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STATUTORY INSTRUMENTS

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**2012 No. 2817**

**ELECTRONIC COMMUNICATIONS**

**The Wireless Telegraphy (Licence Award) Regulations 2012**

*Made* - - - - *9th November 2012*

*Coming into force* - - *23rd November 2012*

The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred on OFCOM by section 14(1), (2), (3), (4), (6) and (7) and section 122(7) of the Wireless Telegraphy Act 2006<sup>(1)</sup> (“the 2006 Act”) and as required by article 9 of the Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2010<sup>(2)</sup> (“the 2010 Order”).

Before making these Regulations OFCOM have concluded an assessment of competition as required by article 8 of the 2010 Order.

Before making these Regulations OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the 2006 Act, published notice of their proposal in accordance with section 122(4)(b) of the 2006 Act and have considered the representations made to them before the time specified in that notice in accordance with section 122(4)(c) of the 2006 Act.

**PART 1**

**INTRODUCTORY**

**Citation, commencement, and extent**

**1.—**(1) These Regulations may be cited as the Wireless Telegraphy (Licence Award) Regulations 2012 and shall come into force on 23rd November 2012.

(2) These Regulations shall not extend to the Channel Islands or to the Isle of Man.

**Interpretation**

**2.—**(1) In these Regulations—

“1800 MHz band” has the meaning given in regulation [18\(6\)](#);

“additional price” has the meaning given in regulation [106\(1\)](#);

“adjusted demand” shall be construed in accordance with regulation [30](#);

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(1) [2006 c.36](#).

(2) [S.I. 2010/3024](#).

- “applicant” means a body corporate making an application for a licence;
- “applicant group” means, in relation to an applicant—
- (a) that applicant;
  - (b) each associate of that applicant; and
  - (c) each person in respect of whom the applicant has delivered to OFCOM a completed document in the form set out in Schedule 5;
- “assignment stage” has the meaning given in regulation 17(1);
- “assignment stage bid” has the meaning given in regulation 88(2);
- “assignment stage bid form” has the meaning given in regulation 93(1);
- “assignment stage option” has the meaning given in regulation 88(5);
- “assignment stage option list” has the meaning given in regulation 88(5);
- “assignment stage round” has the meaning given in regulation 72(2);
- “associate” means, in relation to an applicant or bidder, a person who has a material interest in that applicant or bidder;
- “authorised person” means a person specified by an applicant in its application as authorised to bind that applicant for all purposes relating to the award process;
- “base price” has the meaning given in regulation 68;
- “bidder” means an applicant which has qualified to bid in the award process and which has not withdrawn from the award process on or before the last day for withdrawal;
- “bidder group” shall be construed in accordance with regulation 6(3);
- “confidential information” means, in relation to any applicant or bidder, any information which is not in the public domain and which, if it were made public or disclosed to another applicant (or potential applicant) or bidder or a member of their respective applicant or bidder group, would be likely to affect decisions that such other applicant (or potential applicant) or bidder may make in relation to the award process;
- “deadline”, in relation to any requirement imposed on any person by or under these Regulations, means (as the case may require)—
- (a) the time,
  - (b) the date, or
  - (c) the date, and the time on that date,
- by which that requirement must be fulfilled by that person;
- “electronic auction system” means the system established by OFCOM for bidders to participate in the award process;
- “eligibility limit” means, in relation to a bidder, a number of eligibility points which limits the bids that may be made by the bidder in the principal stage in accordance with these Regulations;
- “end of round time” has the meaning given in regulation 53(1);
- “excess demand” shall be construed in accordance with regulation 29;
- “existing spectrum holdings” has the meaning given in regulation 4(6);
- “final principal stage deposit” has the meaning given in regulation 69(a)(i)(cc);
- “GHz” means gigahertz;
- “grant stage” has the meaning given in regulation 17(1);
- “initial deposit” shall be construed in accordance with regulation 4(3)(b);

“key bid” shall be construed in accordance with regulation 31;

“last day for withdrawal” has the meaning given in regulation 12(1);

“licence” means a wireless telegraphy licence to be granted pursuant to these Regulations to establish or use a wireless telegraphy station or install or use wireless telegraphy apparatus in the United Kingdom at frequencies to be determined in accordance with the procedure set out in Part 4 of these Regulations;

“material interest” means, whether held directly or indirectly—

(a) any interest (construed in accordance with sections 820 to 825 of the Companies Act 2006(3)) in—

(i) 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; or

(ii) 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

(b) the right to appoint or remove a majority of the applicant’s or bidder’s board of directors;

“MHz” means megahertz;

“OFCOM” means the Office of Communications;

“OFCOM’s bank account” means the bank account nominated by OFCOM for the purposes of the award process, details of which are published on their internet website;

“opt-in bid” has the meaning given in regulation 20(1);

“opt-in bid form” has the meaning given in regulation 20(2);

“opt-in round” has the meaning given in regulation 17(2);

“opt-in selection” has the meaning given in regulation 19(5);

“opted-in bidder” has the meaning given in regulation 21(3);

“permissible bid selection” has the meaning given in regulation 22(5);

“permissible bid selection list” has the meaning given in regulation 22(5);

“pounds” means pounds sterling;

“primary bid” has the meaning given in regulation 25(3);

“primary bid form” has the meaning given in regulation 25(6);

“primary bid rounds” has the meaning given in regulation 17(2);

“principal stage” has the meaning given in regulation 17(1);

“principal stage bid” means an opt-in bid, a primary bid, or a supplementary bid;

“recorded spectrum holdings” has the meaning given in regulation 16(2);

“round” means a period of time specified by OFCOM during which bidders may make bids in accordance with the procedure set out in Part 4 of these Regulations;

“round price” shall be construed in accordance with regulation 25;

“selection of lots” has the meaning given in regulation 17(4);

“spectrum cap rule” shall be construed in accordance with regulation 24;

“supplementary bid” has the meaning given in regulation 42;

“supplementary bids form” has the meaning given in regulation 43(1);

“supplementary bids round” has the meaning given in regulation 17(2);

- “valid assignment stage bid” shall be construed in accordance with regulation 95;
- “valid opt-in bid” shall be construed in accordance with regulation 21;
- “valid primary bid” has the meaning given in regulation 26;
- “valid principal stage bid” means a valid opt-in bid, a valid primary bid, or a valid supplementary bid;
- “valid supplementary bid” has the meaning given in regulation 44;
- “winning assignment stage bid” shall be construed in accordance with regulation 103, 104 or 105 as the case may require;
- “winning bidder” means a bidder that submitted a winning principal stage bid; and
- “winning principal stage bid” shall be construed in accordance with regulation 67.

(2) A reference in these Regulations to—

- (a) an “800 MHz paired frequency lot”;
- (b) a “2.6 GHz paired frequency lot”;
- (c) a “2.6 GHz individual frequency lot”;
- (d) the “800 MHz coverage obligation lot”;
- (e) a “2.6 GHz concurrent low power 10 MHz lot”;
- (f) a “2.6 GHz concurrent low power 20 MHz lot”;

shall be construed in accordance with Schedule 1.

(3) A reference in these Regulations to a “type of lot” or “lot” shall be construed in accordance with Schedule 1.

(4) A reference in these Regulations to a numbered 800 MHz paired frequency lot, a numbered 2.6 GHz paired frequency lot, a numbered 2.6 GHz individual frequency lot or a “block” of such lots shall be construed in accordance with Schedule 1.

(5) A reference in these Regulations to a number of “eligibility points” associated with lots shall be construed in accordance with Schedule 6.

## PART 2

### APPLICATION STAGE

#### Applications for the grant of a licence

3. Applications for the grant of a licence shall only be made in accordance with the procedure set out in these Regulations.

#### Application

4.—(1) Only a body corporate may apply to OFCOM for a licence.

(2) A body corporate may only make one application.

(3) To apply for a licence, a body corporate must—

- (a) on the day specified by OFCOM for receipt of applications, deliver to OFCOM at Riverside House, 2a Southwark Bridge Road, London SE1 9HA within the times on that day specified by OFCOM a sealed envelope containing—

- (i) a document containing the application information required by, and the warranty set out in, Schedule 4, completed in respect of the applicant and signed on its behalf by two authorised persons;
  - (ii) for each person, not being an associate of the applicant, which the applicant wishes to join its applicant group, a document in the form set out in Schedule 5 which has been—
    - (aa) completed by the applicant and signed on its behalf by two authorised persons; and
    - (bb) completed by and signed by or on behalf of the person in respect of whom that document is completed;
  - (iii) a document setting out the details of the existing spectrum holdings of—
    - (aa) the applicant;
    - (bb) each other member of its applicant group;
    - (cc) each person in whom the applicant has a material interest;
    - (dd) each person in whom any other member of its applicant group has a material interest;
    - (ee) any person (“third party”) who has entered into a contract or arrangement with the applicant (or with any other member of its applicant group or any person in whom the applicant or any other member of its applicant group has a material interest) to acquire rights under a licence granted pursuant to the award process;
    - (ff) any person who has a material interest in any such third party;
    - (gg) any person in whom a person referred to in sub-paragraph (ff) has a material interest; and
    - (hh) any person in whom any such third party has a material interest; and
  - (b) by a deadline specified by OFCOM, pay into OFCOM’s bank account by a same day electronic transfer, with accompanying information which identifies the applicant, an initial deposit of one hundred thousand pounds.
- (4) If the applicant wishes to bid in the opt-in round it must deliver to OFCOM in the sealed envelope a statement in writing that it wishes to participate in the opt-in round.
- (5) OFCOM shall publish the day, times and deadline on their internet website.
- (6) “Existing spectrum holdings” means—
- (a) any authorisation to establish or use a wireless telegraphy station, or to install or use wireless telegraphy apparatus, under a wireless telegraphy licence which relates to any of the frequencies in the frequency bands listed in Schedule 3; and
  - (b) any contract or arrangement under which such an authorisation is to be acquired.
- (7) The details of existing spectrum holdings that are required are—
- (a) the wireless telegraphy licence number; and
  - (b) the frequencies.

## PART 3

### QUALIFICATION STAGE

#### Notification of names of applicants and associates

5.—(1) OFCOM shall give notice to each applicant of—

- (a) the name of each other applicant and the names of their associates; and
- (b) the deadline by when each applicant must notify OFCOM under paragraph (3).

(2) On receipt of that notice, each applicant must examine the names of the other applicants and their associates and determine whether any member of its applicant group is also an associate of another applicant or is also an applicant.

(3) Where an applicant determines that a member of its applicant group is also an associate of another applicant or is also an applicant, it must notify the other applicant and OFCOM of that fact by the deadline specified by OFCOM.

(4) If it appears to OFCOM from any application or notice that a member of one applicant group is also a member of another applicant group, OFCOM shall give notice to each of the applicants concerned of that fact and specify a deadline by when each applicant concerned must notify OFCOM of any change in circumstances the effect of which is that no member of its applicant group is also a member of another applicant group.

#### Recording of applicant group members

6.—(1) Where there has been a change in the composition of an applicant's applicant group since the date of the application, that applicant must deliver to OFCOM revised versions of the documents provided under regulation 4(3)(a)(i), (ii) and (iii) which comply with those provisions following that change.

(2) OFCOM shall record the members of each applicant group, taking account of any changes notified under paragraph (1).

(3) Each applicant group so recorded shall constitute a bidder group.

#### Subsequent changes to bidder groups

7.—(1) An applicant or bidder may change its bidder group but, in relation to the award process, the applicant or bidder shall be subject to regulations 10(2), 112 and 114 if they apply to any such change.

(2) If a change involves the addition or departure of an associate, the applicant or bidder must notify OFCOM of the change and deliver to OFCOM revised versions of the documents provided under regulation 4(3)(a)(i) and (iii) which comply with those provisions following the change.

(3) If a change involves the addition of a person who is not an associate of the applicant or bidder to its bidder group, the applicant or bidder must deliver to OFCOM—

- (a) a document in the form set out in Schedule 5 completed by the applicant or bidder and signed on its behalf by two authorised persons and completed by and signed by or on behalf of the person in respect of whom that document is completed; and
- (b) a revised version of the document provided under regulation 4(3)(a)(iii) which complies with that provision following the change.

### **Changes to existing spectrum holdings before recording**

8. If an applicant or, in relation to an applicant, any person referred to in regulation 4(3)(a)(iii) changes its existing spectrum holdings before spectrum holdings are recorded under regulation 16, the applicant must notify OFCOM and deliver to OFCOM a revised version of the document provided under regulation 4(3)(a)(iii) which complies with that provision following the change.

### **Fitness to hold a licence**

9.—(1) OFCOM shall, for each applicant which has submitted an application in accordance with regulation 4, determine whether that applicant is fit to hold a licence.

(2) In making their determination under paragraph (1), OFCOM shall take into account—

- (a) any direction given by the Secretary of State to OFCOM under section 5 of the Communications Act 2003(4);
- (b) whether the applicant is a fit and proper person to hold a licence having regard to the probity of—
  - (i) the applicant;
  - (ii) each other member of the applicant's bidder group; and
  - (iii) each director of each member of the applicant's bidder group;
- (c) whether any of the information submitted to OFCOM by the applicant in connection with the award process is false or misleading;
- (d) whether any member of the applicant's bidder group has colluded, or attempted to collude, or is colluding or attempting to collude, with another person to distort the outcome of the award process;
- (e) whether any member of the applicant's bidder group has acted or is acting in a way which is likely to distort the outcome of the award process;
- (f) whether any member of the applicant's bidder group, or any person to whom confidential information has been disclosed, has disclosed, or is disclosing or attempting to disclose or has incited or is inciting another person to disclose, any confidential information, whether directly or indirectly, to any person, except where the disclosure is—
  - (i) to OFCOM;
  - (ii) to a member of the applicant's bidder group;
  - (iii) to a provider of finance for the purpose of raising finance for the applicant's application; or
  - (iv) to a person for the purpose of enabling that person to decide whether to participate as a member of the applicant's bidder group;
- (g) whether any member of the applicant's bidder group has obtained or is obtaining or attempting to obtain confidential information relating to another applicant;
- (h) whether any member of the applicant's bidder group is receiving or is attempting to receive services in relation to the award process from any person who has provided or is providing services to OFCOM in relation to the award process; and
- (i) whether any person who is a member or a director or an employee of a member of the applicant's bidder group and is also a director or an employee of a member of another bidder group is—
  - (i) taking part in the preparation of both bidder groups for participation in the award process; or

(ii) receiving confidential information relating to both bidder groups.

(3) Applicants must, if requested to do so by OFCOM, provide by a deadline specified by OFCOM any information or documentation which OFCOM require to make their determination.

(4) If an applicant does not provide such information or documentation by the deadline specified by OFCOM, OFCOM shall also take that fact into account in making their determination.

(5) Where OFCOM determine that an applicant is not fit to hold a licence the applicant shall be disqualified from the award process.

(6) OFCOM shall inform an applicant which is disqualified of their decision and the reasons for it but that applicant's initial deposit shall not be forfeited because of that decision.

### **Qualification to participate in the award process**

**10.**—(1) Each applicant—

(a) which was not disqualified under regulation 9, and

(b) which has no member of its bidder group which is also a member of the bidder group of another applicant which was not disqualified under regulation 9,

shall be qualified to participate in the award process.

(2) An applicant which has a member of its bidder group which is also a member of the bidder group of another applicant which was not disqualified under regulation 9 shall not be qualified to participate in the award process.

(3) Where an applicant is not qualified to participate in the award process OFCOM shall inform that applicant of that fact but that applicant's initial deposit shall not be forfeited for that reason.

### **Publication of names of qualified applicants**

**11.** OFCOM shall notify each applicant qualified to participate of the name of each other applicant who is so qualified, and the names of their associates, and shall publish the names of all applicants who are so qualified on OFCOM's internet website.

### **Withdrawal of an application**

**12.**—(1) OFCOM shall notify each applicant qualified to participate of the last day for withdrawal from the award process ("last day for withdrawal") and shall publish the last day for withdrawal on OFCOM's internet website.

(2) If, on or before the last day for withdrawal, OFCOM receives notice from an applicant that it wishes to withdraw its application, signed by two authorised persons, the application shall be withdrawn and the applicant shall be excluded from the award process but that applicant's initial deposit shall not be forfeited for that reason.

(3) That applicant shall not be re-admitted to the award process.

(4) OFCOM shall notify all other applicants of the withdrawal.

### **Determination of number of bidders**

**13.**—(1) After the last day for withdrawal, OFCOM shall determine the number of bidders.

(2) Where there are no bidders, OFCOM shall complete the award process by refunding to applicants which were not qualified, or withdrew in accordance with regulation 12, their initial deposit (where such deposit has not been forfeited) but not any interest which has accrued on the deposit.



(3) Where there are one or more bidders, OFCOM shall grant licences in accordance with the procedure set out in Part 4 of these Regulations.

(4) OFCOM shall publish the names of the bidders on OFCOM's internet website.

#### **Additional deposit before the opt-in round and the first primary bid round**

**14.**—(1) In addition to the initial deposit, a bidder may pay an additional sum in pounds as a deposit which shall be taken into account by OFCOM in accordance with regulation 15 for the purpose of calculating the bidder's eligibility limit for the opt-in round (if the bidder has stated that it wishes to bid in that round) and for the first primary bid round.

(2) A bidder wishing to pay such an additional sum must, by a deadline specified by OFCOM, pay the additional sum into OFCOM's bank account by a same day electronic transfer with accompanying information which identifies the bidder.

#### **Determination of bidder's eligibility limit for the opt-in round and first primary bid round**

**15.**—(1) After the deadline specified in regulation 14(2), OFCOM shall determine each bidder's eligibility limit for the opt-in round (if the bidder has stated that it wishes to bid in that round) and for the first primary bid round in accordance with the requirements of this regulation.

(2) OFCOM shall divide by one hundred thousand the total amount of pounds that the bidder has on deposit (including the initial deposit and any additional sum paid under regulation 14).

(3) Where the number that results from the calculation in paragraph (2) is not a whole number, that number shall be rounded down to the nearest whole number.

(4) The eligibility limit shall be that whole number.

(5) Where a bidder's eligibility limit calculated in accordance with this regulation is less than one point, that bidder shall be excluded from the award process and shall not receive a refund of any sums which the bidder has paid as a deposit under these Regulations, which shall (where not already forfeited) be forfeited together with any interest which has accrued on the deposit.

#### **Recording of spectrum holdings**

**16.**—(1) After the deadline specified in regulation 14(2) OFCOM shall, for each bidder, record the existing spectrum holdings which have been notified by that bidder under regulation 4(3)(a)(iii), taking account of any notifications of subsequent changes to those spectrum holdings which may have been made under regulations 6(1), 7(2), 7(3) or 8.

(2) The spectrum holdings so recorded are that bidder's "recorded spectrum holdings".

(3) After the recording of spectrum holdings, the bidder and, in relation to the bidder, any person referred to in regulation 4(3)(a)(iii) may change its existing spectrum holdings but in relation to the award process—

(a) the bidder shall be subject to regulations 112 and 114 if they apply to that change; and

(b) the bidder's recorded spectrum holdings shall not be amended.

