



**Response to Further Consultation and Decision on
the licensing of spectrum in the 2100 MHz band**

21 May 2018

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1. Introduction

1.1 Request for additional spectrum

This Response to Consultation and Decision relates to a request made to the Isle of Man Communications Commission (“the Commission”) by Sure (Isle of Man) Limited (“Sure”) for additional licensed spectrum in the 2100 MHz band. This request was made in the course of the Commission’s consultation, which was published on 20th December 2017, on the licensing of spectrum in a number of bands, including the 2100 MHz band (the December 2017 Consultation).¹ In submitting its response to that consultation, Sure requested access to an additional 2 x 5 MHz of 2100 MHz spectrum.

In its Response to Consultation and Decision published on 16th March 2018 (the March 2018 Response/Decision)², the Commission stated that it was minded to accede to Sure’s request for additional 2100 MHz spectrum but that, in order to ensure that the assignment of spectrum usage rights is open, transparent and non-discriminatory, it would allow a short period for interested parties to submit comments on this proposal.

No responses were received by the Commission relating to Sure’s request for additional 2100 MHz spectrum. The purpose of this document is to set out the Commission Decision in relation to that request.

1.2 Legal and regulatory background

The Commission is responsible for issuing licences for telecommunications and broadcasting services on the Island. Under the Telecommunications Act 1984 (of Tynwald) its powers include:

- specifying the nature of the telecommunications systems and services which operators are permitted to operate and provide under the licence³; and
- setting conditions on such operation and provision.⁴

Spectrum management is the responsibility of the UK Office of Communications (Ofcom). Ofcom licenses and regulates the use of radio spectrum in the Island, under the Wireless Telegraphy Act 2006 of Parliament, which is extended to the Isle of Man, with Tynwald’s consent, by Order in Council. The Commission works closely with Ofcom to ensure that Isle of Man Government policies are taken into account in licensing decisions.

¹ Consultation on the licensing of spectrum in the 900 MHz, 1800 MHz, 2100 MHz, 2.6 GHz and 3.4 GHz bands, Communications Commission, 20th December 2017.

² Response to Consultation and Decision on the licensing of spectrum in the 900 MHz, 1800 MHz, 2100 MHz, 2.6 GHz and 3.4 GHz bands, Communications Commission, 16th March 2018.

³ See s.5(1) and 5(4)(b) Telecommunications Act 1984.

⁴ See s.5(5) Telecommunications Act 1984.

2.2 UK legislation relevant to spectrum licensing in the Isle of Man

The use of spectrum in the Isle of Man is governed by UK legislation that has been extended to the Isle of Man, as well as by international agreements between the UK and other countries on the use to which various bands of radio spectrum can be put and the avoidance of interference across borders. The licensing of spectrum, in the UK and in the Isle of Man, is carried out by Ofcom, by virtue of the powers given to it by the Wireless Telegraphy Act 2006 and the Communications Act 2003.

Ofcom's principal and secondary duties are in Section 3 of the Communications Act 2003 ('General duties of Ofcom'), which provides that:

- (1) *It shall be the principal duty of OFCOM, in carrying out their functions—*
 - (a) *to further the interests of citizens in relation to communications matters;*
 - and*
 - (b) *to further the interests of consumers in relevant markets, where appropriate by promoting competition.*
- (2) *The things which, by virtue of subsection (1), OFCOM are required to secure in the carrying out of their functions include, in particular, each of the following—*
 - (a) *the optimal use for wireless telegraphy of the electro-magnetic spectrum;*
 - (...)

Moreover, Section 3 of the WTA ('Duties of OFCOM when carrying out functions') further specifies Ofcom's duties as follows:

- (1) *In carrying out their radio spectrum functions, OFCOM must have regard, in particular, to—*
 - (a) *the extent to which the electromagnetic spectrum is available for use, or further use, for wireless telegraphy;*
 - (b) *the demand for use of the spectrum for wireless telegraphy; and*
 - (c) *the demand that is likely to arise in future for the use of the spectrum for wireless telegraphy.*
- (2) *In carrying out those functions, they must also have regard, in particular, to the desirability of promoting—*
 - (a) *the efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy;*
 - (b) *the economic and other benefits that may arise from the use of wireless telegraphy;*
 - (c) *the development of innovative services; and*
 - (d) *competition in the provision of electronic communications services.*

For the purposes of the spectrum relevant to this consultation, the respective roles of the Commission and Ofcom in coordinating the award of spectrum licences in the Isle of Man are as follows:

- the Commission ascertains the level and nature of demand for the spectrum in the specified bands. It identifies whether a selection process is needed. Eventually, when the assessment and selection process is completed, it makes a

recommendation to Ofcom in relation to the issuing of licences under the WTA to Isle of Man operators, specifying the spectrum bands and the allocations within these bands that should be included within such licences; and

- Ofcom issues licences for spectrum use under the WTA where it is satisfied the Commission's recommendation is consistent with its own statutory duties.

2. Request by Sure for additional 2100 MHz spectrum

In its response to the December 2017 consultation, Sure requested access to an additional 2 x 5 MHz of 2100 MHz spectrum, on top of the 2 x 15 MHz it had earlier requested and which request formed part of the December 2017 consultation.

In its consultation response, Sure stated that, having reviewed its requirements for additional 2100 MHz spectrum, it now felt that it would be prudent for it to request access to the remaining 5 MHz block at the top of the band, i.e. 2165 – 2170 MHz (base transmit), as well as the 2 x 15 MHz it had already requested.

The Commission stated in the March 2018 Response/Decision that it was minded to accede to Sure's request for the additional spectrum. In light of the requirement on it to ensure that the assignment of spectrum usage rights is done on an open, transparent and non-discriminatory basis, the Commission invited comments from interested parties on Sure's request, before coming to a definitive decision on the request.

Summary of responses

No responses were received to the further consultation.

Commission's analysis

As no objections have been raised to Sure's request, the Commission is satisfied that its application to be given access to an additional 2 x 15 MHz of 2100 MHz spectrum should be granted.

The Commission is also now in a position to confirm the date by which the re-assignment of spectrum allocations held by MT and Sure in the 2100 MHz band should be completed. This re-assignment is necessary in order to ensure that both operators have access to contiguous 2 x 30 MHz spectrum blocks in the band.

Having liaised with both operators and bearing in mind the upcoming TT period and the consequent freeze on network changes during this time that is implemented by both operators, the Commission confirms that this spectrum re-assignment in the 2100 MHz band should now be completed by 15th June 2018.

Commission's decision

DECISION 1: Sure should be granted access to a further 2 x 5 MHz of spectrum in the 2100 MHz band ((i.e. 2165 – 2170 MHz, paired with 1975 – 1980 MHz) thus granting it access to a contiguous 2 x 30 MHz allocation within the band.

The date for the completion of the necessary 2100 MHz spectrum re-assignments by Sure and MT in order to enable both operators to have access to their contiguous 2 x 30 MHz allocations is confirmed as 15th June 2018.

3. Next steps

The Commission will now proceed to recommend to Ofcom that MT and Sure be granted access, effective from 15th June 2018, to 2 x 20 MHz each of additional spectrum in the 2100 MHz band and that these allocations should be with effect from 15th June 2018.