



MALTA COMMUNICATIONS AUTHORITY

Clarifications to the enquiries received from the interested stakeholders on the Call for Applications for The Assignment of Additional Spectrum for Wireless Broadband (MCA/O/18- 3061)

Clarifications to the Enquiries Received

MCA/O/18-3095

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Clarification to the enquiries made by the interested parties on the Call for Applications leading to the grant of the rights of use of radio frequencies in the 800MHz, 1800 MHz and 2.5 GHz bands in Malta (MCA/O/18-3061)

Reference is being made to the requests for clarifications as submitted to the Malta Communication Authority's ('MCA') by the interested parties concerning the Call for Applications MCA/O/18-3061.

The MCA, through this document is providing replies to the queries put forward by the interested parties to clarify and assist them in preparing their application for the assignment of rights of use for the 800 MHz, 1800 MHz and 2.5 GHz spectrum bands.

In this document the submitted questions in relation to the Call for Application are marked in black, followed by the MCA's reply for each individual question in blue italics text.

The MCA reserves the right to hold a clarification meeting **with all the interested parties** if it considers that any of the interested parties has raised various valid queries and/or requests for clarifications about the Call for Applications, which the MCA considers justified for holding such a meeting/s. The MCA would like to note that, following the submissions received for further clarification on the Call for Applications from the potential candidates, the MCA does not envisage scheduling any meetings at this stage.

Replies to the queries submitted by Operator 1

Q #1

Article 8 of the Sample Licence (page 70) in the Call for Applications governs the coverage obligations for the radio spectrum being awarded. Article 8.2 in particular refers to the requirement in Annex II for licensees to achieve 99% coverage of the territory within 24 months from the commencement date of the licence.

Certain spectrum being assigned can be used for enhancing capacity over existing mobile networks that already have nationwide coverage while using previously assigned spectrum. Can the MCA confirm that in such and other cases the coverage obligations set in the Call for Applications are considered satisfied not necessarily through the use of the spectrum being assigned in this Call on a stand-alone basis, but also where the spectrum being assigned in this Call is used to complement other previously-assigned spectrum as long as the services are being provided nationwide?

The MCA would like to note that the coverage obligations as attached in the sample licence for the right of use for spectrum are included as a measure to ensure that, without prejudice to the spectrum band/s being utilised, any technology provided through a terrestrial mobile system is made available to users in the Coverage Territory in accordance with the coverage requirements and timeframes set out in Annex II of the said Licence.

Q #2

Prospective bidders may experience some key personnel (BoD members and/ or top management) changes up to the application deadline of 19th February 2018, and possibly also up to the actual grant of rights of use of radio spectrum. New key personnel may thus join their employer on dates which would not allow the prospective bidder to make timely arrangements to provide the information and/ or documentation requested in the call, especially but not solely in the cases of police conduct certificates and bank references.

Will the MCA make allowance for this eventuality by accepting the application as valid subject to information or documentation on such key personnel being provided as soon as practically possible, provided that the prospective bidder informs it immediately upon a new member of the key personnel joining the bidder's ranks?

In accordance with what is stated in this reply, the MCA is prepared to make an allowance for the circumstances identified above in view of ensuring that the information in relation to the relevant

*personnel reflects the situation as it was on the date of the submission of the application. In order for the MCA to be in a position to conclude the Qualification Phase in a timely manner, prospective bidders may be allowed to submit the pertinent information or documentation on such changes to key personnel within ten working days following the Application Deadline for the Call for Applications. **In any case prospective bidders in their application are required, where pertinent, to state clearly that the required information in relation to a particular officer shall be provided within the above-mentioned timeframe of ten working days.** The relevant information needs to be submitted to the MCA in accordance with the general submission procedure as established in the Call. The MCA would like to note that late submissions of compulsory information other than the aforementioned relevant key personnel details **will not be permitted.** The prospective bidder does not need to reflect changes in the company's key personnel which ensue subsequent to the Application Deadline for the Call for Applications.*

Q #3

Sections 5.11 (page 22) and 5.2 (page 16) of the Call for Applications require bidders to submit non-confidential versions of the applications. Considering that such applications are composed almost in their entirety of confidential information (choice of specific Lots and justifications, business plans, financing arrangements, questionnaire answers etc.) or personal data some of which is of a sensitive nature, can the MCA indicate which information and documentation it considers appropriate for inclusion in the non-confidential version of the application?

It is up to the applicant concerned to determine which information being submitted is confidential or otherwise. In doing so – unless this is evident from the content thereof – the applicant is expected, if required by the MCA, to explain why the information is considered to be confidential. Applicants are expected to be judicious in excluding information from the non-confidential version of their application.