(4) If there is such a change, the bidder concerned must notify OFCOM of the change and deliver to OFCOM a revised version of the document provided under regulation 4(3)(a)(iii) which complies with that provision following the change.

## PART 4

### BIDDING PROCEDURE

#### CHAPTER 1

#### Principal stage, assignment stage and grant stage

##### Principal stage, assignment stage and grant stage

17.—(1) The process for the award of licences shall consist of the procedure set out in Chapters 2 to 9 of this Part (“principal stage”), the procedure set out in Chapters 10 to 14 of this Part (“assignment stage”) and the procedure set out in Chapter 15 of this Part (“grant stage”).

(2) During the principal stage there shall be one round for the submission of opt-in bids (“opt-in round”), one or more rounds for the submission of primary bids (“primary bid rounds”) and one round for the submission of supplementary bids (“supplementary bids round”).

(3) A bid made during the principal stage shall be a bid for a licence which authorises the use of frequencies corresponding to a selection of lots chosen by the bidder.

(4) A selection of lots means one or more lots of the same or different types, where the number of lots of each type included in the selection is specified but not any particular numbered lot which falls within that type.

(5) After the conclusion of the supplementary bids round, OFCOM shall determine which of the bids made in the principal stage are winning principal stage bids.

(6) Following completion of the principal stage, the specific frequencies that are to be assigned to the winning bidders shall be determined by OFCOM in accordance with the procedure set out in the assignment stage.

(7) Licences authorising the use of the frequencies so determined shall be granted by OFCOM in accordance with the grant stage.

#### CHAPTER 2

#### Opt-in round

##### Opt-in round

18.—(1) Only bidders satisfying each of the four requirements in this regulation may bid in the opt-in round.

(2) The first requirement is that the bidder must have stated at the time it submitted its application in accordance with regulation 4(4) that it wished to participate in the opt-in round.

(3) The second requirement is that the bidder’s recorded spectrum holdings must not include any frequencies within the following frequency bands—

- (a) 880.1 to 914.9 MHz;
- (b) 925.1 to 959.9 MHz.

(4) The third requirement is that the bidder’s recorded spectrum holdings must not include more than thirty megahertz of frequencies within the 1800 MHz band.

(5) The fourth requirement is that the bidder’s eligibility limit must be—

- (a) at least 6750 points if the bidder’s recorded spectrum holdings do not include any frequencies in the 1800 MHz band; or
- (b) at least 2250 points if the bidder’s recorded spectrum holdings do include frequencies in the 1800 MHz band.

(6) The “1800 MHz band” means—

- (a) 1710.1 to 1781.7 MHz; and
- (b) 1805.1 to 1876.7 MHz.

### **Opt-in selections**

**19.**—(1) The selections of lots that each bidder eligible to bid in the opt-in round may bid for in the opt-in round shall be the selections of lots included in the list or lists in Schedule 2 that apply to that bidder in accordance with this regulation.

(2) List A and List B in Schedule 2 apply to bidders with recorded spectrum holdings that do not include any frequencies in the 1800 MHz band.

(3) List C and List D in Schedule 2 apply to bidders with—

- (a) recorded spectrum holdings that include frequencies in the 1800 MHz band; and
- (b) an eligibility limit of at least 4500 points.

(4) List C in Schedule 2 applies to bidders with—

- (a) recorded spectrum holdings that include frequencies in the 1800 MHz band; and
- (b) an eligibility limit of less than 4500 points.

(5) Each of the different selections of lots included in a list in Schedule 2 is an “opt-in selection”.

### **Opt-in bids**

**20.**—(1) A bid made during the opt-in round (“opt-in bid”) shall be for a selection of lots which matches an opt-in selection for that bidder.

(2) In order to make an opt-in bid a bidder must, on a form provided to the bidder by OFCOM (“opt-in bid form”), specify the amount in whole pounds which it is willing to pay for a licence which authorises the use of frequencies corresponding to the selection of lots.

(3) The amount so specified for the selection of lots must be the sum set out as being the opt-in price for that opt-in selection in Schedule 2.

(4) If a bidder to which List A and List B apply in accordance with regulation 19(2) wishes to bid in the opt-in round, it must submit—

- (a) one opt-in bid for the first opt-in selection in List A and one opt-in bid for the second opt-in selection in List A; or
- (b) one opt-in bid for the first opt-in selection in List B, one opt-in bid for the second opt-in selection in List B, one opt-in bid for the third opt-in selection in List B and one opt-in bid for the fourth opt-in selection in List B.

(5) If a bidder to which List C and List D apply in accordance with regulation 19(3) wishes to bid in the opt-in round, it must submit—

- (a) one opt-in bid for the first opt-in selection in List C and one opt-in bid for the second opt-in selection in List C; or
- (b) one opt-in bid for the first opt-in selection in List D, one opt-in bid for the second opt-in selection in List D and one opt-in bid for the third opt-in selection in List D.

(6) If a bidder to which List C applies in accordance with regulation 19(4) wishes to bid in the opt-in round, it must submit one opt-in bid for the first opt-in selection in List C and one opt-in bid for the second opt-in selection in List C.

### **Valid opt-in bids**

**21.**—(1) If a bidder is eligible to bid in the opt-in round and all of that bidder’s opt-in bids are made in accordance with regulations 20 and 46, then each of that bidder’s opt-in bids is a valid opt-in bid.

(2) If a bidder is not eligible to bid in the opt-in round or if any of that bidder’s opt-in bids are not made in accordance with regulations 20 and 46, then none of that bidder’s opt-in bids is a valid opt-in bid.

(3) A bidder which has made a valid opt-in bid is an “opted-in bidder”.

## **CHAPTER 3**

### **Permissible bid selections**

#### **Permissible bid selections**

**22.**—(1) OFCOM shall, for the primary bid rounds and supplementary bids round, determine which selections of lots each bidder may bid for.

(2) Each selection of lots determined by OFCOM shall consist of lots of one or more of the following types—

- (a) 800 MHz paired frequency lots;
- (b) 2.6 GHz paired frequency lots;
- (c) 2.6 GHz individual frequency lots;
- (d) the 800 MHz coverage obligation lot;
- (e) 2.6 GHz concurrent low power 10 MHz lots;
- (f) 2.6 GHz concurrent low power 20 MHz lots.

(3) For each selection of lots, OFCOM shall specify how many lots of each type (if any) are included in the selection.

(4) The list of possible selections of lots provided to each bidder may be different for each bidder.

(5) The list is the “permissible bid selection list” and each selection of lots in that list is a “permissible bid selection”.

(6) The permissible bid selection list for each bidder shall not change during the primary bid rounds and supplementary bids round.

#### **Preparing a permissible bid selection list for each bidder**

**23.**—(1) In determining the permissible bid selection list for each bidder OFCOM shall include each possible selection of lots which—

- (a) would, if it were to be included in a licence granted to that bidder, comply with the spectrum cap rule in respect of that bidder;
- (b) does not include more than one 2.6 GHz concurrent low power 10 MHz lot;
- (c) does not include more than one 2.6 GHz concurrent low power 20 MHz lot;
- (d) if it includes one 2.6 GHz concurrent low power 10 MHz lot, does not also include a 2.6 GHz concurrent low power 20 MHz lot;
- (e) if it includes one 2.6 GHz concurrent low power 20 MHz lot, does not also include a 2.6 GHz concurrent low power 10 MHz lot;
- (f) if it includes one 2.6 GHz concurrent low power 10 MHz lot, does not include more than twelve 2.6 GHz paired frequency lots;

- (g) if it includes one 2.6 GHz concurrent low power 20 MHz lot, does not include more than ten 2.6 GHz paired frequency lots;
- (h) if it includes any 2.6 GHz individual frequency lots, includes at least two such lots;
- (i) does not include more lots of a type than the number of lots available of that type;
- (j) has a number of eligibility points associated with it which is not more than the number that OFCOM have determined under regulation 15 to be the bidder's eligibility limit for the first primary bid round;
- (k) meets the rule set out in paragraph (2) if that paragraph applies; and
- (l) meets the rule set out in paragraph (3) if that paragraph applies.

(2) If there is only one opted-in bidder, each permissible bid selection on that bidder's permissible bid selection list must include (in addition to any other lots which are included) all of the lots selected in a valid opt-in bid made by that bidder.

(3) If there is at least one opted-in bidder, the permissible bid selections for each bidder must all be such that if that bidder were to make a valid principal stage bid for any one of those selections, that bid could, when taken together with others (which were also valid principal stage bids), form a combination which meets the requirements (in regulation 67(4)) which must be satisfied for a combination of principal stage bids to be a valid combination of principal stage bids.

(4) The number of eligibility points associated with a selection of lots shall be the number equal to the total of the eligibility points associated with the lots included in the selection of lots.

### **The spectrum cap rule**

**24.—**(1) The spectrum cap rule consists of the two requirements on spectrum holdings.

(2) The first requirement is that a bidder's post-award spectrum holdings may not amount to total rights of use of more than—

- (a) two hundred and ten megahertz of frequencies in the frequency bands set out in List A in Schedule 3, if the bidder's post-award spectrum holdings do not include rights of use of frequencies in the frequency band 2570 MHz to 2615 MHz; or
- (b) two hundred and fifteen megahertz of frequencies in the frequency bands set out in List A in Schedule 3, if the bidder's post-award spectrum holdings do include rights of use of frequencies in the frequency band 2570 MHz to 2615 MHz.

(3) The second requirement is that a bidder's post-award spectrum holdings may not amount to total rights of use of more than fifty five megahertz of frequencies in the frequency bands set out in List B in Schedule 3.

(4) "Post-award spectrum holdings", in relation to a bidder, means—

- (a) the bidder's recorded spectrum holdings; and
- (b) rights of use of frequencies that the bidder acquires under this award process.

## **CHAPTER 4**

### **The primary bid rounds**

#### **Primary bids**

**25.—**(1) A primary bid must be for a selection of lots which matches a permissible bid selection for that bidder.

(2) For each primary bid round there shall be a round price for each type of lot, which is the price at which each lot of that type is offered to bidders during that primary bid round.

(3) A bid made during a primary bid round (“primary bid”) shall be at an amount in whole pounds being the total amount of the round prices in that primary bid round for the lots included in the selection of lots specified in the bid.

(4) The round prices for the first primary bid round are set out in regulation 32.

(5) The round prices for each subsequent primary bid round shall be determined by OFCOM in accordance with regulation 33.

(6) In order to make a primary bid a bidder must, on a form provided to the bidder by OFCOM (“primary bid form”), specify—

- (a) the number of 800 MHz paired frequency lots it wishes to be included in a licence at the round price for those lots;
- (b) the number of 2.6 GHz paired frequency lots it wishes to be included in a licence at the round price for those lots;
- (c) the number of 2.6 GHz individual frequency lots it wishes to be included in a licence at the round price for those lots;
- (d) if it wishes the 800 MHz coverage obligation lot to be included in a licence at the round price for that lot;
- (e) if it wishes a 2.6 GHz concurrent low power 10 MHz lot to be included in a licence at the round price for those lots; and
- (f) if it wishes a 2.6 GHz concurrent low power 20 MHz lot to be included in a licence at the round price for those lots.

(7) A bidder must not submit more than one primary bid in each primary bid round.

(8) The selection of lots specified in a primary bid made by a bidder must be such that the total number of eligibility points associated with the primary bid does not exceed the bidder’s eligibility limit for that primary bid round (determined in accordance with regulation 15 or 40 and notified to the bidder in accordance with regulation 52(1)(c)).

(9) The number of eligibility points associated with a primary bid shall be the number equal to the total of the eligibility points associated with the lots included in the selection of lots specified in the primary bid.

### **Valid primary bids**

26. A primary bid is a valid primary bid if the bidder complies with the provisions of regulations 25 and 54 in respect of that primary bid.

### **Requirement for a valid primary bid in the first primary bid round**

27. Any bidder which does not submit a valid primary bid in the first primary bid round having an associated eligibility of at least one eligibility point shall be excluded from the award process and shall not receive a refund of any sums which the bidder has paid as a deposit under these Regulations, which shall (where not already forfeited) be forfeited together with any interest which has accrued on the deposit.

### **Number of primary bid rounds**

28.—(1) After each primary bid round OFCOM shall determine if there is excess demand in accordance with regulation 29.

(2) Where OFCOM have determined that there is no excess demand there shall be no further primary bid rounds but there shall be a supplementary bids round.

(3) Where there is excess demand there shall be another primary bid round, unless OFCOM determine that they are satisfied that it is unlikely that the information that would be made available to bidders following any such further primary bid rounds would change—

- (a) the winning principal stage bids in accordance with regulation 67; or
- (b) the base price payable by a winning bidder in accordance with regulation 68.

(4) If OFCOM determine under paragraph (3) that it is unlikely that the information that would be made available to bidders would change either of these things there shall be no further primary bid rounds but there shall be a supplementary bids round.

### **Determination of excess demand**

**29.**—(1) There is excess demand if any of the following conditions is satisfied—

- (a) the adjusted demand for any type of lot is greater than the number of lots of that type that are available in the award process;
- (b) the number produced by adding together the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots and the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots is greater than ten;
- (c) the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots is greater than zero and the adjusted demand for 2.6 GHz paired frequency lots is greater than twelve; or
- (d) the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots is greater than zero and the adjusted demand for 2.6 GHz paired frequency lots is greater than ten.

(2) OFCOM shall determine the adjusted demand for types of lots in accordance with regulation 30.

### **Determination of adjusted demand**

**30.**—(1) This paragraph applies where—

- (a) there are no valid opt-in bids; or
- (b) at least one opted-in bidder submitted a valid primary bid in the most recent primary bid round, and that bid was for a selection of lots which included (in addition to any other lots which were included) all of the lots comprised in one of that bidder's valid opt-in bids.

(2) Where paragraph (1) applies, the adjusted demand for a type of lot is the total number of lots of that type selected in the valid primary bids submitted in the most recent primary bid round.

(3) Where paragraph (1) does not apply, the adjusted demand for a type of lot is the number determined in accordance with paragraph (4).

(4) The number is the total of—

- (a) the number of lots of that type selected in the key bid, and
- (b) the number of lots of that type selected in the valid primary bids submitted in the most recent primary bid round, but not including the valid primary bid (if any) of the bidder which submitted the key bid.

(5) The key bid shall be identified by OFCOM in accordance with regulation 31.

### **Identifying the key bid**

**31.**—(1) The key bid is the bid which has the lowest value of  $n$  calculated in accordance with paragraph (2) out of all of the bids which satisfy—

- (a) the requirement in paragraph (3) (“the first requirement”); and



- (b) the requirement in paragraph (4) (“the second requirement”).
- (2) For each such bid, the value of  $n$  is the difference (if any) between—
  - (a) the total amount of the round prices in the most recent primary bid round for the lots included in the bid; and
  - (b) the amount of the bid.
- (3) The first requirement is that the bid must be a valid opt-in bid or a valid primary bid made by an opted-in bidder.
- (4) The second requirement is that if the bid is a valid primary bid it must be for a selection of lots which includes (in addition to any other lots which are included) all of the lots comprised in one of the valid opt-in bids made by that bidder.
- (5) Where there is more than one bid for which the value of  $n$  is lowest (“tied  $n$  bids”), the key bid shall be determined in accordance with the order of precedence set out in paragraph (6).
- (6) Tied  $n$  bids with a lesser value of  $a$  prevail over tied  $n$  bids with a greater value of  $a$ , where  $a$  is calculated in accordance with paragraph (7).
- (7) For each tied  $n$  bid, the value of  $a$  is the total amount of the round prices in the most recent primary bid round for the lots included in the tied  $n$  bid, less the total amount of the round prices (in the most recent primary bid round) for those lots included in the tied  $n$  bid which were also included in the valid primary bid (if any) submitted in the most recent primary bid round by the bidder which submitted the tied  $n$  bid.
- (8) Where there is more than one tied  $n$  bid for which the value of  $a$  is lowest (“tied  $a$  bids”), the key bid shall be determined in accordance with the order of precedence set out in paragraph (9).
- (9) Tied  $a$  bids with a lesser value of  $b$  prevail over tied  $a$  bids with a greater value of  $b$ , where  $b$  is calculated in accordance with paragraph (10).
- (10) For each tied  $a$  bid, the value of  $b$  is the total amount of the round prices in the most recent primary bid round for the lots included in the valid primary bid (if any) submitted in the most recent primary bid round by the bidder which submitted the tied  $a$  bid, less the total amount of the round prices (in the most recent primary bid round) for those lots included in the valid primary bid which were also included in the tied  $a$  bid.
- (11) Where a bidder which submitted a tied  $a$  bid did not submit a valid primary bid in the most recent primary bid round, the value of  $b$  in relation to that tied  $a$  bid shall be zero.
- (12) Where there is more than one tied  $a$  bid for which the value of  $b$  is lowest (“tied  $b$  bids”), OFCOM shall employ a method of random selection from amongst those tied  $b$  bids to identify the key bid.

### **Round prices for the first primary bid round**

- 32.** For the first primary bid round, the round price for—
- (a) each 800 MHz paired frequency lot shall be two hundred and twenty five million pounds;
  - (b) each 2.6 GHz paired frequency lot shall be fifteen million pounds;
  - (c) each 2.6 GHz individual frequency lot shall be one hundred thousand pounds;
  - (d) the 800 MHz coverage obligation lot shall be two hundred and fifty million pounds;
  - (e) each 2.6 GHz concurrent low power 10 MHz lot shall be three million pounds; and
  - (f) each 2.6 GHz concurrent low power 20 MHz lot shall be six million pounds.



### **Determination of round prices for subsequent primary bid rounds**

**33.**—(1) For each subsequent primary bid round, the round price for each type of lot shall be determined by OFCOM.

(2) The round price for each 800 MHz paired frequency lot shall be determined in accordance with regulation 34.

(3) The round price for each 2.6 GHz paired frequency lot shall be determined in accordance with regulation 35.

(4) The round price for each 2.6 GHz individual frequency lot shall be determined in accordance with regulation 36.

(5) The round price for the 800 MHz coverage obligation lot shall be determined in accordance with regulation 37.

(6) The round price for each 2.6 GHz concurrent low power 10 MHz lot shall be determined in accordance with regulation 38

(7) The round price for each 2.6 GHz concurrent low power 20 MHz lot shall be determined in accordance with regulation 39.

### **Round price for 800 MHz paired frequency lots**

**34.**—(1) The round price for each 800 MHz paired frequency lot shall be the same as it was for the previous primary bid round except where paragraph (3) applies.

(2) Where paragraph (3) applies the round price shall be higher than it was for the previous primary bid round, but not more than twice the amount of the round price for the previous primary bid round.

(3) This paragraph applies where the adjusted demand for 800 MHz paired frequency lots in the previous primary bid round is greater than four.

