



**Consultation on the licensing of spectrum
in the 800 MHz and 900 MHz bands**

22 October 2015

Contents

1. Introduction	3
1.1 Request for spectrum in the 800MHz and 900MHz bands	3
1.2 Consultation structure.....	3
2. Legal and regulatory background.....	4
2.1 Legislative background	4
2.2 UK legislation relevant to spectrum licensing in the Isle of Man.....	4
3. Spectrum licensing policy	6
4. Requests for additional spectrum in the 800 MHz and 900 MHz bands.....	8
4.1 Requests submitted by MT and Sure.....	8
4.2 Current and prospective assignments in the 800 MHz and 900 MHz bands	8
5. Next steps	11

1. Introduction

1.1 Request for spectrum in the 800MHz and 900MHz bands

The Isle of Man Communications Commission (“the Commission”) has received requests from Manx Telecom Limited (“MT”) and Sure (Isle of Man) Limited (“Sure”) for access to additional spectrum in the 800 MHz and 900 MHz bands in order to improve the quality of the mobile communications services provided by both operators to end-users.

The Commission is minded to recommend to Ofcom that the Wireless Telegraphy licences held by MT and Sure in relation to their spectrum assignments in the 800 MHz and 900 MHz bands should be varied so that they are granted access to the additional spectrum blocks each have requested. It is the Commission’s view that this approach is consistent with its spectrum policy, and is in the best interests of end-users and of the broader Isle of Man economy, and the reasoning is explained further in Section 3 below. However, before making such a recommendation to Ofcom, the Commission must ensure that it has considered any other demand for spectrum in the 800 MHz and 900 MHz bands. The extent and nature of any such demand will inform the Commission’s decision on how it deals with the request for spectrum made by MT and Sure.

The Commission invites comments on its proposal to recommend additional spectrum allocations to MT and Sure, as set out in Section 4. Following an assessment of responses to this consultation, the Commission will decide whether or not to proceed with a recommendation to Ofcom.

1.2 Consultation structure

This Consultation Document is structured in the following way:

- **Section 2** contains a legal and regulatory background on the award of licences and associated spectrum usage rights on the Isle of Man;
- **Section 3** outlines the policy background for the Commission’s spectrum licensing decisions;
- **Section 4** provides details of the request for additional spectrum in the 800 MHz and 900 MHz bands made by MT and Sure;
- **Section 5** sets out the Commission’s proposed next steps in relation to this issue.

2. Legal and regulatory background

2.1 Legislative 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 licence¹; and
- setting conditions on such operation and provision.²

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.

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

² See s.5(5) Telecommunications Act 1984.

- (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.

3. Spectrum licensing policy

Building on the legal and regulatory background within which the Commission operates, spectrum licensing decisions that the Commission makes is also grounded in a clear policy framework.

In the first instance, the Commission is mindful of the legislative requirement placed on it in the Telecommunications Act 1984 “to promote the interest of consumers, purchasers and other users of telecommunications services ... in respect of the prices charged for, and the quality and variety of services provided”.³ Given this requirement, the Commission needs to be satisfied that granting a request for access to additional spectrum will promote end-users’ interests.

The Commission also needs to be cognisant of its own Spectrum Strategy⁴, in which it decided that the best approach to adopt in relation to the licensing of spectrum was one geared towards maximising investment in telecommunications services on the Island. In relation to the licensing of services in high-value bands such as 800 MHz and 900 MHz, the Commission determined that, in addition to supporting investment, the provision of geographic coverage and the promotion of competition were goals it should aim at.

Recent licensing processes undertaken by the Commission also need to be factored in. In this respect, the 4G licensing process forms an important backdrop to the Commission’s consideration of the requests made by MT and Sure for additional spectrum in the 800 MHz and 900 MHz bands. In 2013, the Commission invited applications for up to three 4G licences, each offering access to spectrum in the 800 MHz and 1800 MHz bands, with the option to access additional spectrum in the 2.6 GHz band when future need arose. Only two applications for 4G licences were received by the Commission and this resulted in the licensing of MT and Sure in October 2013.

The Commission notes that the award of additional spectrum in the 800 MHz and 900 MHz bands to the existing operators would effectively preclude a third market entrant from acquiring a spectrum holding in either of these bands. Over the medium-term, this is less of a concern, given developments in the UK and elsewhere towards freeing up bands such 700 MHz and 1500 MHz. There is also ample unallocated spectrum at present in both the 1800 MHz and 2.6 GHz bands. Should there be interest in new market entry over the medium-term, therefore, the Commission would be in a position to offer such an entrant an adequate spectrum endowment.

