spectrum in the terrestrial 2 GHz frequency band

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## 1. PURPOSE OF DOCUMENT

This Consultation considers the granting of temporary extensions to existing rights of use of radio spectrum in the 1920-1980 MHz and 2110-2170 MHz frequency bands for the continued provision of terrestrial systems capable of providing electronic communications services as a measure to align the expiry dates of existing rights of use of radio spectrum in this band.

The aim of this Consultation is to receive feedback from key stakeholders on the proposals put forward in this document. Interested parties are invited to submit their views to the Malta Communications Authority ('MCA') and are requested to provide all relevant data in support of their submissions.

## 2. INTRODUCTION

In February 2005, the Government and the MCA adopted a joint Policy and Implementation Strategy<sup>1</sup> which provided a framework for the licensing of radio spectrum in the 1920-1980 MHz and 2110-2170 MHz bands ('paired 2 GHz band') and the 1900-1920 MHz band ('unpaired 2 GHz band') for the provision of 3<sup>rd</sup> generation mobile telephony services in Malta. Subsequently, based on this document, in March 2015, the MCA published a call for applications for the assignment of radio spectrum in these bands.

As a result of the call for applications process, on the 29<sup>th</sup> August 2005, the MCA granted rights of use of radio spectrum in the above-mentioned bands to Mobisle Communications Limited (now GO plc.) and to Vodafone Malta Limited, for a period of fifteen (15) years for the establishment and operation of third generation mobile communications networks. These licences will therefore expire on the 29<sup>th</sup> August 2020. On 16<sup>th</sup> August 2007, 3G Telecommunications Limited (which was subsequently acquired by what is now referred to as Melita Limited) was granted a similar licence but with an expiry date of 16<sup>th</sup> August 2022. Annex 1 provides information on the radio spectrum assignments in the paired and unpaired 2 GHz bands.

In 2012 as a measure to support a more flexible use of radio spectrum, the European Commission adopted Commission Implementing Decision 2012/688/EU on the harmonisation of the paired 2 GHz band for terrestrial systems capable of providing electronic communications services in the Union<sup>2</sup>. Accordingly. In line with this Decision, the MCA aligned the above-mentioned rights of use<sup>3</sup> in the paired 2 GHz band with this EU Decision. The expiry dates of the respective assigned rights remained unchanged, i.e. 29<sup>th</sup> August 2020 and 16<sup>th</sup> August 2022.

In view of the upcoming expiry of these rights of use enjoyed by holders of radio spectrum in the paired and unpaired 2 GHz bands, the MCA is required to give regulatory certainty on the future availability of these bands for the continued availability for terrestrial systems capable of providing electronic communications services in Malta. In this regard the MCA is hereby in this Consultation proposing the adoption of interim measures of radio spectrum concerning the paired and unpaired 2 GHz bands.

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<sup>1</sup> <https://www.mca.org.mt/sites/default/files/reports/strategy-doc.pdf>.

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1559650577823&uri=CELEX:32012D0688>.

<sup>3</sup> [https://mca.org.mt/regulatory/authorizations\\_licensing/spectrum-licensing](https://mca.org.mt/regulatory/authorizations_licensing/spectrum-licensing).

## 3. EXPECTED SPECTRUM MANAGEMENT DEVELOPMENTS

### 3.1 EUROPEAN UNION

It is anticipated that next-generation (5G) terrestrial wireless systems will operate in frequency bands that are already EU-harmonised for electronic communications services, including the paired 2 GHz band. Although, based on the principle of service and technology neutrality principles this is already possible, the European Commission requires that existing harmonised technical conditions of use are reviewed to identify potential constraints and be optimised for such next-generation systems.

In this context, on 12<sup>th</sup> July 2018 the European Commission granted a mandate to CEPT<sup>4</sup> to develop harmonised least restrictive technical conditions for a number of frequency bands, including the paired 2 GHz band, in line with the principles of technology and service neutrality, suitable for next-generation (5G) terrestrial wireless systems. The CEPT was tasked to carry out the review of the EU-harmonised technical conditions for this frequency band as set out in Commission Implementing Decision 2012/688/EU with a view to make such conditions suitable for 5G.

In response to this mandate the CEPT developed draft CEPT Report 72<sup>5</sup> which is proposing changes to the harmonised framework set out in Commission Implementing Decision 2012/688/EU. Based on the CEPT Report the Commission will be adopting revisions to this Decision which are expected to be published in the first part of 2020.

It should be noted that the unpaired 2 GHz band between 1900 and 1920 MHz is currently not subject to any EU radio spectrum harmonisation measures.

### 3.1 CEPT

In accordance with its Roadmap for 5G<sup>6</sup>, the Electronic Communications Committee (ECC) of CEPT on 8<sup>th</sup> March 2019 also reviewed its previous decision as published in ECC Decision (06)01<sup>7</sup> which addressed the harmonised utilisation of the bands 1920-1980 MHz and 2110-2170 MHz for mobile/fixed communications networks (MFCN) including terrestrial IMT. This deliverable is reflective of the technical studies undertaken by the ECC which were published in ECC Report 298<sup>8</sup>.