### **Round price for 2.6 GHz paired frequency lots**

**35.**—(1) The round price for each 2.6 GHz paired frequency lot shall be the same as it was for the previous primary bid round except where any of paragraphs (3), (4) or (5) apply.

(2) Where any of paragraphs (3), (4) or (5) apply the round price shall be higher than it was for the previous primary bid round, but not more than twice the amount of the round price for the previous primary bid round.

(3) This paragraph applies where the adjusted demand for 2.6 GHz paired frequency lots in the previous primary bid round is greater than fourteen.

(4) This paragraph applies where—

- (a) the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots in the previous round is greater than zero; and
- (b) the adjusted demand for 2.6 GHz paired frequency lots in the previous round is greater than twelve.

(5) This paragraph applies where—

- (a) the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots in the previous round is greater than zero; and
- (b) the adjusted demand for 2.6 GHz paired frequency lots in the previous round is greater than ten.

**Round price for 2.6 GHz individual frequency lots**

**36.**—(1) The round price for each 2.6 GHz individual frequency lot shall be the same as it was for the previous primary bid round except where paragraph (3) applies.

(2) Where paragraph (3) applies the round price shall be higher than it was for the previous primary bid round, but not more than twice the amount of the round price for the previous primary bid round.

(3) This paragraph applies where the adjusted demand for 2.6 GHz individual frequency lots in the previous primary bid round is greater than nine.

**Round price for the 800 MHz coverage obligation lot**

**37.**—(1) The round price for the 800 MHz coverage obligation lot shall be the same as it was for the previous primary bid round except where paragraph (3) applies.

(2) Where paragraph (3) applies the round price shall be higher than it was for the previous primary bid round, but not more than twice the amount of the round price for the previous primary bid round.

(3) This paragraph applies where the adjusted demand for the 800 MHz coverage obligation lot in the previous primary bid round is greater than one.

**Round price for 2.6 GHz concurrent low power 10 MHz lots**

**38.**—(1) The round price for each 2.6 GHz concurrent low power 10 MHz lot shall be the same as it was for the previous primary bid round except where paragraph (5) or (6) applies.

(2) Where paragraph (5) applies, but not paragraph (6), the round price shall be higher than it was for the previous primary bid round but not more than the upper 10 MHz limit.

(3) Where paragraph (6) applies, but not paragraph (5), the round price shall not be lower than it was for the previous primary bid round, and shall be—

(a) not less than the lower 10 MHz limit, and

(b) not more than the upper 10 MHz limit,

subject to paragraph (7).

(4) Where paragraph (5) and paragraph (6) both apply, the round price shall be higher than it was for the previous primary bid round, and shall be—

(a) not less than the lower 10 MHz limit, and

(b) not more than the upper 10 MHz limit,

subject to paragraph (7).

(5) This paragraph applies where the number produced by adding together the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots in the previous round and the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots in the previous round is greater than ten.

(6) This paragraph applies where the adjusted demand for 2.6 GHz paired frequency lots in the previous round is greater than twelve.

(7) In a case where the lower 10 MHz limit is greater than the upper 10 MHz limit, the upper 10 MHz limit shall be disregarded and the round price shall be an amount equal to the lower 10 MHz limit.

(8) In this regulation—

“upper 10 MHz limit” means twice the amount of the round price for 2.6 GHz concurrent low power 10 MHz lots for the previous round; and

“lower 10 MHz limit” means one fifth of the amount that OFCOM have determined to be the round price for 2.6 GHz paired frequency lots for the round in respect of which OFCOM is determining the round price.

### **Round price for 2.6 GHz concurrent low power 20 MHz lots**

**39.**—(1) The round price for each 2.6 GHz concurrent low power 20 MHz lot shall be the same as it was for the previous primary bid round except where paragraph (5) or (6) applies.

(2) Where paragraph (5) applies, but not paragraph (6), the round price shall be higher than it was for the previous primary bid round but not more than the upper 20 MHz limit.

(3) Where paragraph (6) applies, but not paragraph (5), the round price shall not be lower than it was for the previous primary bid round, and shall be—

- (a) not less than the lower 20 MHz limit, and
- (b) not more than the upper 20 MHz limit,

subject to paragraph (7).

(4) Where paragraph (5) and paragraph (6) both apply, the round price shall be higher than it was for the previous primary bid round, and shall be—

- (a) not less than the lower 20 MHz limit, and
- (b) not more than the upper 20 MHz limit,

subject to paragraph (7).

(5) This paragraph applies where the number produced by adding together the adjusted demand for 2.6 GHz concurrent low power 10 MHz lots in the previous round and the adjusted demand for 2.6 GHz concurrent low power 20 MHz lots in the previous round is greater than ten.

(6) This paragraph applies where the adjusted demand for 2.6 GHz paired frequency lots in the previous round is greater than 10.

(7) In a case where the lower 20 MHz limit is greater than the upper 20 MHz limit, the upper 20 MHz limit shall be disregarded and the round price shall be an amount equal to the lower 20 MHz limit.

(8) In this regulation—

- (a) “upper 20 MHz limit” means twice the amount of the round price for 2.6 GHz concurrent low power 20 MHz lots for the previous round; and
- (b) “lower 20 MHz limit” means the amount produced by adding together—
  - (i) the amount that OFCOM have determined to be the round price for 2.6 GHz concurrent low power 10 MHz lots for the round in respect of which OFCOM is determining the round price; and
  - (ii) one fifth of the amount that OFCOM have determined to be the round price for 2.6 GHz paired frequency lots for that round.

### **Bidders’ eligibility limit for second and subsequent primary bid rounds**

**40.** Before the second primary bid round and before each subsequent primary bid round OFCOM shall determine an eligibility limit for each bidder for that primary bid round in accordance with regulation 41.

### **Determination of bidders' eligibility limit for second and subsequent primary bid rounds**

**41.**—(1) Where a bidder makes a valid primary bid in a primary bid round, OFCOM shall determine the bidder's eligibility limit for the next primary bid round by calculating the number of eligibility points associated with that valid primary bid.

(2) The number of eligibility points associated with a valid primary bid shall be the number equal to the total of the eligibility points associated with the lots included in the selection specified in that valid primary bid.

(3) The bidder's eligibility limit shall be the number equal to the number of eligibility points associated with that valid primary bid.

(4) Where a bidder does not make a valid primary bid in a primary bid round, the bidder's eligibility limit for the next primary bid round shall be zero.

(5) Where regulation 59(4) applies, a bidder's eligibility limit for the next primary bid round shall be zero, notwithstanding any determination of an eligibility limit under paragraphs (1) to (4).

## **CHAPTER 5**

### **The supplementary bids round**

#### **Supplementary bid selection**

**42.** A bid made during the supplementary bids round ("supplementary bid") shall be a bid for a selection of lots which matches a permissible bid selection for that bidder.

#### **Supplementary bids**

**43.**—(1) In order to make a supplementary bid a bidder must, on a form provided to the bidder by OFCOM ("supplementary bids form"), specify—

- (a) the number of 800 MHz paired frequency lots it wishes to be included in a licence;
- (b) the number of 2.6 GHz paired frequency lots it wishes to be included in a licence;
- (c) the number of 2.6 GHz individual frequency lots it wishes to be included in a licence;
- (d) if it wishes the 800 MHz coverage obligation lot to be included in a licence;
- (e) if it wishes a 2.6 GHz concurrent low power 10 MHz lot to be included in a licence;
- (f) if it wishes a 2.6 GHz concurrent low power 20 MHz lot to be included in a licence; and
- (g) the amount in whole thousands of pounds that it is willing to pay for a licence which authorises the use of frequencies corresponding to the lots that are selected.

(2) The selection of lots specified in a supplementary bid made by a bidder must be such that the number of eligibility points associated with the supplementary bid in accordance with paragraph (3) does not exceed the bidder's eligibility limit for the first primary bid round.

(3) The number of eligibility points associated with a supplementary bid shall be the number equal to the total of the eligibility points associated with the lots included in the selection of lots specified in that supplementary bid.

(4) The selection of lots specified in a supplementary bid made by a bidder may be the same as or different from the selection of lots specified in any opt-in bid or any primary bid made by that bidder.

(5) The amount of the supplementary bid shall be determined by the bidder, subject to the restrictions in paragraph (6).

(6) The restrictions are—

- (a) the amount of the supplementary bid must not be less than the total amount of the round prices in the first primary bid round for the lots included in the selection of lots specified in that bid;
- (b) where the supplementary bid is for a selection of lots in respect of which the bidder has also made a primary bid, the amount of the supplementary bid must not be less than the amount of the highest primary bid made by the bidder for that selection of lots; and
- (c) where—
  - (i) the bidder did not make a valid primary bid in the final primary bid round, or
  - (ii) the supplementary bid is for a selection of lots that is different from the selection of lots specified in the valid primary bid made by the bidder in the final primary bid round,

the amount of the supplementary bid must not be greater than the amount “ $C$ ” determined in accordance with paragraph (7).

(7) The amount “ $C$ ” referred to in paragraph (6)(c) shall be calculated in accordance with the formula—

$$C = RP + B - P$$

where—

- (a) “ $RP$ ” is the total amount of the round prices in the primary bid round referred to in paragraph (9) for the selection of lots specified in the supplementary bid;
- (b) “ $B$ ” is the amount determined in accordance with paragraph (8); and
- (c) “ $P$ ” is, where the bidder made a valid primary bid in the round referred to in paragraph (9), the amount of that valid primary bid, and is otherwise zero.

(8) The amount of  $B$  is—

- (a) where the bidder made a valid primary bid in the round referred to in paragraph (9), the higher of—
  - (i) the amount of the highest valid opt-in bid (if any) or valid primary bid made by the bidder for the same selection of lots as was specified in that valid primary bid; and
  - (ii) the amount of the supplementary bid (if any) for the same selection of lots as was specified in that valid primary bid; or
- (b) where the bidder did not make a valid primary bid in the round referred to in paragraph (9), zero.

(9) The primary bid round referred to is the latest primary bid round in which a primary bid made by the bidder for the selection of lots specified in the supplementary bid could have satisfied the restriction set out in regulation 25(8).

(10) A bidder may submit any number of supplementary bids in the supplementary bids round, up to a maximum of four thousand supplementary bids.

(11) A bidder must submit all of its supplementary bids on the same supplementary bids form.

(12) A bidder may not submit more than one supplementary bid for any particular selection of lots.

(13) A bidder is not required to submit a supplementary bid.

**Valid supplementary bids**

44. A supplementary bid is a valid supplementary bid if the bidder complies with regulations 42, 43 and 61 in respect of that supplementary bid.

**CHAPTER 6****Procedure for opt-in round****Notice to be given to bidders before the opt-in round**

45. Before the start of the opt-in round, OFCOM shall notify each bidder of the date on which, and the times on that date within which, the opt-in round will take place.

**Submission of opt-in bid form to OFCOM**

46.—(1) A bidder must submit the completed opt-in bid form to OFCOM by using the electronic auction system, except as provided for in regulation 47.

(2) Except as provided for in regulation 48, the completed opt-in bid form must be received by OFCOM within the times notified to bidders under regulation 45.

**Alternative method for submission of opt-in bid form**

47.—(1) Where OFCOM are satisfied that a bidder is unable to submit an opt-in bid form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder's ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the opt-in bid form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the opt-in bid form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

**Extension to opt-in round**

48.—(1) Where—

- (a) OFCOM have not received a completed opt-in bid form from a bidder by the time notified to bidders under regulation 45 as the end of the opt-in round, and
- (b) paragraph (2) applies,

the time by which the bidder's completed opt-in bid form must be received by OFCOM shall be the time sixty minutes after the time notified to bidders under regulation 45 as the end of the opt-in round.

(2) This paragraph applies where OFCOM are satisfied that circumstances existed which were beyond the bidder's control which had the effect that the bidder could not submit its opt-in bid form so that it was received by OFCOM on time.

**Incomplete or defective opt-in bid form**

49.—(1) Where, due to the manner of completion, an opt-in bid form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of opt-in bids, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of opt-in bids.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons that OFCOM have correctly ascertained the bidder's intention, the opt-in bid form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation, the opt-in bid form in its entirety shall be rejected by OFCOM and the opt-in bids submitted on the opt-in bid form shall not be valid opt-in bids.

#### **Notification that opt-in bid not valid**

**50.** Where a bidder submits an opt-in bid that is not a valid opt-in bid, OFCOM shall, after the end of the opt-in round, notify the bidder of that fact and shall give the reasons why the bid is not a valid opt-in bid.

#### **Release of information on opt-in bidders in principal stage**

**51.** After the end of the opt-in round and before the start of the first primary bid round OFCOM shall notify each bidder of the number of bidders that submitted valid opt-in bids.

### **CHAPTER 7**

#### **Procedure and further deposit for primary bid rounds**

#### **Notice to be given to bidders before primary bid rounds**

**52.—**(1) Before the start of each primary bid round, OFCOM shall notify each bidder of—

- (a) the date on which, and the times on that date within which, the primary bid round will take place;
- (b) the round price for—
  - (i) each 800 MHz paired frequency lot;
  - (ii) each 2.6 GHz paired frequency lot;
  - (iii) each 2.6 GHz individual frequency lot;
  - (iv) the 800 MHz coverage obligation lot;
  - (v) each 2.6 GHz concurrent low power 10 MHz lot;
  - (vi) each 2.6 GHz concurrent low power 20 MHz lot;
- (c) the bidder's eligibility limit for that primary bid round; and
- (d) whether there is more than one opted-in bidder which has an eligibility limit for that primary bid round which is the same as or more than that bidder's eligibility threshold.

(2) An opted-in bidder's eligibility threshold is the number equal to the number of eligibility points associated with the valid opt-in bid made by that bidder which, out of all of the valid opt-in bids made by that bidder, has the lowest number of eligibility points associated with it.

(3) The number of eligibility points associated with a valid opt-in bid shall be the number equal to the total of the eligibility points associated with the lots included in the selection of lots specified in that valid opt-in bid.

#### **Extension to primary bid rounds**

**53.—**(1) The time notified by OFCOM under regulation [52\(1\)\(a\)](#) as the end of the primary bid round ("end of round time") may be treated by a bidder in respect of—

- (a) no more than two primary bid rounds, and also



- (b) in respect of each occasion where paragraph (2) applies to the bidder, a further primary bid round,

as that time extended by thirty minutes and OFCOM shall treat that extended time as the end of round time for the purposes of regulation 54(2).

(2) This paragraph applies to a bidder where—

- (a) in respect of a previous primary bid round, the bidder treated the end of round time for that round as extended by thirty minutes in accordance with paragraph (1);
- (b) the bidder submitted its completed primary bid form for that primary bid round so that it was received by OFCOM by the end of round time so extended; and
- (c) OFCOM have notified the bidder that they are satisfied that, in respect of that primary bid round, circumstances existed which were beyond the bidder's control which had the effect that the bidder could not have submitted its primary bid form so that it was received by OFCOM by the end of round time without such an extension.

#### **Submission of primary bid form to OFCOM**

54.—(1) A bidder must submit the completed primary bid form to OFCOM by using the electronic auction system, except as provided for in regulation 55.

(2) The completed primary bid form must be received by OFCOM by the end of round time.

#### **Alternative method for submission of primary bid form**

55.—(1) Where OFCOM are satisfied that a bidder is unable to submit a primary bid form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder's ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the primary bid form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the primary bid form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

#### **Incomplete or defective primary bid form**

56.—(1) Where, due to the manner of completion, a primary bid form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of the primary bid, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of the primary bid.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons that OFCOM have correctly ascertained the bidder's intention, the primary bid form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation, the primary bid form in its entirety shall be rejected by OFCOM and the primary bid submitted on the primary bid form shall not be a valid primary bid.

#### **Notification that primary bid not valid**

57. Where a bidder submits a primary bid that is not a valid primary bid during a primary bid round, OFCOM shall, after the end of that primary bid round, notify the bidder of that fact and shall give the reasons why the bid is not a valid primary bid.



### **Release of information on primary bids in principal stage**

**58.** After the end of each primary bid round and before the start of the next primary bid round (or before the start of the supplementary bids round if there is no further primary bid round), OFCOM shall notify bidders of—

- (a) the total number of 800 MHz paired frequency lots included in valid primary bids made in the primary bid round that has most recently ended;
- (b) the total number of 2.6 GHz paired frequency lots included in valid primary bids made in that round;
- (c) the total number of 2.6 GHz individual frequency lots included in valid primary bids made in that round;
- (d) the total number of 800 MHz coverage obligation lots included in valid primary bids made in that round;
- (e) the total number of 2.6 GHz concurrent low power 10 MHz lots included in valid primary bids made in that round;
- (f) the total number of 2.6 GHz concurrent low power 20 MHz lots included in valid primary bids made in that round; and
- (g) whether there is excess demand.

### **Further deposit during primary bid rounds**

**59.**—(1) Where, in respect of a primary bid, the amount which a bidder specifies that it is willing to pay is more than double the total amount that the bidder has on deposit with OFCOM for the purposes of the award process at that time OFCOM may, having regard to the desirability of securing an efficient outcome to the principal stage, subsequently notify the bidder that the bidder is required to pay a further sum in pounds as a deposit.

(2) The further sum shall be an amount determined by OFCOM such that the total amount that the bidder is required to have on deposit is at most half the amount of the highest valid primary bid that the bidder made before OFCOM gave notice to the bidder under paragraph (1).

(3) Any such sum must be paid into OFCOM's bank account by a same day electronic transfer, with accompanying information which identifies the bidder, by a deadline specified by OFCOM.

(4) Where a bidder does not satisfy the requirements set out in paragraph (3), OFCOM shall notify the bidder of that fact, and for any primary bid rounds following notice being given under this paragraph the bidder's eligibility limit shall be zero.

## **CHAPTER 8**

### **Procedure and further deposit for supplementary bids round**

### **Notice to be given to bidders before supplementary bids round**

**60.** Before the start of the supplementary bids round, OFCOM shall notify each bidder of—

- (a) the date on which, and the times on that date within which, the supplementary bids round will take place;
- (b) the deadline (which shall be after the end of the supplementary bids round) by when bidders must pay a further sum in pounds as a deposit calculated in accordance with regulation 66; and
- (c) if applicable, the proportion referred to in regulation 66(1)(a).

### **Submission of supplementary bids form to OFCOM**

**61.**—(1) A bidder must submit the completed supplementary bids form to OFCOM by using the electronic auction system, except as provided for in regulation 62.

(2) The completed supplementary bids form must be received by OFCOM within the times notified to bidders under regulation 60(a) except as provided for in regulation 63.

### **Alternative method for submission of supplementary bids form**

**62.**—(1) Where OFCOM are satisfied that a bidder is unable to submit a supplementary bids form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder's ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the supplementary bids form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the supplementary bids form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

### **Extension to supplementary bids round**

**63.**—(1) Where—

- (a) OFCOM have not received a completed supplementary bids form from a bidder by the time notified to bidders under regulation 60(a) as the end of the supplementary bids round, and
- (b) paragraph (2) applies,

the time by which the bidder's completed supplementary bids form must be received by OFCOM shall be the time sixty minutes after the time notified to bidders under regulation 60(a) as the end of the supplementary bids round.