In considering how it should deal with the requests made by MT and Sure for additional spectrum in the 800 MHz and 900 MHz bands, the Commission needs to

³ See s.1(2) Telecommunications Act 1984.

⁴ See *Response to Consultation on Options for Managing the Radio Frequency Spectrum*, Communications Commission, January 2012, available at: <https://www.gov.im/lib/docs/cc/consultations/responsetoconsultationonoptions1.pdf>

consider whether or not the position in relation to possible new market entry in the mobile sector has changed markedly in the relatively short period of time since the 4G licensing process was concluded so that new market entry may be expected to happen in the short-term. If it has not, then the Commission's decision would be whether to retain spectrum in case a new entrant emerges at some point, or whether to allocate spectrum to existing operators with a view to improving services now, safe in the knowledge that any medium-term new entrant interest could be facilitated in other spectrum bands.

In this regard, the Commission is mindful of developments internationally, where there appears to be a clear trend at the present time towards contraction rather than expansion in terms of the number of network operators within jurisdictions. In particular, the Commission notes that since it concluded its 4G licensing process both the UK and Irish mobile markets have witnessed significant moves towards consolidation. In the UK, BT is in the process of acquiring EE while Three has announced its intention to acquire O2's UK operations, having already completed the acquisition of O2 Ireland. In addition, Jersey Telecom (JT) recently announced its plans to merge its operations in the Channel Islands with Airtel, with which it currently competes for the provision of mobile services in both Jersey and Guernsey.

The Commission notes that any interest from another operator would need to be treated in a similar manner to that set out in the 4G licensing process, in terms of the roll-out and service requirements that were placed on existing 4G licensees, and in terms of the fees paid by the two 4G operators. In light of this, the Commission is of the provisional view that there is unlikely to be any interest in a potential new mobile operator acquiring the unassigned spectrum in the 800 MHz and 900 MHz bands but it is interested in hearing the views of stakeholders before coming to a definitive position on the matter.

4. Requests for additional spectrum in the 800 MHz and 900 MHz bands

4.1 Requests submitted by MT and Sure

Both MT and Sure have made formal requests to the Commission for additional spectrum assignments in the 800 MHz and 900 MHz bands, to augment the spectrum holdings they already have in these bands, which are used for the provision of mobile communications services.

In the 4G licensing process, MT was given an allocation of 2 x 10 MHz in the 800 MHz band. MT has now requested an additional allocation of 2 x 5 MHz in the band, which it has justified on the basis that it wishes to provide an improved customer experience in terms of the coverage and speed of its 4G service.

MT has also requested that an additional allocation of 2 x 1.2 MHz in the 900 MHz band be reserved for it so that, when the need arises, it will be able to increase its holding in that band to 2 x 15 MHz. MT's justification for the additional spectrum is that it will need the additional spectrum in the future to improve further the quality of its mobile service.

Sure was also granted an allocation of 2 x 10 MHz in the 800 MHz band in the 4G licensing process and it has now requested access to an additional allocation of 2 x 5 MHz in the band. Sure has stated that it requires the additional spectrum to offer improved indoor penetration and increased speeds on its 4G service.

Sure currently holds 2 x 10 MHz of spectrum in the 900 MHz band and it has formally requested access to a further 2 x 5 MHz in the band to facilitate technology improvements leading to an enhanced mobile quality of service for end-users.

4.2 Current and prospective assignments in the 800 MHz and 900 MHz bands

Current spectrum assignments in the 800 MHz and 900 MHz bands are set out in Figures 1 and 3 respectively. Were MT and Sure both to be granted access to the additional spectrum assignments they have sought, the resultant assignments in the 800 MHz and 900 MHz bands would be as illustrated in Figures 2 and 4 respectively.

As Figure 1 below confirms, both MT and Sure currently hold 2 x 10 MHz of spectrum in the 800 MHz band. As may also be seen from Figure 1, there is sufficient unallocated spectrum in the band to meet both operators' requests for an additional 2 x 5 MHz block of spectrum, with Sure taking the unassigned lower block in the band (i.e. the 791 MHz – 796 MHz base transmit block) while MT would take the unassigned block that currently lies between both operators' holdings (i.e. the 806 MHz – 811 MHz base transmit block). Were both MT and Sure to be granted the

additional spectrum on this basis, the band would then be fully assigned, as Figure 2 below illustrates.