Q #4

Considering that the contents of the finalised 800 MHz Interference Mitigation Operational Manual will have role in bidders' considerations when submitting their respective applications for spectrum, is it possible to have the final version distributed to the bidders in short order and in good time before the Call submission deadline?

The MCA will do its utmost in order to circulate the proposed 800 MHz Interference Mitigation Manual as drafted by the MCA in good time before the Application Deadline for the Call for Applications. Failing to voluntarily endorse the 800 MHz Interference Mitigation Manual as proposed by the MCA, the 800 MHz band licensees, as per MCA's Decision "Assignment Process for Additional Spectrum for Wireless

Broadband” (MCA/D/17-2971) will have to establish the methodology and fund for Interference Mitigation post assignment as established by the Decision.

Q #5

Footnotes 5, 7, 9, 10, 11 and 12 in the Call, specifically referring to text in Appendix A in page 39, state that where the information or documentation requested in the call has been submitted previously, there is no need to resubmit it. Is there a cut-off validity date for any such previous submission prior to which the bidders will be required to resubmit the information or documentation?

*The applicant, provided that the previously submitted information to the MCA is still valid, may refrain from re-submitting the relevant compulsory information when submitting the application to the Call for Applications. In doing so, the applicant however **must make specific and clear reference** to the earlier communications with the Authority during which the aforementioned information had been submitted. Nevertheless, the applicant is required to resubmit any time sensitive information, such as bank references and good police conduct certificates that were issued prior to the 19th August 2017.*

Replies to the queries submitted by Operator 2

Q #1

Reference is made to Section 3, point 3 and associated Figure 3 (page 8) of the Call for Application Document, which states that the unpaired spectrum (50MHz) is grouped into 2 lots made up of 5 channels each (i.e. 25MHz per lot). The Call for Application Document then goes on to state that the second lot spanning between Channels 6 and Channel 10 has greater technical constraints.

Could the MCA kindly indicate what these greater technical constraints relating to the second lot are?

The MCA notes that the general operating parameters for the 2.5 GHz band are as described in the Commission Decision of 13 June 2008 on the harmonisation of the 2500 – 2690 MHz frequency band for terrestrial systems capable of providing electronic communication services in the Community (2008/477/EC).

Q #2

Reference is made to Section 3 point 4 of the Call for Application Document regarding the application for specific frequencies in the respective bands. In this regard Operator 2 would like to make reference to the spectrum cap that was established for the 800MHz band as per MCA amended Decision MCA/D/17- 2971, which is set at a maximum of 2 lots per operator. The same amended Decision MCA/D/17-2971 provides that this cap can only be relaxed to 3 Lots if there is unassigned spectrum and no excess demand and at the MCA's discretion.

Therefore, when stating in the Call for Application Document that an applicant must state the maximum number of lots in the respective bands that it may apply for throughout the course of the award ('Maximum Interest'), with regard to the 800MHz band, would an Operator be able to register a maximum interest in 3 lots or should they limit it to the established cap of 2 lots?

The cap for the 800 MHz band is currently set at 2 Lots per applicant following the demand expressed for such spectrum during the Call for Expression of Interest. Applicants that are interested in acquiring 3 Lots where the spectrum caps are relaxed must state so in their response to the Call for Applications. Note that any fees related to the maximum interest shall make reference to the current spectrum caps of 2 Lots.

Q #3

Operator 2 would like to ask the MCA whether it would consider committing to holding a set of brokered meetings with the Qualified Applicants in the event that demand exceeds the availability of spectrum in the relevant frequency band rather than reserving the right to do so.

This would provide the operators with some peace of mind that rather than finding themselves in the midst of an Auction there will be the possibility of reaching an agreement that is acceptable to all qualified applicants.

The aim of the brokered meetings is to reach an assignment solution that is acceptable to all the parties involved. The MCA reserves the right to hold such brokered meetings if it considers that the qualified applicants are amenable to reach an agreement prior to proceeding with an auction process.

Q #4

Operator 2, for the avoidance of any doubt would like to clarify with the MCA its understanding of this spectrum license requirement with regard to the 2.5 GHz spectrum band.

Operator 2 notes that the 2.5 GHz band is typically used by operators in selected areas around the territory to provide a high capacity layer rather than to provide nationwide coverage of this spectrum band specifically. This stems from the propagation characteristics of the 2.5 GHz band coupled with the available bandwidth in the 2.5 GHz spectrum. Therefore, for this reason, deployment in this spectrum band will have a limited geographical scope which focuses on traffic hotspot areas.

Is this in line with MCA's understanding?

The MCA would like to note that the coverage obligations as attached in the sample licence for the right of use for spectrum are included as a measure to ensure that, without prejudice to the spectrum band/s being utilised, the technology provided through a terrestrial mobile system are made available to users in the Coverage Territory in accordance with the coverage requirements and timeframes set out in Annex II of the said Licence.