(2) This paragraph applies where OFCOM are satisfied that circumstances existed which were beyond the bidder's control which had the effect that the bidder could not submit its supplementary bids form so that it was received by OFCOM on time.

### **Incomplete or defective supplementary bids form**

**64.**—(1) Where, due to the manner of completion, a supplementary bids form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of the supplementary bid or bids, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of the supplementary bid or bids.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons that OFCOM have correctly ascertained the bidder's intention, the supplementary bids form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation—

- (a) where the incompleteness or defect relates to one or more of the supplementary bids made on the supplementary bids form, that supplementary bid or those supplementary bids (as the case may be) shall not be valid;
- (b) where sub-paragraph (a) does not apply, the supplementary bids form in its entirety shall be rejected by OFCOM and none of the supplementary bids made on that supplementary bids form shall be valid.

### **Notification that supplementary bid not valid**

65. Where a bidder submits a supplementary bid that is not a valid supplementary bid, OFCOM shall, after the end of the supplementary bids round, notify the bidder of that fact and shall give the reasons why the bid is not a valid supplementary bid.

### **Further deposit for supplementary bids round**

66.—(1) By the deadline notified to bidders under regulation 60(b), each bidder must pay into OFCOM's bank account a further sum in pounds as a deposit so that the total amount the bidder has on deposit is not less than—

- (a) where a bidder has on all occasions paid sums for deposit by the time specified for payment by OFCOM under regulation 59, a proportion specified by OFCOM, which is at most one half, of the amount of the bidder's highest valid principal stage bid; or
- (b) where a bidder has not on all occasions paid sums for deposit by the time specified for payment by OFCOM under regulation 59, the amount of the bidder's highest valid principal stage bid.

(2) The further sum must be paid into OFCOM's bank account by a same day electronic transfer with accompanying information which identifies the bidder.

(3) Where a bidder does not so make payment, OFCOM shall notify the bidder and the bidder shall be excluded from the award process and shall not receive a refund of any sums which the bidder paid as a deposit under these Regulations, which shall (where not already forfeited) be forfeited together with any interest which has accrued on the deposit, and all of that bidder's principal stage bids shall be deemed to be invalid and shall not be taken into consideration for the purposes of determining—

- (a) the winning principal stage bids in accordance with regulation 67;
- (b) the base price payable by a winning bidder in accordance with regulation 68.

## **CHAPTER 9**

### **Determination of the winning principal stage bids and conclusion of principal stage**

#### **Determination of the winning principal stage bids**

67.—(1) The winning principal stage bids shall be those valid principal stage bids that comprise the winning combination of principal stage bids.

(2) The winning combination of principal stage bids shall be the valid combination of principal stage bids for which the total value of the combination of bids calculated in accordance with paragraph (9) is the highest.

(3) Where there is more than one valid combination of principal stage bids for which the total value is equal highest, the winning combination of principal stage bids shall be determined in accordance with the order of precedence set out in paragraph (5) and then in accordance with paragraph (6) if necessary.

(4) A combination of principal stage bids is a valid combination of principal stage bids if—

- (a) all of the bids included in the combination are valid principal stage bids;
- (b) there is no more than one principal stage bid from each bidder within the combination;
- (c) there is at least one bid in the combination from an opted-in bidder (if there are one or more valid opt-in bids) for a selection of lots that includes (in addition to any other lots which are included) all of the lots selected in a valid opt-in bid made by that bidder;
- (d) the total number of lots of each type in the combination is not greater than the number of lots of that type available in the award process;

- (e) the number produced by adding together the number of 2.6 GHz concurrent low power 10 MHz lots in the combination and the number of 2.6 GHz concurrent low power 20 MHz lots in the combination is not greater than ten;
- (f) if any bid in the combination includes a 2.6 GHz concurrent low power 10 MHz lot, the total number of 2.6 GHz paired frequency lots in the combination is not greater than twelve; and
- (g) if any bid in the combination includes a 2.6 GHz concurrent low power 20 MHz lot, the total number of 2.6 GHz paired frequency lots in the combination is not greater than ten.

(5) The order of precedence referred to in paragraph (3) shall be determined by the total number of eligibility points associated with each such valid combination of principal stage bids in accordance with paragraph (7) such that valid combinations of principal stage bids with which a greater total number of eligibility points are associated prevail over valid combinations of principal stage bids with which a lesser total number of eligibility points are associated.

(6) If after the provisions in paragraph (5) have been applied more than one valid combination of principal stage bids of highest ranking in the order of precedence remains, OFCOM shall employ a method of random selection from amongst those remaining valid combinations of principal stage bids of highest ranking in the order of precedence to determine the winning combination of principal stage bids.

(7) The number of eligibility points associated with a valid combination of principal stage bids shall be the number equal to the total of the eligibility points associated with each bid in that valid combination of principal stage bids.

(8) The number of eligibility points associated with a bid shall be the number equal to the total of the eligibility points associated with the lots included in the selection specified in that bid.

(9) The total value of a combination of bids (“TV”) shall be calculated in accordance with the formula—

$$TV = A + L - Y$$

where—

- (a) “A” is the total of the amounts in pounds of the bids in the combination;
- (b) “L” is the number determined in accordance with paragraph (10);
- (c) “Y” is the number determined under paragraph (11).

(10) “L” is the number which is the total of the round prices for the first primary bid round for each—

- (a) 800 MHz paired frequency lot,
- (b) 2.6 GHz paired frequency lot,
- (c) 2.6 GHz individual frequency lot, and
- (d) 800 MHz coverage obligation lot,

that is available in the award process but was not included in the combination.

(11) “Y” is—

- (a) sixty million if the combination includes at least one 2.6 GHz concurrent low power 20 MHz lot;
- (b) thirty million if the combination includes at least one 2.6 concurrent 10 MHz lot and does not include any 2.6 GHz concurrent low power 20 MHz lots; or
- (c) zero, if neither (a) nor (b) apply.

### **Determination of base price for each winning principal stage bid**

**68.** In respect of each winning principal stage bid OFCOM shall determine an amount in accordance with Schedule 7 (“base price”) which shall be payable by the relevant winning bidder.<sup>(5)</sup>

### **Notification of results of principal stage and refund of deposits**

**69.** Following the determination of the winning principal stage bids under regulation 67, and the determination of the base price for each winning principal stage bid under regulation 68, OFCOM shall—

- (a) notify—
  - (i) each winning bidder of—
    - (aa) the selection of lots included in its winning principal stage bid;
    - (bb) the amount of the base price for its winning principal stage bid; and
    - (cc) the further sum (if any) in pounds as a deposit that it is required to pay in accordance with regulation 70 (“final principal stage deposit”); and
  - (ii) all other bidders that they have not made a winning principal stage bid;
- (b) refund to applicants which were not qualified or which withdrew in accordance with regulation 12, and to bidders which were not winning bidders, any sums which they have paid as a deposit under these Regulations (where such deposits have not been forfeited), but not any interest which has accrued on the deposits.

### **Final principal stage deposit**

**70.**—(1) The final principal stage deposit shall be an amount such that the total 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 determined under regulation 68.

(2) The final principal stage deposit must be paid into OFCOM’s bank account by a same day electronic transfer, with accompanying information which identifies the bidder, by a deadline specified by OFCOM.

(3) Where a bidder does not satisfy the requirements set out in paragraph (2) —

- (a) OFCOM shall notify the bidder;
- (b) the bidder shall be excluded from the award process;
- (c) the bidder’s winning principal stage bid shall not be treated as a winning principal stage bid in the assignment stage or the grant stage, and the bidder shall not be assigned any frequencies; and
- (d) the bidder shall not receive a refund of any sums which the bidder has paid as a deposit under these Regulations, which shall (where not already forfeited) be forfeited together with any interest which has accrued on the deposit.

(4) The exclusion of a bidder under paragraph (3) shall not affect the determination of the winning principal stage bids that OFCOM made under regulation 67 or the determination of the base price payable by each winning bidder that OFCOM made under regulation 68.

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<sup>(5)</sup> OFCOM have provided notes on the determination of the licence fees payable by bidders in a document called ‘Notes on determination of licence fees payable by bidders in relation to the award of the 800 MHz and 2.6 GHz spectrum bands: Schedules 7, 8, 9 and 10 to the Wireless Telegraphy (Licence Award) Regulations 2012’ published on 9<sup>th</sup> November 2012.

### **Publication of results of principal stage**

**71.**—(1) After the giving of notice under regulation 69(a), OFCOM shall publish on their internet website—

- (a) the names of the winning bidders;
- (b) in respect of each such winning bidder—
  - (i) the selection of lots included in its winning principal stage bid; and
  - (ii) the base price for its winning principal stage bid;

(2) If any winning bidder is excluded from the award process in accordance with regulation 70(3), OFCOM shall publish the name of that bidder on their internet website.

## **CHAPTER 10**

### **Assignment stage: preliminary**

#### **Assignment stage**

**72.**—(1) Where one of the regulations in Chapter 11 applies, OFCOM shall assign frequencies to the bidder that submitted the relevant winning principal stage bid in accordance with that regulation.

(2) If—

- (a) more than one winning principal stage bid included 800 MHz paired frequency lots and regulation 76 does not apply,
- (b) more than one winning principal stage bid included 2.6 GHz paired frequency lots and none of regulations 80, 81, 82 or 83 apply, or
- (c) more than one winning principal stage bid included 2.6 GHz individual frequency lots,

there shall be one further round of bidding (“assignment stage round”) in accordance with Chapters 12 to 14 to determine which frequencies shall be assigned to each winning bidder that submitted one of those winning principal stage bids.

(3) If a particular type of lot was not included in any winning principal stage bid, there shall be no assignment of the frequencies corresponding to that type of lot and no licence shall be granted for those frequencies.

## **CHAPTER 11**

### **Assignment stage: pre-determined frequency assignments**

#### **Assignment of frequencies in respect of the 800 MHz coverage obligation lot**

**73.** Where the 800 MHz coverage obligation lot was included in a winning principal stage bid, OFCOM shall assign to the bidder that submitted that winning principal stage bid the frequencies corresponding to that lot.

#### **Assignment of numbered 800 MHz paired frequency lots to winner of the 800 MHz coverage obligation lot**

**74.**—(1) This regulation applies where the winning principal stage bid referred to in regulation 73 also included one or more 800 MHz paired frequency lots.

(2) OFCOM shall assign to the bidder that submitted that winning principal stage bid the frequencies corresponding to the block of numbered 800 MHz paired frequency lots that satisfies both of the conditions in paragraph (3).

(3) The conditions are—

- (a) the number of 800 MHz paired frequency lots contained within that block is equal to the number of 800 MHz paired frequency lots selected in the winning principal stage bid; and
- (b) 800 MHz paired frequency lot 4 is contained within that block.

**Assignment of numbered 800 MHz paired frequency lots in the case where 800 MHz paired frequency lots were included in only one winning principal stage bid**

75.—(1) This regulation applies where 800 MHz paired frequency lots were included in only one winning principal stage bid, and that winning principal stage bid did not also include the 800 MHz coverage obligation lot.

(2) OFCOM shall assign to the bidder that submitted that winning principal stage bid the frequencies corresponding to the block of numbered 800 MHz paired frequency lots that satisfies both of the conditions in paragraph (3).

(3) The conditions are that—

- (a) the number of 800 MHz paired frequency lots contained within that block is equal to the number of 800 MHz paired frequency lots selected in that winning principal stage bid; and
- (b) 800 MHz paired frequency lot 4 is contained within that block.

**Assignment of numbered 800 MHz paired frequency lots in the case where 800 MHz paired frequency lots were included in two winning principal stage bids, one of which also included the 800 MHz coverage obligation lot**

76.—(1) This regulation applies where 800 MHz paired frequency lots were included in two winning principal stage bids, one of which also included the 800 MHz coverage obligation lot.

(2) OFCOM shall assign to the bidder that submitted the winning principal stage bid that did not include the 800 MHz coverage obligation lot the frequencies corresponding to the block of numbered 800 MHz paired frequency lots that satisfies all of the conditions in paragraph (3).

(3) The conditions are that—

- (a) the number of 800 MHz paired frequency lots contained within that block is equal to the number of 800 MHz paired frequency lots selected in that winning principal stage bid;
- (b) the numbered 800 MHz paired frequency lots contained within that block are different from the numbered 800 MHz paired frequency lots assigned under regulation 74; and
- (c) the block of numbered 800 MHz paired frequency lots assigned under this regulation and the block of numbered 800 MHz paired frequency lots assigned under regulation 74, taken together, form a single block of numbered 800 MHz paired frequency lots.

**Assignment of numbered 2.6 GHz paired frequency lots in the case where 2.6 GHz paired frequency lots were included in only one winning principal stage bid**

77.—(1) Where 2.6 GHz paired frequency lots were included in only one winning principal stage bid, OFCOM shall assign to the bidder that submitted that winning principal stage bid the frequencies corresponding to the block of numbered 2.6 GHz paired frequency lots that satisfies the conditions in paragraph (2).

(2) The conditions are that—

- (a) the number of 2.6 GHz paired frequency lots contained within that block is equal to the number of 2.6 GHz paired frequency lots selected in that winning principal stage bid; and
- (b) 2.6 GHz paired frequency lot 1 is contained within that block.



**Assignment of 2.6 GHz concurrent low power 10 MHz lots in the case where 2.6 GHz paired frequency lots were included in only one winning principal stage bid**

78.—(1) This regulation applies where—

- (a) numbered 2.6 GHz paired frequency lots have been assigned in accordance with regulation 77; and
- (b) there are one or more winning principal stage bids which included a 2.6 GHz concurrent low power 10 MHz lot.

(2) OFCOM shall assign to each bidder that submitted a winning principal stage bid which included a 2.6 GHz concurrent low power 10 MHz lot the frequencies corresponding to the two sequentially numbered 2.6 GHz paired frequency lots that satisfy the condition in (3).

(3) The condition is that the number of the lower of the two numbered 2.6 GHz paired frequency lots must be one greater than the highest numbered 2.6 GHz paired frequency lot that has been assigned in accordance with regulation 77.

**Assignment of 2.6 GHz concurrent low power 20 MHz lots in the case where 2.6 GHz paired frequency lots were included in only one winning principal stage bid**

79.—(1) This regulation applies where—

- (a) 2.6 GHz paired frequency lots have been assigned in accordance with regulation 77; and
- (b) there are one or more winning principal stage bids which included a 2.6 GHz concurrent low power 20 MHz lot.

(2) OFCOM shall assign to each bidder that submitted a winning principal stage bid which included a 2.6 GHz concurrent low power 20 MHz lot the frequencies corresponding to the four sequentially numbered 2.6 GHz paired frequency lots that satisfy the condition in (3).

(3) The condition is that the number of the lowest of the four numbered 2.6 GHz paired frequency lots must be one greater than the highest numbered 2.6 GHz paired frequency lot that has been assigned in accordance with regulation 77.

**Assignment of numbered 2.6 GHz paired frequency lots and 2.6 GHz concurrent low power 10 MHz lots in the first special case**

80.—(1) This regulation applies where—

- (a) no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot;
- (b) at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot; and
- (c) 2.6 GHz paired frequency lots were included in two winning principal stage bids, with eleven such lots included in one of those winning principal stage bids, and one such lot in the other winning principal stage bid.

(2) OFCOM shall assign—

- (a) to the bidder that submitted the winning principal stage bid that included eleven 2.6 GHz paired frequency lots, the frequencies corresponding to the block of eleven 2.6 GHz paired frequency lots containing 2.6 GHz paired frequency lot 1;
- (b) to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, the frequencies corresponding to 2.6 GHz paired frequency lot 12 and 2.6 GHz paired frequency lot 13; and
- (c) to the bidder that submitted the winning principal stage bid that included one 2.6 GHz paired frequency lot, the frequencies corresponding to 2.6 GHz paired frequency lot 14.



**Assignment of numbered 2.6 GHz paired frequency lots and 2.6 GHz concurrent low power 10 MHz lots in the second special case**

**81.**—(1) This regulation applies where—

- (a) no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot;
- (b) at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot; and
- (c) 2.6 GHz paired frequency lots were included in two winning principal stage bids, with ten such lots included in one of those winning principal stage bids, and one such lot in the other winning principal stage bid.

(2) OFCOM shall assign—

- (a) to the bidder that submitted the winning principal stage bid that included ten 2.6 GHz paired frequency lots, the frequencies corresponding to the block of ten 2.6 GHz paired frequency lots containing 2.6 GHz paired frequency lot 1;
- (b) to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, the frequencies corresponding to 2.6 GHz paired frequency lot 11 and 2.6 GHz paired frequency lot 12; and
- (c) to the bidder that submitted the winning principal stage bid that included one 2.6 GHz paired frequency lot, the frequencies corresponding to 2.6 GHz paired frequency lot 13.

**Assignment of 2.6 GHz paired frequency lots, 2.6 GHz concurrent low power 10 MHz lots and 2.6 GHz concurrent low power 20 MHz lots in the third special case**

**82.**—(1) This regulation applies where—

- (a) at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot; and
- (b) 2.6 GHz paired frequency lots were included in two winning principal stage bids, with nine such lots included in one of those winning principal stage bids, and one such lot in the other winning principal stage bid.

(2) OFCOM shall assign—

- (a) to the bidder that submitted the winning principal stage bid that included nine 2.6 GHz paired frequency lots, the frequencies corresponding to the block of nine 2.6 GHz paired frequency lots containing 2.6 GHz paired frequency lot 1;
- (b) to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 20 MHz lot, the frequencies corresponding to 2.6 GHz paired frequency lot 10, 2.6 GHz paired frequency lot 11, 2.6 GHz paired frequency lot 12 and 2.6 GHz paired frequency lot 13;
- (c) to each bidder (if any) that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, the frequencies corresponding to 2.6 GHz paired frequency lot 10 and 2.6 GHz paired frequency lot 11; and
- (d) to the bidder that submitted the winning principal stage bid that included one 2.6 GHz paired frequency lot, the frequencies corresponding to 2.6 GHz paired frequency lot 14.

**Assignment of 2.6 GHz paired frequency lots, 2.6 GHz concurrent low power 10 MHz lots and 2.6 GHz concurrent low power 20 MHz lots in the fourth special case**

**83.**—(1) This regulation applies where—

- (a) at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot; and

- (b) 2.6 GHz paired frequency lots were included in two winning principal stage bids, with eight such lots included in one of those winning principal stage bids, and one such lot in the other winning principal stage bid.
- (2) OFCOM shall assign—
  - (a) to the bidder that submitted the winning principal stage bid that included eight 2.6 GHz paired frequency lots, the frequencies corresponding to the block of eight 2.6 GHz paired frequency lots containing 2.6 GHz paired frequency lot 1;
  - (b) to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 20 MHz lot, the frequencies corresponding to 2.6 GHz paired frequency lot 9, 2.6 GHz paired frequency lot 10, 2.6 GHz paired frequency lot 11 and 2.6 GHz paired frequency lot 12;
  - (c) to each bidder (if any) that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, the frequencies corresponding to 2.6 GHz paired frequency lot 9 and 2.6 GHz paired frequency lot 10; and
  - (d) to the bidder that submitted the winning principal stage bid that included one 2.6 GHz paired frequency lot, the frequencies corresponding to 2.6 GHz paired frequency lot 13.