Figure 1: current spectrum assignments in the 800 MHz band

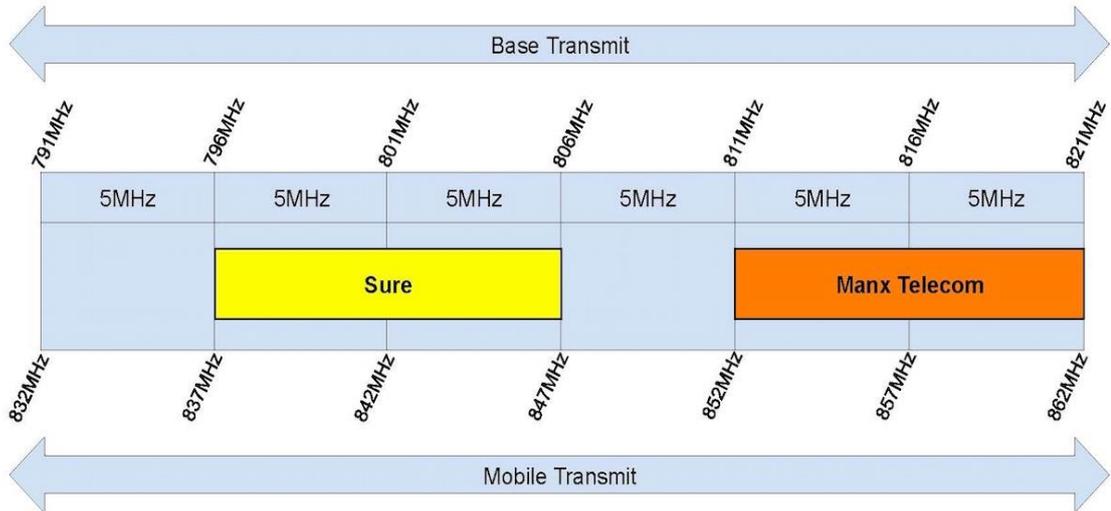
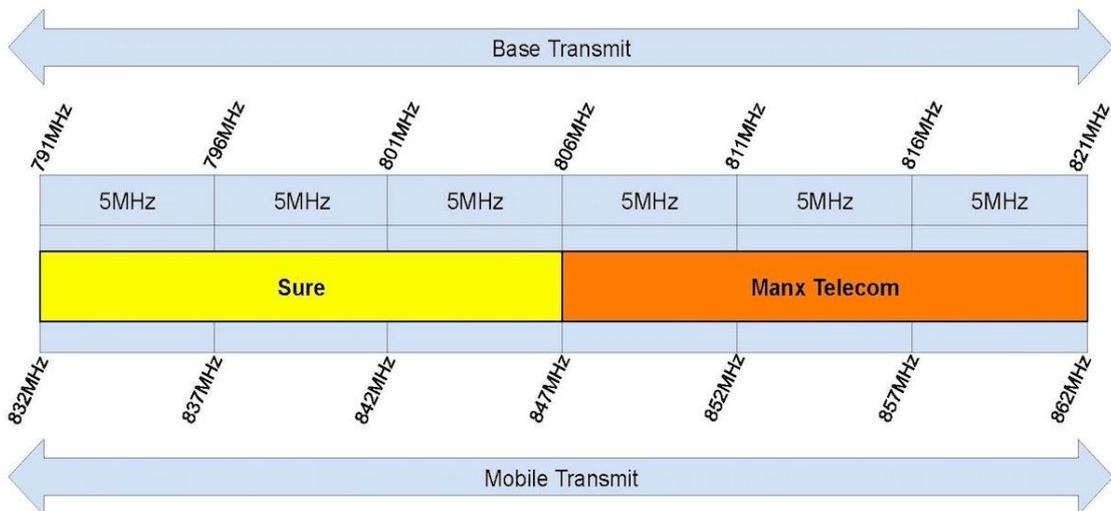


Figure 2: possible future spectrum assignments in the 800 MHz band



As Figure 3 below confirms, there is sufficient unallocated spectrum within the 900 MHz band to meet both operators' requests for additional spectrum. In order to do this, however, Sure would need to move down the band, both to enable MT to secure a contiguous 2 x 15 MHz allocation and also to acquire a similar allocation itself. With both operators granted access to 2 x 15 MHz allocations in the band, this would leave a single 2 x 5 MHz block unassigned.

Were both operators to be assigned the additional spectrum they have requested (in the case of MT, with the additional spectrum reserved for them and formally allocated to them when they require it), the position in relation to spectrum allocation in the 900 MHz band would be as illustrated in Figure 4 below. If the requests from MT and Sure for additional 900 MHz spectrum are approved, the Commission would propose that the middle block (i.e. 940 MHz – 945 MHz base transmit) should be left unassigned for now to cater for future possible expansion within the band.