The ECC is also undertaking studies to assess the feasibility of alternate spectrum solutions for the 1900-1920 MHz band (unpaired 2 GHz band). In this regard a number of candidate applications are being considered for harmonisation. These include Railway Mobile Radio (RMR), Unmanned Aircraft Vehicles (UAVs) and U-Space<sup>9</sup>.

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<sup>4</sup> European Conference of Postal and Telecommunications Administrations (CEPT).

<sup>5</sup> This Report is expected to be approved in July 2019. Please refer to [https://cept.org/Documents/ecc/49815/ecc-19-042-annex-27\\_draft-cept-report-72-report-a-to-second-mandate-on-5g-approved-for-pc](https://cept.org/Documents/ecc/49815/ecc-19-042-annex-27_draft-cept-report-72-report-a-to-second-mandate-on-5g-approved-for-pc).

<sup>6</sup> [https://cept.org/files/18334/ECC\(19\)042%20Annex%2032\\_CEPT%20Roadmap%205G.docx](https://cept.org/files/18334/ECC(19)042%20Annex%2032_CEPT%20Roadmap%205G.docx).

<sup>7</sup> <https://www.ecodocdb.dk/download/23ad06a7-bcbd/ECCDEC0601.PDF>.

<sup>8</sup> <https://www.ecodocdb.dk/download/5b21b308-d1e7/ECC%20Report%20298.pdf>.

<sup>9</sup> U-Space supports safe, efficient and secure access to airspace for UAVs.

## 4. PROPOSED MEASURES

The information contained in this section puts forward for consultation the proposed measures that the MCA intends to implement for the continued provision of the 2 GHz band for terrestrial systems capable of providing electronic communications services in Malta, which takes into consideration the above-mentioned circumstances.

It should be noted that in the period between 2020 and 2022 the MCA will be establishing the framework for the reassignment of the paired 2 GHz band. This will be in line with the applicable national and European regulatory regimes which will be in force at that time.

### 4.1 LICENCE TERM

As described in section 1, the expiry dates of the rights of use of radio spectrum that are currently in force will expire on the following dates:

Licence holder	Licence expiry date
GO plc.	29 <sup>th</sup> August 2020
Melita Limited	16 <sup>th</sup> August 2022
Vodafone Malta Limited	29 <sup>th</sup> August 2020

The MCA, after taking into account article 49(3) of the European Electronic Communications Code<sup>10</sup> is proposing adjusting the expiry date of the licences expiring on 29<sup>th</sup> August 2020 to 16 August 2022, to ensure the simultaneous expiry of all rights of use within the same 2 GHz frequency band. This measure is without prejudice to the right of the respective licence holder not to extend the licence validity until 16<sup>th</sup> August 2022.

**Question 1:** *Do you agree with the proposal to align the expiry dates of all rights of use of radio spectrum in the 2 GHz frequency band?  
Please provide justifications in case of disagreement.*

### 4.2 LICENCE FEES

The fee regime for the rights of use of radio spectrum in the 2 GHz band is established in the 8<sup>th</sup> Schedule (Part B) of the Electronic Communications Networks and Services (General) Regulations (S.L.399.28)<sup>11</sup> and is reflective of the 2005 Policy and Implementation Strategy. These Regulations provide two possible modes of payment, namely:

<sup>10</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code.

Please refer to <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1559657861268&uri=CELEX:32018L1972>.

<sup>11</sup> <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10563&l=1>.

- either an upfront payment, to be effected upon frequency assignment, amounting to €5,823,433.50;
- or a deferred payment scheme over a fifteen (15) year term, resulting in an overall payment of €8,618,681.57 over the licence term (refer to Annex 2).

It should be noted that the Government, as the owner of the radio spectrum, has the right to establish any radio spectrum licence fees which Government deems appropriate, after taking into account the principles set out in national legislation.

Nonetheless, the MCA intends to recommend to Government the introduction of a licence fee which is equivalent to the fee prescribed in Annex 2 relating to the deferred payment scheme, i.e. €344,747.26 per extended year or part thereof.

The MCA considers that this fee is in accordance with the fees that are to be charged by the MCA during 2021 and 2022 for the right of use of radio spectrum in the 2 GHz band.

**Question 2:** *Do you agree with MCA's proposed recommendation concerning the spectrum licence charges to be applied for any licence extension following the current licence expiry date?  
Please provide justifications in case of disagreement and an alternate licence fee arrangement.*

### 4.3 LICENCE CONDITIONS

The MCA considers that the conditions that are attached to the current rights of use of radio spectrum in the 2 GHz band do not constitute any regulatory burden or a barrier to the deployment of innovation wireless services in Malta. In this regard the MCA is proposing to retain the same licence conditions for the extended licence term.