**Assignment of 2.6 GHz concurrent low power 10 MHz lots in the case where 2.6 GHz paired frequency lots were included in more than one winning principal stage bid**

- 84.**—(1) This regulation applies where—
- (a) no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot;
  - (b) at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot;
  - (c) more than one winning principal stage bid included 2.6 GHz paired frequency lots; and
  - (d) neither regulation 80 nor regulation 81 apply.
- (2) OFCOM shall assign to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot the frequencies corresponding to a block of two numbered 2.6 GHz paired frequency lots.
- (3) OFCOM shall identify the block of two numbered 2.6 GHz paired frequency lots referred to in paragraph (2) after OFCOM has determined the winning assignment stage bids for numbered 2.6 GHz paired frequency lots in accordance with regulation 104.
- (4) The block of two numbered 2.6 GHz paired frequency lots shall be the block which meets the requirement in paragraph (5).
- (5) The combination of the block of two numbered 2.6 GHz paired frequency lots referred to in paragraph (2), and the blocks of numbered 2.6 GHz paired frequency lots included in winning assignment stage bids for numbered 2.6 GHz paired frequency lots, must form a single block of numbered 2.6 GHz paired frequency lots.

**Assignment of 2.6 GHz concurrent low power 10 MHz lots and 2.6 GHz concurrent low power 20 MHz lots in the case where 2.6 GHz paired frequency lots were included in more than one winning principal stage bid**

- 85.**—(1) This regulation applies where—
- (a) at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot;
  - (b) more than one winning principal stage bid included 2.6 GHz paired frequency lots; and
  - (c) neither regulation 82 nor regulation 83 apply.

(2) OFCOM shall assign to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 20 MHz lot the frequencies corresponding to a block of four numbered 2.6 GHz paired frequency lots.

(3) OFCOM shall identify the block of four numbered 2.6 GHz paired frequency lots referred to in paragraph (2) after OFCOM has determined the winning assignment stage bids for numbered 2.6 GHz paired frequency lots in accordance with regulation 104.

(4) The block of four numbered 2.6 GHz paired frequency lots shall be the block which meets the requirement in paragraph (5).

(5) The combination of the block of four numbered 2.6 GHz paired frequency lots referred to in paragraph (2), and the blocks of numbered 2.6 GHz paired frequency lots included in winning assignment stage bids for numbered 2.6 GHz paired frequency lots, must form a single block of numbered 2.6 GHz paired frequency lots.

(6) If any bidder submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot, OFCOM shall assign to each such bidder the frequencies corresponding to a block of two numbered 2.6 GHz paired frequency lots, being the lowest two numbered 2.6 GHz paired frequency lots included in the block of four numbered 2.6 GHz paired frequency lots referred to in paragraph (2).

**Assignment of 2.6 GHz concurrent low power lots in the case where 2.6 GHz paired frequency lots were not included in any winning principal stage bid**

**86.**—(1) This regulation applies where —

- (a) at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot or a 2.6 GHz concurrent low power 20 MHz lot; and
- (b) 2.6 GHz paired frequency lots were not included in any winning principal stage bid.

(2) OFCOM shall assign to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 10 MHz lot the frequencies corresponding to the following 2.6 GHz paired frequency lots—

- (a) 2.6 GHz paired frequency lot 5; and
- (b) 2.6 GHz paired frequency lot 6.

(3) OFCOM shall assign to each bidder that submitted a winning principal stage bid that included a 2.6 GHz concurrent low power 20 MHz lot the frequencies corresponding to the following 2.6 GHz paired frequency lots—

- (a) 2.6 GHz paired frequency lot 5;
- (b) 2.6 GHz paired frequency lot 6;
- (c) 2.6 GHz paired frequency lot 7; and
- (d) 2.6 GHz paired frequency lot 8.

**Assignment of 2.6 GHz individual frequency lots in the case where 2.6 GHz individual frequency lots were included in only one winning principal stage bid**

**87.**—(1) Where 2.6 GHz individual frequency lots were included in only one winning principal stage bid, OFCOM shall assign to the bidder that submitted that winning principal stage bid the frequencies corresponding to the block of 2.6 GHz individual frequency lots that satisfies both of the conditions in paragraph (2).

(2) The conditions are that—

- (a) the number of 2.6 GHz individual frequency lots contained within that block is equal to the number of 2.6 GHz individual frequency lots selected in that winning principal stage bid; and
- (b) 2.6 GHz individual frequency lot 9 is contained within that block.

## CHAPTER 12

Assignment stage: frequency assignments determined by bidding

### Assignment stage round and assignment stage bids

**88.**—(1) Only the following bidders may bid in the assignment stage round—

- (a) winning bidders that submitted a winning principal stage bid that included one or more 800 MHz paired frequency lots, and have not been assigned frequencies in respect of those lots under Chapter 11;
- (b) winning bidders that submitted a winning principal stage bid that included one or more 2.6 GHz paired frequency lots, and have not been assigned frequencies in respect of those lots under Chapter 11;
- (c) winning bidders that submitted a winning principal stage bid that included one or more 2.6 GHz individual frequency lots, and have not been assigned frequencies in respect of those lots under Chapter 11.

(2) A bid made during the assignment stage round (“assignment stage bid”) shall be a bid for a licence which authorises the use of frequencies corresponding to—

- (a) a block of numbered 800 MHz paired frequency lots;
- (b) a block of numbered 2.6 GHz paired frequency lots; or
- (c) a block of numbered 2.6 GHz individual frequency lots.

(3) OFCOM shall determine which blocks of—

- (a) numbered 800 MHz paired frequency lots,
- (b) numbered 2.6 GHz paired frequency lots, and
- (c) numbered 2.6 GHz individual frequency lots,

each bidder may bid for.

(4) The list of possible blocks of numbered lots provided to each bidder may be different for each bidder.

(5) The list shall be known as the “assignment stage option list” and each block of lots in that list shall be known as an “assignment stage option”.

(6) A bid made during the assignment stage round shall be a bid for—

- (a) a block of numbered 800 MHz paired frequency lots,
- (b) a block of numbered 2.6 GHz paired frequency lots, or
- (c) a block of numbered 2.6 GHz individual frequency lots,

which matches an assignment stage option for that bidder.

### Preparing an assignment stage option list for each bidder

**89.**—(1) OFCOM shall determine which assignment stage options shall be included in the assignment stage option list for each bidder which is eligible to bid.

(2) If the bidder is eligible to bid under regulation 88(1)(a), the bidder's assignment stage options shall include each possible block of numbered 800 MHz paired frequency lots which meets the requirements of regulation 90 in relation to that bidder's winning principal stage bid.

(3) If the bidder is eligible to bid under regulation 88(1)(b), the bidder's assignment stage options shall include each possible block of numbered 2.6 GHz paired frequency lots which meets the requirements of regulation 91 in relation to that bidder's winning principal stage bid.

(4) If the bidder is eligible to bid under regulation 88(1)(c), the bidder's assignment stage options shall include each possible block of numbered 2.6 GHz individual frequency lots which meets the requirements of regulation 92 in relation to that bidder's winning principal stage bid.

### **Assignment stage options for 800 MHz paired frequency lots**

**90.**—(1) Where no winning principal stage bid included the 800 MHz coverage obligation lot, or the winning principal stage bid that included the 800 MHz coverage obligation lot did not also include any 800 MHz paired frequency lots, the assignment stage options for a bidder eligible to bid under regulation 88(1)(a), in respect of the 800 MHz paired frequency lots included in its winning principal stage bid, shall be those blocks of numbered 800 MHz paired frequency lots which satisfy the following conditions—

- (a) the number of 800 MHz paired frequency lots contained in the block is equal to the number of such lots included in the bidder's winning principal stage bid; and
- (b) if that winning bidder were assigned the frequencies corresponding to that block, the following conditions would be satisfied—
  - (i) each other winning bidder that included 800 MHz paired frequency lots in its winning principal stage bid could be assigned frequencies corresponding to a block of numbered 800 MHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in sub-paragraph (a);
  - (ii) no numbered 800 MHz paired frequency lot would be included in more than one of the following blocks of numbered 800 MHz paired frequency lots—
    - (aa) the block that is the assignment stage option under this paragraph; and
    - (bb) the blocks comprising the frequencies to be assigned to other winning bidders that included 800 MHz paired frequency lots in their winning principal stage bids;
  - (iii) those blocks of numbered 800 MHz paired frequency lots would, taken together, form a single block of numbered 800 MHz paired frequency lots; and
  - (iv) 800 MHz paired frequency lot 4 would be included in that single block of numbered 800 MHz paired frequency lots.

(2) Where the winning principal stage bid that included the 800 MHz coverage obligation lot also included at least one 800 MHz paired frequency lot (such that frequencies corresponding to numbered 800 MHz paired frequency lots have been assigned to that bidder under regulation 74), the assignment stage options for a bidder eligible to bid under regulation 88(1)(a), in respect of the 800 MHz paired frequency lots included in its winning principal stage bid, shall be those blocks of numbered 800 MHz paired frequency lots which satisfy the following conditions—

- (a) the number of 800 MHz paired frequency lots contained in the block is equal to the number of 800 MHz paired frequency lots included in the bidder's winning principal stage bid; and
- (b) if that winning bidder were assigned the frequencies corresponding to that block of numbered 800 MHz paired frequency lots, the following conditions would be satisfied—
  - (i) each other winning bidder that included 800 MHz paired frequency lots in its winning principal stage bid could be assigned frequencies corresponding to a block

- of numbered 800 MHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in sub-paragraph (a);
- (ii) no numbered 800 MHz paired frequency lot would be included in more than one of the following blocks of numbered 800 MHz paired frequency lots—
    - (aa) the block that is the assignment stage option under this paragraph;
    - (bb) the blocks comprising the frequencies to be assigned to other winning bidders that included 800 MHz paired frequency lots in their winning principal stage bids;
    - (cc) the block comprising the frequencies assigned under regulation 74; and
  - (iii) the blocks of numbered 800 MHz paired frequency lots referred to in sub-paragraph (ii) would, taken together, form a single block of numbered 800 MHz paired frequency lots.

#### **Assignment stage options for 2.6 GHz paired frequency lots**

**91.—**(1) Where no winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot or a 2.6 GHz concurrent low power 20 MHz lot, the assignment stage options for a bidder eligible to bid under regulation 88(1)(b), in respect of the 2.6 GHz paired frequency lots included in its winning principal stage bid, shall be those blocks of numbered 2.6 GHz paired frequency lots which satisfy the following conditions—

- (a) the number of 2.6 GHz paired frequency lots contained in the block is equal to the number of such lots included in the bidder's winning principal stage bid; and
- (b) if that winning bidder were assigned the frequencies corresponding to that block the following conditions would be satisfied—
  - (i) each other winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid could be assigned frequencies corresponding to a block of numbered 2.6 GHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in sub-paragraph (a);
  - (ii) no numbered 2.6 GHz paired frequency lot would be included in more than one of the following blocks of numbered 2.6 GHz paired frequency blocks—
    - (aa) the block that is the assignment stage option under this paragraph; and
    - (bb) the blocks comprising the frequencies to be assigned to other winning bidders that included 2.6 GHz paired frequency lots in their winning principal stage bids;
  - (iii) the blocks of numbered 2.6 GHz paired frequency lots referred to in sub-paragraph (ii) would, taken together, form a single block of numbered 2.6 GHz paired frequency lots; and
  - (iv) 2.6 GHz paired frequency lot 1 would be included in that single block of numbered 2.6 GHz paired frequency lots.

(2) Where no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot, but one or more winning principal stage bids included a 2.6 GHz concurrent low power 10 MHz lot, the assignment stage options for a bidder eligible to bid under regulation 88(1)(b), in respect of the 2.6 GHz paired frequency lots included in its winning principal stage bid, shall be those blocks of numbered 2.6 GHz paired frequency lots which satisfy the following conditions—

- (a) the number of 2.6 GHz paired frequency lots contained in the block is equal to the number of 2.6 GHz paired frequency lots included in the bidder's winning principal stage bid; and
- (b) if that winning bidder were assigned the frequencies corresponding to that block of 2.6 GHz paired frequency lots, the following conditions would be satisfied—

- (i) each other winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid could be assigned frequencies corresponding to a block of numbered 2.6 GHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in sub-paragraph (a);
  - (ii) the winning bidders that included a 2.6 GHz concurrent low power 10 MHz lot in their winning principal stage bids could, collectively, be assigned frequencies corresponding to a single block of two numbered 2.6 GHz paired frequency lots that does not include any of the following lots—
    - (aa) 2.6 GHz paired frequency lot 1
    - (bb) 2.6 GHz paired frequency lot 2;
    - (cc) 2.6 GHz paired frequency lot 13;
    - (dd) 2.6 GHz paired frequency lot 14;
  - (iii) no numbered 2.6 GHz paired frequency lot would be included in more than one of the following blocks of numbered 2.6 GHz paired frequency lots—
    - (aa) the block that is the assignment stage option under this paragraph;
    - (bb) the blocks comprising the frequencies to be assigned to other winning bidders that included 2.6 GHz paired frequency lots in their winning principal stage bids; and
    - (cc) the block comprising the frequencies to be assigned to winning bidders that included a 2.6 GHz concurrent low power 10 MHz lot in their winning principal stage bids;
  - (iv) the blocks of numbered 2.6 GHz paired frequency lots referred to in sub-paragraph (iii) would, taken together, form a single block of numbered 2.6 GHz paired frequency lots; and
  - (v) 2.6 GHz paired frequency lot 1 would be included in that single block of numbered 2.6 GHz paired frequency lots.
- (3) Where one or more winning principal stage bids included a 2.6 GHz concurrent low power 20 MHz lot, the assignment stage options for a bidder eligible to bid under regulation 88(1)(b), in respect of the 2.6 GHz paired frequency lots included in its winning principal stage bid, shall be those blocks of numbered 2.6 GHz paired frequency lots which satisfy the following conditions—
- (a) the number of 2.6 GHz paired frequency lots contained in the block is equal to the number of 2.6 GHz paired frequency lots included in the bidder's winning principal stage bid; and
  - (b) if that winning bidder were assigned the frequencies corresponding to that block of numbered 2.6 GHz paired frequency lots, the following conditions would be satisfied—
    - (i) each other winning bidder that included 2.6 GHz paired frequency lots in its winning principal stage bid could be assigned frequencies corresponding to a block of numbered 2.6 GHz paired frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in sub-paragraph (a);
    - (ii) the winning bidders that included a 2.6 GHz concurrent low power 20 MHz lot in their winning principal stage bids could, collectively, be assigned the frequencies corresponding to a single block of four numbered 2.6 GHz paired frequency lots that does not include any of the following lots—
      - (aa) 2.6 GHz paired frequency lot 1
      - (bb) 2.6 GHz paired frequency lot 2;
      - (cc) 2.6 GHz paired frequency lot 13;
      - (dd) 2.6 GHz paired frequency lot 14;



- (iii) no numbered 2.6 GHz paired frequency lots would be included in more than one of the following blocks of numbered 2.6 GHz paired frequency lots—
  - (aa) the block that is the assignment stage option under this paragraph;
  - (bb) the blocks comprising the frequencies to be assigned to other winning bidders that included 2.6 GHz paired frequency lots in their winning principal stage bids; and
  - (cc) the block comprising the frequencies to be assigned to winning bidders that included a 2.6 GHz concurrent low power 10 MHz lot in their winning principal stage bids;
- (iv) the blocks of numbered 2.6 GHz paired frequency lots referred to in sub-paragraph (iii) would, taken together, form a single block of numbered 2.6 GHz paired frequency lots; and
- (v) 2.6 GHz paired frequency lot 1 would be included in that single block of numbered 2.6 GHz paired frequency lots.

#### **Assignment stage options for 2.6 GHz individual frequency lots**

**92.** The assignment stage options for a bidder eligible to bid under regulation 88(1)(c), in respect of the 2.6 GHz individual frequency lots included in its winning principal stage bid, shall be those blocks of numbered 2.6 GHz individual frequency lots which satisfy the following conditions—

- (a) the number of 2.6 GHz individual frequency lots contained in the block is equal to the number of such lots included in the bidder's winning principal stage bid; and
- (b) if that bidder were assigned the frequencies corresponding to that block the following conditions would be satisfied—
  - (i) each other winning bidder that included 2.6 GHz individual frequency lots in its winning principal stage bid could be assigned frequencies corresponding to a block of numbered 2.6 GHz individual frequency lots that, in respect of that bidder's winning principal stage bid, satisfies the condition in sub-paragraph (a);
  - (ii) no numbered 2.6 GHz individual frequency lot would be included in more than one of the following blocks of numbered 2.6 GHz individual frequency lots—
    - (aa) the block that is the assignment stage option; and
    - (bb) the blocks comprising the frequencies to be assigned to other winning bidders that included 2.6 GHz individual frequency lots in their winning principal stage bids;
  - (iii) those blocks of numbered 2.6 GHz individual frequency lots would, taken together, form a single block of numbered 2.6 GHz individual frequency lots; and
  - (iv) 2.6 GHz individual frequency lot 9 would be included in that single block of numbered 2.6 GHz individual frequency lots.

### **CHAPTER 13**

#### **Assignment stage: procedure for assignment stage round**

#### **Assignment stage bids**

**93.—**(1) In order to make an assignment stage bid for an assignment stage option, a bidder must, on a form provided to the bidder by OFCOM ("assignment stage bid form"), specify an amount in whole pounds that it is willing to pay, in addition to the base price for that bidder's winning principal



stage bid determined under regulation 68, for a licence that authorises the use of the frequencies corresponding to—

- (a) the block of numbered 800 MHz paired frequency lots,
- (b) the block of numbered 2.6 GHz paired frequency lots, or
- (c) the block of numbered 2.6 GHz individual frequency lots,

that is the assignment stage option.

- (2) A bidder may submit no more than one assignment stage bid for each assignment stage option.
- (3) A bidder is not required to submit an assignment stage bid.
- (4) A bidder must submit all of its assignment stage bids on the same assignment stage bid form.

### Assignment stage bid deposit

**94.**—(1) Each bidder that makes an assignment stage bid must, by a deadline specified by OFCOM (which shall be after the end of the assignment stage round), pay into OFCOM's bank account by a same day electronic transfer, with accompanying information which identifies the bidder, a further sum in pounds as a deposit so that the total amount the bidder has on deposit is an amount that is not less than the amount (“*d*”) calculated in accordance with the formula set out in paragraph (2).