Figure 3: current spectrum assignments in the 900 MHz band

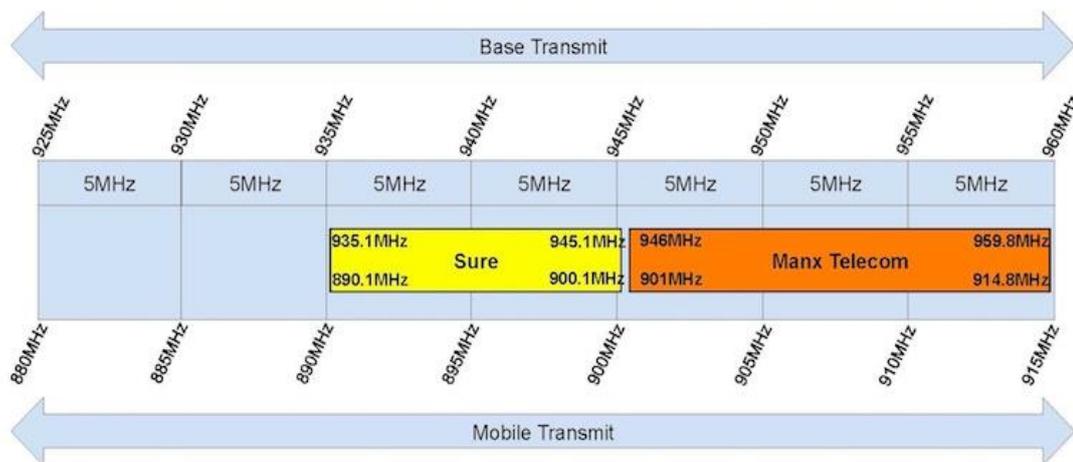
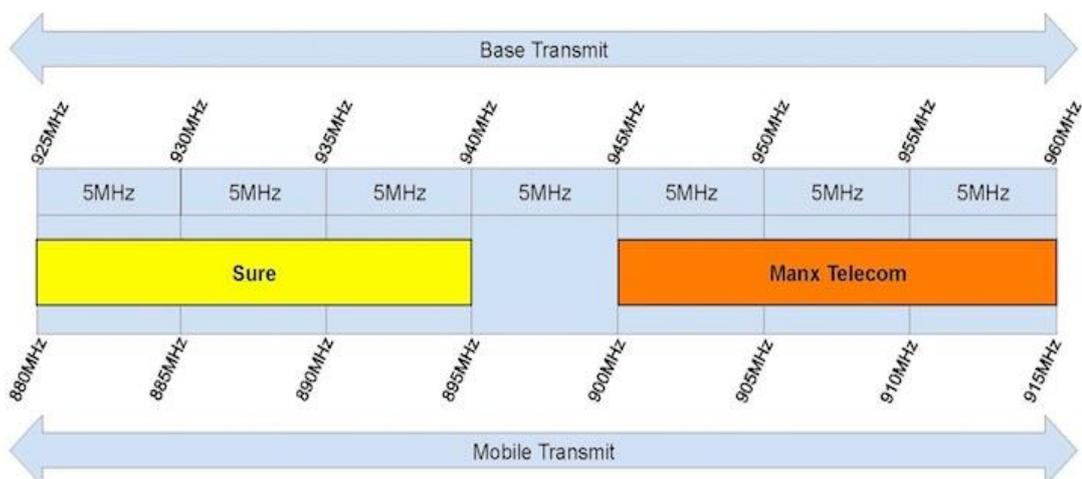


Figure 4: possible future spectrum assignments in the 900 MHz band



5. Next steps

Your views are sought on this Consultation paper. Please respond in writing by 17:00 on 20 November 2015 to:

Mr Yoav Harel
Regulatory Manager, Communications Commission,
2nd Floor St Andrew's House,
Finch Road, Douglas,
Isle of Man, IM1 2PX
or by email: yoav.harel@iomcc.im

Electronic copies of this document are also available at www.iomcc.im.

When submitting your views please indicate if you are responding on behalf of an organisation. To ensure that the process is open and honest and in line with the Government's Code of Practice on Consultation, responses can only be accepted if you provide your name with your response. Unless specifically requested otherwise, any responses received may be published either in part or in their entirety, within three months of the closing date for this consultation, and will be available on the Commission's website.

It is the Commission's view that it is important that consultations are carried out in a transparent manner, that the views of respondents are published, and that the reasoning behind the Commission's consideration of these views can be made clear. Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. Please indicate clearly if any part of your response should be considered to be commercially sensitive, and so required to be confidential. Confidential responses will be included in any statistical summary and numbers of comments received.

The purpose of consultation is not to be a 'referendum' but an information, views and evidence gathering exercise from which to make an informed decision. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.