The MCA however is cognisant of the fact that the upcoming review of Commission Implementing Decision 2012/688/EU will introduce changes to the spectrum management framework for the paired 2 GHz band which will make it suitable for next generation (5G) wireless systems. The MCA will be compelled to implement any instrument amending the said EU Decision through a variation of the technical conditions found in Annex I of the 2 GHz radio spectrum licences. Consequently, the process of reassignment will be undertaken either in accordance with obligations which will emanate from EU law or when the MCA deems it necessary to review the 2 GHz band prior to termination of all radio spectrum licences.

The MCA would also like to highlight that the assigned unpaired 2 GHz band is currently not being used by the respective licence holders. Consequently, any temporary licence extension will only confirm the assignments in the paired 2 GHz band. The current assignment of the radio spectrum in the unpaired 2 GHz band will not be extended to any additional years following the initial fifteen (15) year licence term. The MCA considers that whilst this measure is reflective of the requirement concerning the efficient and effective use of radio spectrum, it will not affect the provision of electronic communications services by the respective operators.

**Question 3:** *Do you agree with MCA's proposed concerning the conditions to be attached to extended licences?  
Please provide justifications in case of disagreement.*

**Question 4:** *Do you agree with MCA's proposal not to extend the assignment of unpaired 2 GHz band?  
Please provide justifications in case of disagreement and provide evidence that such spectrum is currently being used in an efficient and effective manner.*

## 5. CONSULTATION FRAMEWORK

In accordance with its obligations under Article 4A of the Malta Communications Authority Act (Cap. 418 of the Laws of Malta), the MCA welcomes written comments and representations from stakeholders during the consultation period which shall run from the 30<sup>th</sup> August 2019 to the 27<sup>th</sup> September 2019.

For the sake of clarity and ease of understanding, the MCA encourages stakeholders to structure their comments in order and in line with the section numbers and sub-section numbers used throughout this document.

The MCA appreciates that respondents may provide confidential information in their feedback to this consultation document. This information is to be included in a separate annex and should be clearly marked as confidential. Respondents are also requested to state why the information should be treated as confidential.

For the sake of transparency, the MCA will publish a list of all respondents to this consultation. The MCA will take the necessary steps to protect the confidentiality of all such material in accordance with the MCA's confidentiality guidelines and procedures. Respondents are however encouraged to avoid confidential markings wherever possible.

All responses should be submitted to the MCA in writing by no later than **12.00hrs. CET** on the **27<sup>th</sup> September 2019** and addressed to the:

Chief of Spectrum Management and Technology  
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Valletta Waterfont, Pinto Wharf, Floriana FRN1913, Malta

Tel: +356 21 336840                      Fax: +356 21 336846

Email: [spectrum.mca@mca.org.mt](mailto:spectrum.mca@mca.org.mt)

Extensions to the consultation deadline will only be permitted in exceptional circumstances and where the MCA deems fit. The MCA reserves the right to grant or refuse any such requests at its discretion. Requests for extensions are to be made in writing within the first ten (10) working days of the consultation period.

**ANNEX 1 - RADIO SPECTRUM ASSIGNMENTS IN THE 2 GHz BAND**

**Paired 2 GHz band (Frequency Division Duplex - FDD):**

guard band	GO plc (19.8 MHz)	Melita Ltd. (19.8 MHz)	Vodafone Malta Ltd. (19.8 MHz)	guard band	
1920.0 MHz	1920.3 MHz	1940.1 MHz	1959.9 MHz	1979.7 MHz	1980.0 MHz

*paired with*

guard band	GO plc (19.8 MHz)	Melita Ltd. (19.8 MHz)	Vodafone Malta Ltd. (19.8 MHz)	guard band	
2110.0 MHz	2110.3 MHz	2130.1 MHz	2149.9 MHz	2169.7 MHz	2170.0 MHz

**Unpaired 2 GHz band (Time Division Duplex - TDD):**

guard band	unassigned (4.8 MHz)	Melita Ltd. (5 MHz)	Vodafone Malta Ltd. (5 MHz)	GO plc (5 MHz)	guard band	
1900 MHz	1900.1 MHz	1904.9 MHz	1909.9 MHz	1914.9 MHz	1919.9 MHz	1920 MHz

## ANNEX 2 - DESCRIPTION OF THE DEFERRED PAYMENT SCHEME

Licence No.	Anniversary	Annual licence fee (€)
0	(upon licence grant)	517,120.89
1		517,120.89
2		3,447, 472.63
3		344,747.26
4		344,747.26
5		344,747.26
6		344,747.26
7		344,747.26
8		344,747.26
10		344,747.26
11		344,747.26
12		344,747.26
13		344,747.26
14		344,747.26
15		344,747.26
<b>TOTAL:</b>		<b>8,618,681.57</b>