(2) The formula is—

$$d = b + a_1 + a_2 + a_3$$

where—

- (a) “*b*” is the amount of the base price of the bidder's winning principal stage bid (determined in accordance with regulation 68);
- (b) “*a*<sub>1</sub>” is the amount of the highest assignment stage bid made by the bidder for an assignment stage option in relation to numbered 800 MHz paired frequency lots;
- (c) “*a*<sub>2</sub>” is the amount of the highest assignment stage bid made by the bidder for an assignment stage option in relation to numbered 2.6 GHz paired frequency lots;
- (d) “*a*<sub>3</sub>” is the amount of the highest assignment stage bid made by the bidder for an assignment stage option in relation to numbered 2.6 GHz individual frequency lots.

### Valid assignment stage bids

**95.**—(1) An assignment stage bid is a valid assignment stage bid if—

- (a) the bidder complies with regulations 88(6), 93 and 97 in respect of that assignment stage bid; and
- (b) the bidder has paid the full sum required under regulation 94(1) by the deadline.

### Notice to bidders before the assignment stage round

**96.** Before the start of the assignment stage round, OFCOM shall notify each bidder that may make an assignment stage bid in the assignment stage round of—

- (a) the assignment stage options that are available to that bidder as determined in accordance with regulation 89;
- (b) the date on which, and the times on that date within which, the assignment stage round will take place.

### **Submission of assignment stage bid form to OFCOM**

**97.**—(1) A bidder must submit the completed assignment stage bid form to OFCOM by using the electronic auction system, except as provided for in regulation 98.

(2) The completed assignment stage bid form must be received by OFCOM by the time notified to bidders under regulation 96(b) as the end of the assignment stage round, except as provided for in regulation 99.

### **Alternative method for submission of assignment stage bid form**

**98.**—(1) Where OFCOM are satisfied that a bidder is unable to submit an assignment stage bid form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder's ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the assignment stage bid form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the assignment stage bid form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

### **Extension to assignment stage round**

**99.**—(1) Where—

- (a) OFCOM have not received a completed assignment stage bid form from a bidder by the time notified to bidders under regulation 96(b) as the end of the assignment stage round, and
- (b) paragraph (2) applies,

the time by which the bidder's completed assignment stage bid form must be received by OFCOM shall be the time sixty minutes after the time notified to bidders under regulation 96(b) as the end of the assignment stage round.

(2) This paragraph applies where OFCOM are satisfied that circumstances existed which were beyond the bidder's control which had the effect that the bidder could not submit its assignment stage bid form so that it was received by OFCOM on time.

### **Incomplete or defective assignment stage bid form**

**100.**—(1) Where, due to the manner of completion, an assignment stage bid form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of assignment stage bids, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of assignment stage bids.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons that OFCOM have correctly ascertained the bidder's intention, the assignment stage bid form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation—

- (a) where the incompleteness or defect relates to one or more of the assignment stage bids made on the assignment stage bid form, that assignment stage bid or those assignment stage bids (as the case may be) shall not be valid, and regulation 102 shall apply;
- (b) in all other cases, the assignment stage bid form in its entirety shall be rejected by OFCOM and none of the assignment stage bids made on that assignment stage bid form shall be valid, and regulation 102 shall apply.

### **Notification that assignment stage bid is not valid**

**101.** Where a bidder submits an assignment stage bid that is not a valid assignment stage bid, OFCOM shall, after the end of the assignment stage round, notify the bidder of that fact and shall give the reasons why the bid is not a valid assignment stage bid.

### **Procedure where there is no valid assignment stage bid**

**102.** If a bidder does not make a valid assignment stage bid for an assignment stage option, the bidder shall be deemed to have made a valid assignment stage bid of zero pounds for that option.

## **CHAPTER 14**

Assignment stage: determination of winning assignment stage bids and additional prices

### **Determination of the winning assignment stage bids for numbered 800 MHz paired frequency lots**

**103.**—(1) The winning assignment stage bids for numbered 800 MHz paired frequency lots shall be those valid assignment stage bids that comprise the winning combination of assignment stage bids for numbered 800 MHz paired frequency lots.

(2) The winning combination of assignment stage bids for numbered 800 MHz paired frequency lots shall be the valid combination of assignment stage bids for numbered 800 MHz paired frequency lots having the highest total value of amounts bid.

(3) A combination of valid assignment stage bids is a valid combination of assignment stage bids for numbered 800 MHz paired frequency lots if—

- (a) within that combination there is one valid assignment stage bid from each winning bidder eligible to bid under regulation 88(1)(a);
- (b) each of those valid assignment stage bids is for a block of numbered 800 MHz paired frequency lots;
- (c) no numbered 800 MHz paired frequency lot is included in more than one of those blocks;
- (d) the blocks of numbered 800 MHz paired frequency lots included in those valid assignment stage bids and the numbered 800 MHz paired frequency lots comprising the frequencies assigned under regulation 74 (if any have been so assigned), taken together, form a single block of numbered 800 MHz paired frequency lots; and
- (e) that single block of numbered 800 MHz paired frequency lots includes 800 MHz paired frequency lot 4.

(4) Where there is more than one valid combination of assignment stage bids for numbered 800 MHz paired frequency lots for which the total value is equal highest, OFCOM shall employ a method of random selection from amongst those valid combinations of assignment stage bids to determine the winning combination of assignment stage bids for numbered 800 MHz paired frequency lots.

### **Determination of the winning assignment stage bids for numbered 2.6 GHz paired frequency lots**

**104.**—(1) The winning assignment stage bids for numbered 2.6 GHz paired frequency lots shall be those valid assignment stage bids that comprise the winning combination of assignment stage bids for numbered 2.6 GHz paired frequency lots.

(2) The winning combination of assignment stage bids for numbered 2.6 GHz paired frequency lots shall be the valid combination of assignment stage bids for numbered 2.6 GHz paired frequency lots having the highest total value of amounts bid.

(3) A combination of valid assignment stage bids is a valid combination of assignment stage bids for numbered 2.6 GHz paired frequency lots if—

- (a) the conditions in paragraph (4) are satisfied in relation to that combination; and
- (b) the additional conditions in paragraph (5), the additional conditions in paragraph (6) or the additional conditions in paragraph (7) are satisfied in relation to that combination.

(4) The conditions are that—

- (a) within the combination there is one valid assignment stage bid from each winning bidder eligible to bid under regulation 88(1)(b);
- (b) each of those valid assignment stage bids is for a block of numbered 2.6 GHz paired frequency lots; and
- (c) no numbered 2.6 GHz paired frequency lot is included in more than one of those blocks.

(5) Where no winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot and at least one winning principal stage bid included a 2.6 GHz concurrent low power 10 MHz lot, the additional conditions are that—

- (a) the winning bidders that included a 2.6 GHz concurrent low power 10 MHz lot in their winning principal stage bids could, collectively, be assigned frequencies corresponding to a single block of numbered 2.6 GHz paired frequency lots meeting the requirements of regulation 91(2)(b)(ii) that does not include any of the numbered 2.6 GHz paired frequency lots that are within the blocks included in the valid assignment stage bids in the combination;
- (b) the blocks of numbered 2.6 GHz paired frequency lots included in the valid assignment stage bids in the combination and the block of numbered 2.6 GHz paired frequency lots meeting the requirements of (a), taken together, form a single block of numbered 2.6 GHz paired frequency lots; and
- (c) that single block of numbered 2.6 GHz paired frequency lots includes 2.6 GHz paired frequency lot 1.

(6) Where at least one winning principal stage bid included a 2.6 GHz concurrent low power 20 MHz lot, the additional conditions are that—

- (a) the winning bidders that included a 2.6 GHz concurrent low power 20 MHz lot in their winning principal stage bids could, collectively, be assigned frequencies corresponding to a single block of numbered 2.6 GHz paired frequency lots meeting the requirements of regulation 91(3)(b)(ii) that does not include any of the numbered 2.6 GHz paired frequency lots that are within the blocks included in the valid assignment stage bids in the combination;
- (b) the blocks of numbered 2.6 GHz paired frequency lots included in valid assignment stage bids in the combination and the block of numbered 2.6 GHz paired frequency lots meeting the requirements of (a), taken together, form a single block of numbered 2.6 GHz paired frequency lots; and
- (c) that single block of numbered 2.6 GHz paired frequency lots includes 2.6 GHz paired frequency lot 1.

(7) Where neither paragraph (5) nor paragraph (6) applies, the additional conditions are that—

- (a) the blocks of numbered 2.6 GHz paired frequency lots included in the valid assignment stage bids in the combination, taken together, form a single block of numbered 2.6 GHz paired frequency lots; and
- (b) that single block of numbered 2.6 GHz paired frequency lots includes 2.6 GHz paired frequency lot 1.

(8) Where there is more than one valid combination of assignment stage bids for numbered 2.6 GHz paired frequency lots for which the total value is equal highest, OFCOM shall employ a method of random selection from amongst those valid combinations of assignment stage bids to determine the winning combination of assignment stage bids for numbered 2.6 GHz paired frequency lots.

#### **Determination of the winning assignment stage bids for numbered 2.6 GHz individual frequency lots**

**105.**—(1) The winning assignment stage bids for numbered 2.6 GHz individual frequency lots shall be those valid assignment stage bids that comprise the winning combination of assignment stage bids for numbered 2.6 GHz individual frequency lots.

(2) The winning combination of assignment stage bids for numbered 2.6 GHz individual frequency lots shall be the valid combination of assignment stage bids for numbered 2.6 GHz individual frequency lots having the highest total value of amounts bid.

(3) A combination of valid assignment stage bids is a valid combination of assignment stage bids for numbered 2.6 GHz individual frequency lots if—

- (a) within that combination there is one valid assignment stage bid from each winning bidder eligible to bid under regulation 88(1)(c);
- (b) each of those valid assignment stage bids is for a block of numbered 2.6 GHz individual frequency lots;
- (c) no numbered 2.6 GHz individual frequency lot is included in more than one of those blocks;
- (d) the blocks of numbered 2.6 GHz individual frequency lots included in those valid assignment stage bids, taken together, form a single block of numbered 2.6 GHz individual frequency lots; and
- (e) that single block of numbered 2.6 GHz individual frequency lots includes 2.6 GHz individual frequency lot 9.

(4) Where there is more than one valid combination of assignment stage bids for numbered 2.6 GHz individual frequency lots for which the total value is equal highest, OFCOM shall employ a method of random selection from amongst those valid combinations of assignment stage bids to determine the winning combination of assignment stage bids for numbered 2.6 GHz individual frequency lots.

#### **Determination of additional prices for winning assignment stage bids**

**106.**—(1) In respect of each winning assignment stage bid, OFCOM shall determine an amount in whole pounds (“additional price”) which shall be payable by the relevant winning bidder.

(2) The additional price for each winning assignment stage bid for numbered 800 MHz paired frequency lots shall be determined in accordance with Schedule 8.

(3) The additional price for each winning assignment stage bid for numbered 2.6 GHz paired frequency lots shall be determined in accordance with Schedule 9.

(4) The additional price for each winning assignment stage bid for numbered 2.6 GHz individual frequency lots shall be determined in accordance with Schedule 10.

#### **Notification of results of assignment stage**

**107.** Following the determination of the winning assignment stage bids, and the determination of the additional price for each winning assignment stage bid, OFCOM shall notify each winning bidder of—

- (a) the assignment stage options for which the bidder made winning assignment stage bids;
- (b) the additional price for each winning assignment stage bid made by the bidder.

## CHAPTER 15

### Grant Stage

#### Determination of the licence fee

**108.** The licence fee payable by a winning bidder shall be an amount equal to the total of—

- (a) the base price determined by OFCOM under regulation 68; and
- (b) the additional price for each winning assignment stage bid made by the bidder determined by OFCOM under regulation 106.

#### Procedure where the amount of a winning bidder's deposit is less than the licence fee

**109.**—(1) Where, after completion of the assignment stage, the total amount a winning bidder has on deposit at that time is an amount that is less than the amount of the winning bidder's licence fee calculated in accordance with regulation 108, the bidder must by a deadline specified by OFCOM pay into OFCOM's bank account by a same day electronic transfer, with accompanying information which identifies the bidder, a sum in pounds calculated in accordance with paragraph (2).

(2) The sum which the bidder must pay to OFCOM shall be the difference between the amount of the winning bidder's licence fee calculated in accordance with regulation 108 and the amount the bidder has on deposit.

(3) Where a bidder has paid such sum by the deadline, OFCOM shall grant the bidder a licence authorising the use of—

- (a) the frequencies that were assigned to the bidder under Chapter 11 of this Part; and
- (b) the frequencies corresponding to the assignment stage options for which the bidder made winning assignment stage bids.

(4) Where a bidder has not paid such sum by the deadline, the bidder shall not be entitled to the grant of a licence under these Regulations and shall not receive a refund of any sum which the bidder has paid as a deposit under the Regulations which shall (where not already forfeited) be forfeited, together with any interest which has accrued on the deposit.

#### Procedure where the amount of a winning bidder's deposit is greater than or equal to the licence fee

**110.**—(1) Where, after completion of the assignment stage, the total amount a winning bidder has on deposit at that time is an amount that is greater than or equal to the amount of the winning bidder's licence fee calculated in accordance with regulation 108, OFCOM shall—

- (a) grant the winning bidder a licence authorising the use of—
  - (i) the frequencies that were assigned to the bidder under Chapter 11 of this Part; and
  - (ii) the frequencies corresponding to the assignment stage options for which the bidder made winning assignment stage bids; and
- (b) refund to the winning bidder a sum in pounds calculated in accordance with paragraph (2).

(2) The sum which OFCOM shall refund to a winning bidder shall be the difference (if any) between the amount the winning bidder has on deposit and the amount of the winning bidder's licence fee calculated in accordance with regulation 108.

### **Completion of the award process**

**111.** After the grant of licences, OFCOM shall complete the award process by publishing on their internet website—

- (a) details of all valid principal stage bids and all valid assignment stage bids made by each bidder;
- (b) the names of the persons to whom licences were granted, and—
  - (i) details of the frequencies in respect of which the licences were granted; and
  - (ii) details of the licence fees paid;
- (c) the names of any persons who did not meet the requirements of regulation 109(1) including—
  - (i) details of the frequencies in respect of which licences would have been granted; and
  - (ii) details of the licence fees which would have been payable for those licences had they been granted.

## **PART 5**

### **ACTIVITY RULES**

#### **Forfeit of deposit and exclusion from award process**

**112.** If, in relation to an applicant which is qualified to bid or a bidder, OFCOM are satisfied that any of the events set out in regulation 114 are occurring (or have occurred) and that the occurrence would materially affect the outcome of the award process—

- (a) any sum paid as a deposit under these Regulations shall be forfeited (together with any interest which has accrued on the deposit) by, and not refunded to, the applicant or bidder concerned; and
- (b) that applicant or bidder may also be excluded from the award process by OFCOM giving that applicant or bidder notice in writing.

#### **Bids made by an excluded bidder**

**113.—(1)** Where a bidder is excluded from the award process under regulation 112 during the principal stage, all of the principal stage bids submitted by the bidder shall be deemed to be invalid and shall not be taken into consideration for the purposes of determining—

- (a) the winning principal stage bids under regulation 67;
- (b) the base price payable by a winning bidder under regulation 68.

**(2)** Where a bidder is excluded from the award process under regulation 112 during the assignment stage, all of the assignment stage bids submitted by the bidder (including any bids which the bidder is deemed to have submitted under regulation 102) shall be deemed to be invalid and shall not be taken into consideration for the purposes of determining—

- (a) the winning assignment stage bids under regulation 103, 104 or 105;
- (b) the additional price payable by a winning bidder under regulation 106.

#### **Events**

**114.—(1)** The events referred to in regulation 112, are the events in paragraph (2) and the events in paragraph (3).



- (2) Events in relation to an applicant or a bidder are—
- (a) the submission to OFCOM of any information in connection with the award process which is false or misleading;
  - (b) any member of that applicant's or bidder's bidder group colluding or attempting to collude with another person to distort the outcome of the award process;
  - (c) any member of that applicant's or bidder's bidder group acting in a way which is likely to distort the outcome of the award process;
  - (d) any member of that applicant's or bidder's bidder group, or any person to whom confidential information has been disclosed, disclosing, or attempting to disclose, or inciting another person to disclose, any confidential information, whether directly or indirectly, to any person, except where the disclosure is—
    - (i) to OFCOM;
    - (ii) to a member of that applicant's or bidder's bidder group;
    - (iii) to a provider of finance for the purpose of raising finance for a bid; or
    - (iv) to a person for the purpose of enabling that person to decide whether to participate as a member of the applicant's or bidder's bidder group;
  - (e) any member of that applicant's or bidder's bidder group obtaining or attempting to obtain confidential information relating to another applicant or bidder;
  - (f) any member of that applicant's or bidder's bidder group receiving or attempting to receive services in relation to the award process from any person who has provided or is providing services to OFCOM in relation to the award process;
  - (g) any person who is a member or a director or employee of a member of that applicant's or bidder's bidder group and also a director or employee of a member of another bidder group is—
    - (i) taking part in the preparation of both bidder groups for participation in the award process; or
    - (ii) receiving confidential information relating to both bidder groups;
  - (h) a member of that applicant's or bidder's bidder group is or becomes a member of another applicant's or bidder's bidder group; and
  - (i) a change occurring in the membership of that applicant's or bidder's bidder group from that notified to OFCOM in its application except as a result of—
    - (i) a person ceasing to be a member of that bidder group;
    - (ii) a person joining that bidder group under the procedure in regulation 7(3); or
    - (iii) a person becoming an associate through merger or acquisition activity provided that such activity is not for a purpose related to the award process.
- (3) The events in relation to a bidder (but not an applicant) are—
- (a) a change, after OFCOM has recorded that bidder's spectrum holdings under regulation 16, to the existing spectrum holdings of a bidder or, in relation to the bidder, any person referred to in regulation 4(3)(a)(iii) except insofar as the change is a divestment of a part of or the whole of the existing spectrum holdings; and
  - (b) any person which has existing spectrum holdings which was not at the time OFCOM recorded the bidder's spectrum holdings under regulation 16 a person referred to in regulation 4(3)(a)(iii) becoming such a person during the award process.

## PART 6

### MISCELLANEOUS

#### General power of exclusion

**115.** OFCOM may, at any time, notify any applicant or bidder of its exclusion from the award process, if required to do so by any direction given by the Secretary of State to OFCOM under section 5 of the Communications Act 2003(6) or if, after OFCOM's determination under regulation 9(1) (and notwithstanding that determination), in their opinion the applicant or bidder is not a fit and proper person to hold a licence.

#### Notification to OFCOM

**116.** If, in accordance with any provision of these Regulations, an applicant or bidder is required, or wishes, to notify OFCOM of any fact or circumstance, it must do so by notice in writing which is marked for the attention of the OFCOM personnel who are specified by OFCOM for that purpose on OFCOM's internet website and must deliver that notice to OFCOM—

- (a) by electronic mail to an electronic mail address dedicated to the award process which is published by OFCOM on their internet website;
- (b) by personal delivery to Riverside House, 2a Southwark Bridge Road, London, SE1 9HA; or
- (c) by fax to a number dedicated to the award process which is published by OFCOM on their internet website.

#### Changes to timing or location

**117.—**(1) Subject to regulations 118 and 119, paragraph (2) applies where OFCOM determine that it is impracticable for any reason—

- (a) for any document which is to be delivered to OFCOM under these Regulations to be delivered at the place specified or by the deadline specified under these Regulations; or
- (b) for any action which is required to be undertaken in accordance with these Regulations to be completed by the deadline specified.

(2) Where this paragraph applies, OFCOM shall take reasonable steps to notify applicants or bidders that—

- (a) delivery must be made on a different day or within different times on that day or at a different place;
- (b) the action must be completed on a different day or by a different deadline.

#### Changes to round times and use of electronic auction system

**118.—**(1) Where a time for the start of a round has been notified to bidders and OFCOM determine that it is impracticable for any reason to start the round at that time, OFCOM shall take reasonable steps to notify bidders of a revised time for the start of the round.

(2) Where a time for the end of a round has been notified to bidders and OFCOM determine that it is impracticable for any reason for the round to end at that time, OFCOM shall take reasonable steps to notify bidders of a revised time for the end of the round.

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(6) 2003 c.21.

(3) Where OFCOM determine that it is impracticable for any reason to use the electronic auction system for any of the purposes specified in Part 4 of these Regulations, OFCOM shall take reasonable steps to notify bidders of an alternative method of participating in the award process and any requirements relating to the authentication of communications made by means of the alternative method.

(4) Bidders must use the alternative method of participating in the award process in accordance with a notification under paragraph (3).

### **Rerunning rounds**

**119.**—(1) Paragraph (2) applies where a round is in progress and OFCOM 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).

(2) Where this paragraph applies, OFCOM shall—

- (a) take reasonable steps to notify bidders of its determination under paragraph (1);
- (b) disregard the bids made in that round; and
- (c) resume the award process from the end of the previous round (or, if there was no previous round, from the start of the opt-in round).

(3) Paragraph (4) applies where OFCOM determine that it is not possible to continue the award process in accordance with the provisions of Part 4 of these Regulations because of technical failure (or an event or circumstance with similar effect on the continuation of the award process).

(4) Where this paragraph applies, OFCOM shall—

- (a) determine the rounds for which bids made in those rounds should be disregarded in order to have a fair and efficient outcome to the award process;
- (b) take reasonable steps to notify bidders of its determinations under paragraph (3) and sub-paragraph (a); and
- (c) resume the award process from the end of the latest round for which bids are not disregarded under sub-paragraph (a), or, where all bids are to be disregarded under that sub-paragraph, to rerun the award process from the start of the opt-in round.

### **Refunds**

**120.** OFCOM may, in such cases as they think fit, refund, in whole or in part, sums which have been paid to them in accordance with any provision of these Regulations.

### **Deposits**

**121.** In determining under these Regulations the amount that an applicant or bidder has on deposit OFCOM shall disregard any sum forfeited under these Regulations and any interest which may have accrued on any deposit.

*Ed Richards*  
Chief Executive of the Office of  
Communications  
For and by the authority of the Office of  
Communications

9th November 2012

## SCHEDULE 1

Regulation 2(3) and (4)

## FREQUENCY LOTS

In these Regulations—

- (a) “800 MHz paired frequency lot” means any one of the four numbered 800 MHz paired frequency lots listed in Column (1) of Table 1 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (b) “2.6 GHz paired frequency lot” means any one of the fourteen numbered 2.6 GHz paired frequency lots listed in Column (1) of Table 2 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (c) “2.6 GHz individual frequency lot” means any one of the nine numbered 2.6 GHz individual frequency lots listed in Column (1) of Table 3 comprising the frequencies listed in the corresponding entry in Column (2) of the same table;
- (d) “800 MHz coverage obligation lot” means the frequencies 811-821 MHz and 852-862 MHz;
- (e) “2.6 GHz concurrent low power 10 MHz lot” means the frequencies corresponding to any two sequentially numbered 2.6 GHz paired frequency lots, available in this award process for low power use by up to ten licensees concurrently;
- (f) “2.6 GHz concurrent low power 20 MHz lot” means the frequencies corresponding to any four sequentially numbered 2.6 GHz paired frequency lots, available in this award process for low power use by up to ten licensees concurrently;
- (g) “lot” means any lot which falls within one of the different types of lots in paragraphs (a) to (f);
- (h) a reference to “type of lot” shall be construed as a reference to any one of the different types of lot in paragraphs (a) to (f);
- (i) a reference to a numbered 800 MHz paired frequency lot, a numbered 2.6 GHz paired frequency lot or a numbered 2.6 GHz individual frequency lot means the lot with that number in Column 1 of Table 1, Table 2 or Table 3 (as the case may be); and
- (j) a reference to a “block” of numbered 800 MHz paired frequency lots, numbered 2.6 GHz paired frequency lots or numbered 2.6 GHz individual frequency lots is to be construed as a reference to a block of sequentially numbered lots.

**Table 1**

<i>Column (1)</i>	<i>Column (2)</i>
<i>800 MHz paired frequency lots</i>	<i>Frequencies (MHz)</i>
800 MHz paired frequency lot 1	791-796 and 832-837
800 MHz paired frequency lot 2	796-801 and 837-842
800 MHz paired frequency lot 3	801-806 and 842-847
800 MHz paired frequency lot 4	806-811 and 847-852

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**Table 2**

<i>Column (1)</i>	<i>Column (2)</i>
<i>2.6 GHz paired frequency lots</i>	<i>Frequencies (MHz)</i>
2.6 GHz paired frequency lot 1	2500-2505 and 2620-2625
2.6 GHz paired frequency lot 2	2505-2510 and 2625-2630
2.6 GHz paired frequency lot 3	2510-2515 and 2630-2635
2.6 GHz paired frequency lot 4	2515-2520 and 2635-2640
2.6 GHz paired frequency lot 5	2520-2525 and 2640-2645
2.6 GHz paired frequency lot 6	2525-2530 and 2645-2650
2.6 GHz paired frequency lot 7	2530-2535 and 2650-2655
2.6 GHz paired frequency lot 8	2535-2540 and 2655-2660
2.6 GHz paired frequency lot 9	2540-2545 and 2660-2665
2.6 GHz paired frequency lot 10	2545-2550 and 2665-2670
2.6 GHz paired frequency lot 11	2550-2555 and 2670-2675
2.6 GHz paired frequency lot 12	2555-2560 and 2675-2680
2.6 GHz paired frequency lot 13	2560-2565 and 2680-2685
2.6 GHz paired frequency lot 14	2565-2570 and 2685-2690

**Table 3**

<i>Column (1)</i>	<i>Column (2)</i>
<i>2.6 GHz individual frequency lots</i>	<i>Frequencies (MHz)</i>
2.6 GHz individual frequency lot 1	2570-2575
2.6 GHz individual frequency lot 2	2575-2580
2.6 GHz individual frequency lot 3	2580-2585
2.6 GHz individual frequency lot 4	2585-2590
2.6 GHz individual frequency lot 5	2590-2595
2.6 GHz individual frequency lot 6	2595-2600
2.6 GHz individual frequency lot 7	2600-2605
2.6 GHz individual frequency lot 8	2605-2610
2.6 GHz individual frequency lot 9	2610-2620

## SCHEDULE 2

Regulation 19

## OPT-IN SELECTIONS AND PRICES

## LIST A

## First opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for first opt-in selection</b></i>
Three 800 MHz paired frequency lots	Six hundred and seventy five million pounds (£675,000,000)

## Second opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for second opt-in selection</b></i>
Two 800 MHz paired frequency lots; and	Four hundred and eighty million pounds (£480,000,000)
Two 2.6 GHz paired frequency lots	

## LIST B

## First opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for first opt-in selection</b></i>
Three 800 MHz paired frequency lots	Six hundred and seventy five million pounds (£675,000,000)

## Second opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for second opt-in selection</b></i>
Two 800 MHz paired frequency lots; and	Four hundred and eighty million pounds (£480,000,000)
Two 2.6 GHz paired frequency lots	

## Third opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for third opt-in selection</b></i>
One 800 MHz paired frequency lot; and	Four hundred and seventy five million pounds (£475,000,000)
The 800 MHz coverage obligation lot	

## Fourth opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for fourth opt-in selection</b></i>
The 800 MHz coverage obligation lot; and	Two hundred and eighty million pounds (£280,000,000)
Two 2.6 GHz paired frequency lots	

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## LIST C

### First opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for first opt-in selection</b></i>
One 800 MHz paired frequency lot	Two hundred and twenty five million pounds (£225,000,000)

### Second opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for second opt-in selection</b></i>
Four 2.6 GHz paired frequency lots	Sixty million pounds (£60,000,000)

## LIST D

### First opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for first opt-in selection</b></i>
One 800 MHz paired frequency lot	Two hundred and twenty five million pounds (£225,000,000)

### Second opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for second opt-in selection</b></i>
Four 2.6 GHz paired frequency lots	Sixty million pounds (£60,000,000)

### Third opt-in selection

<i><b>Lots</b></i>	<i><b>Opt-in price for third opt-in selection</b></i>
The 800 MHz coverage obligation lot	Two hundred and fifty million pounds (£250,000,000)

## SCHEDULE 3

Regulation 4(6)(a) and [24](#)

### FREQUENCY BANDS FOR EXISTING SPECTRUM HOLDINGS AND SPECTRUM CAP RULE

#### List A

<i><b>Frequency bands</b></i>
791 to 821 MHz
832 to 862 MHz
880.1 to 914.9 MHz
925.1 to 959.9 MHz



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*Frequency bands*

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1710.1 to 1781.7 MHz

1805.1 to 1876.7 MHz

1920.0 to 1979.7 MHz

2110.3 to 2169.7 MHz

2500 to 2570 MHz

2570 to 2615 MHz

2620 to 2690 MHz

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**List B**

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*Frequency bands*

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791 to 821 MHz

832 to 862 MHz

880.1 to 914.9 MHz

925.1 to 959.9 MHz

**SCHEDULE 4**

Regulation 4(3)(a)(i)

**APPLICATION FORM AND WARRANTY**

**1. Details of the applicant**

**1. Provide the following details for the applicant—**

Applicant's full name

Registered number of company

Registered office of company

Bank sort code and account number

Name of individual contact within applicant

Contact address (if different from registered office)

Contact telephone number

Contact mobile telephone number

Contact fax number

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Contact electronic mail address

## **2. Authorised persons**

2. Provide details of the name and position in the applicant of at least three and no more than five persons, each of whom has authority to bind the applicant for all purposes relating to the award process. Also provide a specimen signature of each of these persons.

## **3. Directors or members of managing body**

3. Provide the name and job title of each of the directors of the applicant or each of the members of the managing body of the applicant.

## **4. Applicant group**

4. Provide the names of all other members of the applicant group (as defined in the Regulations) in respect of which the applicant has completed a document in the form set out in Schedule 5 to the Regulations in accordance with regulation 4(3)(a)(ii) of the Regulations.

## **5. Qualification to bid**

5. In relation to the determination by the Office of Communications (“OFCOM”) under regulation 9 of the Regulations—

- (a) provide details of any reason why the applicant may not be a fit and proper person to hold a licence;
- (b) state whether any member of the applicant’s applicant group has colluded, or attempted to collude, or is colluding or attempting to collude, with another person to distort the outcome of the award process and provide a description of any such collusion;
- (c) state whether any member of the applicant’s applicant group has acted or is acting in a way which is likely to distort the outcome of the award process and provide a description of any such actions;
- (d) state whether any member of the applicant’s applicant group, or any person to whom confidential information has been disclosed, has disclosed confidential information, whether directly or indirectly, to any person, and provide a description of the circumstances of any disclosure and the information disclosed, except where the disclosure—
  - (i) was to a member of the applicant’s applicant group; or
  - (ii) was to OFCOM;
- (e) state whether any member of the applicant’s applicant group has obtained or is obtaining or attempting to obtain confidential information relating to another applicant and provide a description of any such circumstances;
- (f) state whether any member of the applicant’s applicant group is receiving or is attempting to receive services in relation to the award process from any person who has provided or is providing services to OFCOM in relation to the award process and provide a description of the services concerned; and
- (g) state whether (and provide a description of any circumstances in which) any person who is a member or a director or employee of a member of the applicant’s applicant group and also a director or employee of a member of another applicant group is—
  - (i) taking part in the preparation of both applicant groups for participation in the award process; or
  - (ii) receiving confidential information relating to both applicant groups.

## 6. Other information

6. Provide a brief description of the substance of—
- (a) agreements (if any) relating to the management of the applicant; and
  - (b) any criminal investigations or proceedings in the United Kingdom or overseas of which the applicant is aware relating to the applicant or any member of its applicant group or its directors or officers.

## 7. Existing spectrum holdings

7. Confirm that the applicant has provided the details of existing spectrum holdings required under regulation 4(3)(a)(iii) of the Regulations.

## 8. Warranty

8. Provide the following warranty—
- “[Insert name of applicant] (the “applicant”) represents and warrants to the Office of Communications that—
- (a) the persons authorised in section 2 of this application have read and understood the Regulations, the terms of the licence to be granted under the Regulations, and the Wireless Telegraphy Act 2006;
  - (b) the applicant has the legal authority to participate in the award process under the Regulations and to have a licence granted to it, and has in place all necessary consents, permissions and internal approvals for this purpose;
  - (c) the information provided in, or in support of, the application (including the details of existing spectrum holdings provided in accordance with regulation 4(3)(a)(iii) of the Regulations) is, to the best of the knowledge and belief of the applicant true, accurate and complete in all material respects; and
  - (d) the applicant is aware of the provisions in regulations 112 and 114 of the Regulations, including the provisions about disclosure of confidential information (as defined in the Regulations) and obtaining confidential information relating to another applicant or bidder and that any such activities may lead to forfeiture of sums on deposit and exclusion from the award process.

## SCHEDULE 5

Regulation 4(3)(a)(ii)

### DOCUMENT FOR MEMBER OF APPLICANT'S APPLICANT GROUP OR BIDDER GROUP WHO IS NOT AN ASSOCIATE

[Insert name of applicant or bidder] (the “applicant/bidder”) wishes to include [insert name and address of person to be included in applicant or bidder group who is not an associate] as a member of the applicant/bidder's applicant or bidder group as defined in the Wireless Telegraphy (Licence Award) Regulations 2012 (“the Regulations”) for the purpose of the award process under the Regulations.

Under regulation 10 of the Regulations an applicant shall not be qualified to bid in the award process where a member of its bidder group is also a member of another applicant's bidder group. Regulations 112 and 114 contain provisions on disclosure of confidential information (as defined in the Regulations) and obtaining confidential information relating to another applicant or bidder. Under the Regulations such activities may lead to forfeiture of sums on deposit and exclusion from the award process.

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## 1. Applicant/bidder

1. In relation to regulations 10, 112 and 114 of the Regulations, the applicant/bidder represents and warrants to the Office of Communications (“OFCOM”) that so far as it is aware, having made all reasonable enquiries, [insert name of person to be included in applicant or bidder group who is not an associate] is not a member of any other applicant’s or bidder’s applicant or bidder group.

The applicant/bidder undertakes to inform OFCOM immediately if it becomes aware that [insert name of person to be included in applicant or bidder group who is not an associate]—

- (a) has ever been or becomes a member of any other applicant’s or bidder’s applicant or bidder group;
- (b) has ever been or becomes a subsidiary of a member of any other applicant’s or bidder’s applicant or bidder group during the award process; or
- (c) has ever obtained or ever obtains confidential information (as defined in the Regulations) relating to another applicant or bidder.

## 2. [Insert name of person to be included in applicant or bidder group who is not an associate]

2. [Insert name of person to be included in applicant or bidder group who is not an associate] represents and warrants to OFCOM that it—

- (a) consents to be a member of the applicant/bidder’s applicant or bidder group;
- (b) is not a member of any other applicant’s or bidder’s applicant or bidder group; and
- (c) is aware of the provisions in regulations 112 and 114 of the Regulations about disclosure of confidential information (as defined in the Regulations) and obtaining confidential information relating to another applicant or bidder.

[Insert name of person to be included in bidder applicant or group who is not an associate] undertakes to OFCOM that it will immediately inform OFCOM and the applicant/bidder—

- (a) if it has ever been or becomes a member of any other applicant’s or bidder’s applicant or bidder group;
- (b) if it has ever been or becomes a subsidiary of a member of any other applicant’s or bidder’s applicant or bidder group during the award process; or
- (c) if it has ever obtained or if it ever obtains confidential information (as defined in the Regulations) relating to another applicant or bidder.

## SCHEDULE 6

Regulation 2(5)

### ELIGIBILITY POINTS ASSOCIATED WITH LOTS

The number of eligibility points associated with a lot of a type mentioned in an entry in Column (1) of the table is the number of points shown in the corresponding entry in Column (2).

The number of eligibility points associated with a selection of 2.6 GHz individual frequency lots shall be  $n - 1$ , where  $n$  is the number of lots selected.

<i>Column (1)</i>	<i>Column (2)</i>
<i>Type of lot</i>	<i>Number of eligibility points</i>
800 MHz paired frequency lot	2250

<i>Column (1)</i>	<i>Column (2)</i>
<i>Type of lot</i>	<i>Number of eligibility points</i>
2.6 GHz paired frequency lot	150
800 MHz coverage obligation lot	4500
2.6 GHz concurrent low power 10 MHz lot	30
2.6 GHz concurrent low power 20 MHz lot	60

## SCHEDULE 7

Regulation 68

## DETERMINATION OF BASE PRICE

*Base price*

1.—(1) OFCOM shall determine a base price for each winning principal stage bid by imposition of the requirements that the base prices must satisfy that are set out in paragraphs 2 to 5.

(2) Where a base price so determined is not a number of whole thousands of pounds, the base price shall be that price rounded up to the nearest number of whole thousands of pounds.

*First requirement*

2. The base price for each winning principal stage bid shall be—

- (a) no less than the total of the round prices in the first primary bid round for the lots included in the selection of lots specified in that winning principal stage bid; and
- (b) no greater than the amount of that winning principal stage bid.

*Second requirement*

3.—(1) Taking the base prices for the winning principal stage bids together, the base prices shall be such that if—

- (a) the amount bid by each winning bidder in respect of its winning principal stage bid had been the base price rather than the amount of its winning principal stage bid (“reduced winning principal stage bid”), and
- (b) subject to sub-paragraph (2), the amount bid by each winning bidder in respect of each other valid principal stage bid made by that bidder had been reduced by an amount equal to the difference between the amount of its winning principal stage bid and the base price for that winning principal stage bid,

the combination of the reduced winning principal stage bids submitted by the winning bidders would have been the valid combination of principal stage bids or one of the valid combinations of principal stage bids (as the case may be) for which the total value of the combination calculated in accordance with regulation 67(9) is the highest.

(2) Where the amount of a bid has been reduced in accordance with sub-paragraph (1)(b) and is less than the total of the round prices in the first primary bid round for the lots included in the selection of lots specified in that bid, the amount of that bid shall be treated as if it were the total of

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the round prices in the first primary bid round for the lots included in the selection of lots specified in that bid for the purposes of this paragraph.

(3) The bids mentioned in sub-paragraphs (1)(a) and (1)(b) shall, after reduction of the amount of those bids in accordance with those paragraphs, be treated as valid principal stage bids for the purposes of this paragraph.

#### *Third requirement*

4. Taking the base prices for the winning principal stage bids together, the total of those base prices shall be no greater than the total of any other prices for the winning principal stage bids that satisfy the requirements set out in paragraphs 2 and 3.

#### *Fourth requirement*

5.—(1) Taking the base prices for the winning principal stage bids together, the opportunity cost variance of those base prices calculated in accordance with sub-paragraph (2) shall be less than the opportunity cost variance, calculated in accordance with sub-paragraph (2), of any other prices for the winning principal stage bids that satisfy the requirements set out in paragraphs 2 to 4.

(2) The opportunity cost variance (“ $OCV_B$ ”) of prices mentioned in sub-paragraph (1), is the amount calculated in accordance with the formula—

$$OCV_B = \sum (p_B - c_B)^2$$

where—

- (a) “ $p_B$ ” is the price for a winning principal stage bid; and
- (b) “ $c_B$ ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning principal stage bid.
- (3) The formula is—

$$c_B = u_B - t_B + b_B$$

where—

- (a) “ $u_B$ ” is the amount calculated in accordance with sub-paragraph (4);
- (b) “ $t_B$ ” is the total value of the winning combination of bids calculated in accordance with regulation 67(9); and
- (c) “ $b_B$ ” is the amount of the winning principal stage bid for which  $p_B$  is the price.

(4) The amount calculated in accordance with this sub-paragraph is the total value of the valid combination of principal stage bids or one of the valid combinations of principal stage bids (as the case may be) for which the total value of the combination calculated in accordance with regulation 67(9) is the highest where the valid combination or combinations of principal stage bids do not include any of the primary bids or supplementary bids made by the winning bidder that

submitted the winning principal stage bid for which  $p_B$  is the price, but may include valid opt-in bids made by that bidder (if any).

### *Interpretation*

6. In this Schedule “valid combination of principal stage bids” shall be construed in accordance with regulation 67.

## SCHEDULE 8

Regulation 106(2)

### DETERMINATION OF ADDITIONAL PRICE: NUMBERED 800 MHz PAIRED FREQUENCY LOTS

#### *Additional price*

1.—(1) OFCOM shall determine an additional price for each winning assignment stage bid for numbered 800 MHz paired frequency lots by imposition of the requirements that the additional prices must satisfy that are set out in paragraphs 2 to 5.

(2) Where an additional price so determined includes a fraction of a pound, the additional price shall be that price rounded up to the nearest whole pound.

First requirement

2. The additional price for each winning assignment stage bid for numbered 800 MHz paired frequency lots shall be no less than zero and no more than the amount of that winning assignment stage bid.

Second requirement

3.—(1) Taking the additional prices for the winning assignment stage bids for numbered 800 MHz paired frequency lots together, the additional prices shall be such that if—

- (a) the amount bid by each winning bidder for the assignment stage option selected in its winning assignment stage bid for numbered 800 MHz paired frequency lots had been the additional price rather than the amount of its winning assignment stage bid (“800 MHz reduced winning assignment stage bid”), and
- (b) subject to sub-paragraph (2), the amount bid by each winning bidder in respect of each other valid assignment stage bid for numbered 800 MHz paired frequency lots made by that bidder had been reduced by an amount equal to the difference between the amount of its winning assignment stage bid for numbered 800 MHz paired frequency lots and the additional price for that relevant winning assignment stage bid,

the combination of the 800 MHz reduced winning assignment stage bids submitted by the winning bidders would have been the valid combination of assignment stage bids or one of the valid combinations of assignment stage bids (as the case may be) for numbered 800 MHz paired frequency lots having the highest total value of amounts bid.

(2) Where the amount of a bid has been reduced in accordance with sub-paragraph (1)(b) and is less than zero, the amount of that bid shall be treated as if it were zero for the purposes of this paragraph.

(3) The bids mentioned in sub-paragraphs (1)(a) and (1)(b) shall, after reduction of the amount of those bids in accordance with those paragraphs, be treated as valid assignment stage bids for the purposes of this paragraph.

Third requirement

4. Taking the additional prices for the winning assignment stage bids for numbered 800 MHz paired frequency lots together, the total of those additional prices shall be no greater than the total



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of any other prices for the winning assignment stage bids for numbered 800 MHz paired frequency lots that satisfy the requirements set out in paragraphs 2 and 3.

Fourth requirement

5.—(1) Taking the additional prices for the winning assignment stage bids for numbered 800 MHz paired frequency lots together, the opportunity cost variance of those additional prices calculated in accordance with sub-paragraph (2) shall be less than the opportunity cost variance, calculated in accordance with sub-paragraph (2), of any other prices for the winning assignment stage bids for numbered 800 MHz paired frequency lots that satisfy the requirements set out in paragraphs 2 to 4.

(2) The opportunity cost variance (“ $OCV_A$ ”) of prices mentioned in sub-paragraph (1) is the amount calculated in accordance with the formula—

$$OCV_A = \sum (p_A - c_A)^2$$

where—

- (a) “ $p_A$ ” is the price for a winning assignment stage bid; and
- (b) “ $c_A$ ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning assignment stage bid.

(3) The formula is—

$$c_A = u_A - t_A + b_A$$

where—

- (a) “ $u_A$ ” is the amount calculated in accordance with sub-paragraph (4);
- (b) “ $t_A$ ” is the total amount of the winning assignment stage bids for numbered 800 MHz paired frequency lots; and
- (c) “ $b_A$ ” is the amount of the winning assignment stage bid for which  $p_A$  is the price.

(4) The amount calculated in accordance with this sub-paragraph is the total amount of the valid combination of assignment stage bids for numbered 800 MHz paired frequency lots or one of the valid combinations of assignment stage bids for numbered 800 MHz paired frequency lots (as the case may be) having the highest total value of amounts bid where, for each assignment stage bid for numbered 800 MHz paired frequency lots made by the winning bidder that submitted the winning

assignment stage bid for which  $p_A$  is the price, the amount of that assignment stage bid is treated as if it were zero for the purposes of this sub-paragraph.

(5) Where the amount of an assignment stage bid is treated as if it were zero in accordance with sub-paragraph (4), that assignment stage bid shall be treated as a valid assignment stage bid for the purposes of that sub-paragraph.

Interpretation

6. In this Schedule “valid combination of assignment stage bids” shall be construed in accordance with regulation 103.

## SCHEDULE 9

Regulation 106(3)

### DETERMINATION OF ADDITIONAL PRICE: NUMBERED 2.6 GHz PAIRED FREQUENCY LOTS

#### *Additional price*

1.—(1) OFCOM shall determine an additional price for each winning assignment stage bid for numbered 2.6 GHz paired frequency lots by imposition of the requirements that the additional prices must satisfy that are set out in paragraphs 2 to 5.

(2) Where an additional price so determined includes a fraction of a pound, the additional price shall be that price rounded up to the nearest whole pound.

First requirement

2. The additional price for each winning assignment stage bid for numbered 2.6 GHz paired frequency lots shall be no less than zero and no more than the amount of that winning assignment stage bid.

Second requirement

3.—(1) Taking the additional prices for the winning assignment stage bids for numbered 2.6 GHz paired frequency lots together, the additional prices shall be such that if—

- (a) the amount bid by each winning bidder for the assignment stage option selected in its winning assignment stage bid for numbered 2.6 GHz paired frequency lots had been the additional price rather than the amount of its winning assignment stage bid (“2.6 GHz paired reduced winning assignment stage bid”), and
- (b) subject to sub-paragraph (2), the amount bid by each winning bidder in respect of each other valid assignment stage bid for numbered 2.6 GHz paired frequency lots made by that bidder had been reduced by an amount equal to the difference between the amount of its winning assignment stage bid for numbered 2.6 GHz paired frequency lots and the additional price for that relevant winning assignment stage bid,

the combination of the 2.6 GHz paired reduced winning assignment stage bids submitted by the winning bidders would have been the valid combination of assignment stage bids or one of the valid combinations of assignment stage bids (as the case may be) for numbered 2.6 GHz paired frequency lots having the highest total value of amounts bid.

(2) Where the amount of a bid has been reduced in accordance with sub-paragraph (1)(b) and is less than zero, the amount of that bid shall be treated as if it were zero for the purposes of this paragraph.

(3) The bids mentioned in sub-paragraphs (1)(a) and (1)(b) shall, after reduction of the amount of those bids in accordance with those paragraphs, be treated as valid assignment stage bids for the purposes of this paragraph.

Third requirement

4. Taking the additional prices for the winning assignment stage bids for numbered 2.6 GHz paired frequency lots together, the total of those additional prices shall be no greater than the total of any other prices for the winning assignment stage bids for numbered 2.6 GHz paired frequency lots that satisfy the requirements set out in paragraphs 2 and 3.

Fourth requirement

5.—(1) Taking the additional prices for the winning assignment stage bids for numbered 2.6 GHz paired frequency lots together, the opportunity cost variance of those additional prices calculated in accordance with sub-paragraph (2) shall be less than the opportunity cost variance, calculated in

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accordance with sub-paragraph (2), of any other prices for the winning assignment stage bids for numbered 2.6 GHz paired frequency lots that satisfy the requirements set out in paragraphs 2 to 4.

(2) The opportunity cost variance (“ $OCV_A$ ”) of prices mentioned in sub-paragraph (1) is the amount calculated in accordance with the formula—

$$OCV_A = \sum (p_A - c_A)^2$$

where—

- (a) “ $p_A$ ” is the price for a winning assignment stage bid; and
- (b) “ $c_A$ ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning assignment stage bid.

(3) The formula is—

$$c_A = u_A - t_A + b_A$$

where—

- (a) “ $u_A$ ” is the amount calculated in accordance with sub-paragraph (4);
- (b) “ $t_A$ ” is the total amount of the winning assignment stage bids for numbered 2.6 GHz paired frequency lots; and
- (c) “ $b_A$ ” is the amount of the winning assignment stage bid for which  $p_A$  is the price.

(4) The amount calculated in accordance with this sub-paragraph is the total amount of the valid combination of assignment stage bids for numbered 2.6 GHz paired frequency lots or one of the valid combinations of assignment stage bids for numbered 2.6 GHz paired frequency lots (as the case may be) having the highest total value of amounts bid where, for each assignment stage bid for numbered 2.6 GHz paired frequency lots made by the winning bidder that submitted the winning

assignment stage bid for which  $p_A$  is the price, the amount of that assignment stage bid is treated as if it were zero for the purposes of this sub-paragraph.

(5) Where the amount of an assignment stage bid is treated as if it were zero in accordance with sub-paragraph (4), that assignment stage bid shall be treated as a valid assignment stage bid for the purposes of that sub-paragraph.

Interpretation

6. In this Schedule “valid combination of assignment stage bids” shall be construed in accordance with regulation 104.

## SCHEDULE 10

Regulation 106(4)

### DETERMINATION OF ADDITIONAL PRICE: NUMBERED 2.6 GHz INDIVIDUAL FREQUENCY LOTS

#### *Additional price*

1.—(1) OFCOM shall determine an additional price for each winning assignment stage bid for numbered 2.6 GHz individual frequency lots by imposition of the requirements that the additional prices must satisfy that are set out in paragraphs 2 to 5.

(2) Where an additional price so determined includes a fraction of a pound, the additional price shall be that price rounded up to the nearest whole pound.

First requirement

2. The additional price for each winning assignment stage bid for numbered 2.6 GHz individual frequency lots shall be no less than zero and no more than the amount of that winning assignment stage bid.

Second requirement

3.—(1) Taking the additional prices for the winning assignment stage bids for numbered 2.6 GHz individual frequency lots together, the additional prices shall be such that if—

- (a) the amount bid by each winning bidder for the assignment stage option selected in its winning assignment stage bid for numbered 2.6 GHz individual frequency lots had been the additional price rather than the amount of its winning assignment stage bid (“2.6 GHz individual reduced winning assignment stage bid”), and
- (b) subject to sub-paragraph (2), the amount bid by each winning bidder in respect of each other valid assignment stage bid for numbered 2.6 GHz individual frequency lots made by that bidder had been reduced by an amount equal to the difference between the amount of its winning assignment stage bid for numbered 2.6 GHz individual frequency lots and the additional price for that relevant winning assignment stage bid,

the combination of the 2.6 GHz individual reduced winning assignment stage bids submitted by the winning bidders would have been the valid combination of assignment stage bids or one of the valid combinations of assignment stage bids (as the case may be) for numbered 2.6 GHz individual frequency lots having the highest total value of amounts bid.

(2) Where the amount of a bid has been reduced in accordance with sub-paragraph (1)(b) and is less than zero, the amount of that bid shall be treated as if it were zero for the purposes of this paragraph.

(3) The bids mentioned in sub-paragraphs (1)(a) and (1)(b) shall, after reduction of the amount of those bids in accordance with those paragraphs, be treated as valid assignment stage bids for the purposes of this paragraph.

Third requirement

4. Taking the additional prices for the winning assignment stage bids for numbered 2.6 GHz individual frequency lots together, the total of those additional prices shall be no greater than the total of any other prices for the winning assignment stage bids for numbered 2.6 GHz individual frequency lots that satisfy the requirements set out in paragraphs 2 and 3.

Fourth requirement

5.—(1) Taking the additional prices for the winning assignment stage bids for numbered 2.6 GHz individual frequency lots together, the opportunity cost variance of those additional prices calculated in accordance with sub-paragraph (2) shall be less than the opportunity cost variance, calculated in

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accordance with sub-paragraph (2), of any other prices for the winning assignment stage bids for numbered 2.6 GHz individual frequency lots that satisfy the requirements set out in paragraphs 2 to 4.

(2) The opportunity cost variance (“ $OCV_A$ ”) of prices mentioned in sub-paragraph (1) is the amount calculated in accordance with the formula—

$$OCV_A = \sum (p_A - c_A)^2$$

where—

- (a) “ $p_A$ ” is the price for a winning assignment stage bid; and
- (b) “ $c_A$ ” is the amount calculated in accordance with the formula set out in sub-paragraph (3) in respect of that winning assignment stage bid.

(3) The formula is—

$$c_A = u_A - t_A + b_A$$

where—

- (a) “ $u_A$ ” is the amount calculated in accordance with sub-paragraph (4);
- (b) “ $t_A$ ” is the total amount of the winning assignment stage bids for numbered 2.6 GHz individual frequency lots; and
- (c) “ $b_A$ ” is the amount of the winning assignment stage bid for which  $p_A$  is the price.

(4) The amount calculated in accordance with this sub-paragraph is the total amount of the valid combination of assignment stage bids for numbered 2.6 GHz individual frequency lots or one of the valid combinations of assignment stage bids for numbered 2.6 GHz individual frequency lots (as the case may be) having the highest total value of amounts bid where, for each assignment stage bid for numbered 2.6 GHz individual frequency lots made by the winning bidder that submitted the

winning assignment stage bid for which  $p_A$  is the price, the amount of that assignment stage bid is treated as if it were zero for the purposes of this sub-paragraph.

(5) Where the amount of an assignment stage bid is treated as if it were zero in accordance with sub-paragraph (4), that assignment stage bid shall be treated as a valid assignment stage bid for the purposes of that sub-paragraph.

Interpretation

6. In this Schedule “valid combination of assignment stage bids” shall be construed in accordance with regulation 105.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out the procedure that will apply to the grant of wireless telegraphy licences at frequencies which are set out in Schedule 1.

To apply, a body corporate must deliver the documents required by regulation 4(3) to the Office of Communications (“OFCOM”) on a day specified by OFCOM. The documents must give details of existing spectrum holdings of the applicant and others listed in regulation 4(3)(a)(iii). An initial deposit of one hundred thousand pounds must be paid to OFCOM (regulation 4(3)(b)).

OFCOM will determine which applicants are fit to hold a licence, taking into account the matters set out in regulation 9(2). If not disqualified, and if there is no member of its bidder group which is also a member of another bidder group, an applicant shall be qualified to participate (regulation 10(1)).

After giving applicants an opportunity to withdraw, OFCOM will determine the number of bidders (regulation 13), an additional deposit may be paid (regulation 14) and OFCOM will determine an eligibility limit (a term defined in the Regulations) by reference to sums paid on deposit. This limits the bids that can be made in the opt-in round and first primary round (regulation 15). A limit also applies in subsequent rounds (regulations 25(8) and 43(2)). OFCOM will record bidders’ spectrum holdings (regulation 16).

Under Part 4, the process for the award of licences consists of three stages.

The first stage, called the principal stage, involves one round for the submission of opt-in bids, one or more rounds for the submission of primary bids and one round for the submission of supplementary bids (Chapters 2 to 9 of Part 4).

Only certain opt-in bids may be made by a bidder, depending on the bidder’s recorded spectrum holdings (regulation 19). Opt-in selections and prices are set out in Schedule 2.

For primary bid rounds and the supplementary bids round bidding is limited to certain selections of lots (regulations 22, 25(1) and 42). OFCOM will prepare a permissible bid selection list for each bidder taking account of certain factors including the spectrum cap rule. The rule refers to bidders’ recorded spectrum holdings.

The winning principal stage bids are determined in accordance with regulation 67, and the price payable in respect of each winning principal stage bid in accordance with regulation 68.

The second stage, called the assignment stage, is the procedure set out in Chapters 10 to 14 of Part 4. This procedure determines the frequencies which will be assigned to each winning bidder. Some frequency assignments are pre-determined (Chapter 11 of Part 4) and others are to be determined through a further round of bidding (Chapters 12, 13 and 14 of Part 4).

The third stage, called the grant stage, is the procedure set out in Chapter 15 of Part 4. OFCOM will grant licences to winning bidders and refund any sums due to winning bidders (regulations 109 and 110).

If in relation to an applicant which is qualified to bid or a bidder, OFCOM are satisfied that certain events are occurring or have occurred and that the occurrence would materially affect the outcome of the award process, the applicant or bidder concerned will forfeit sums on deposit held by OFCOM and may be excluded from the award process (regulation 112).

A full regulatory impact assessment of the effect of these Regulations has been prepared. Copies of the impact assessment and copies of the publication referred to on page 31 of these Regulations are available to the public from the OFCOM library at Riverside House, 2a Southwark Bridge

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Road, London SE1 9HA, telephone 020 7981 3000 or on the OFCOM internet website at [www.ofcom.org.uk](http://www.ofcom.org.uk). Copies of the impact assessment have also been placed in the libraries of the Houses of Parliament.