



GSMA Public Policy Position

# Spectrum Licence Renewal

October 2013

## Summary

### Context

A number of mobile licences are coming to the end of their initial term. Careful management of the review process is required to ensure on-going service continuity for millions of consumers and continued investment in mobile broadband networks.

### Position statements

1. Governments and regulators need to implement a clear, timely and transparent process for the renewal of licences.
2. The approach for licence renewal should be agreed at least 3 to 4 years prior to licence expiry to ensure investment in networks and services for consumers is maintained.
3. Governments and regulators should work on a presumption of licence renewal to the existing licence holder. The exception to this only applies where there has been a serious breach of licence conditions, evident in advance of renewal.
4. Where governments choose to reappraise market structure at the time of renewal, it is important to ensure this is done in such a way as to maintain services for consumers and avoiding stranded investments.
5. New licences should be, at a minimum, granted for 15–20 years to allow investors time to gain a reasonable return on their investment.
6. Renewal of mobile licences should be on a technology and service neutral basis.

## Background

Mobile broadband delivers significant economic and social benefits. The sector has a proven track record of investing in technology innovation and developing new business and consumer services. It also has a proven, sustainable business model providing direct employment and enhancing the productivity of many other sectors in the economy.

A strong communications infrastructure also brings significant, wider economic benefits including productivity enhancements and improved living standards. With the introduction of mobile broadband services and the subsequent exponential growth in data traffic, there is an even greater imperative for governments to establish a clear and stable spectrum policy.

Licence renewal is a critical component of this spectrum policy. It is important that the process of licence renewal is managed in a transparent, timely and open way. There is no single solution for governments relicensing spectrum. Each market needs to be considered independently, with industry stakeholders involved at all stages of the decision process. Failure to effectively manage the process will result in the delay of investment in new services, and will potentially impact the delivery of existing services for millions of consumers.

## Principles to Guide Spectrum Management

### Principle of presumed licence renewal in favour of current licence holders

Licence renewal could present an opportunity to review existing licences. However, uncertainty about the future rights to spectrum can lead to operators delaying investment and new service deployment. To avoid a negative impact on the market, there should be a presumption of licence renewal for the existing licence holder. Only in exceptional and well-specified circumstances should licences not be renewed.

These include instances of:

- Repeated and material failure by a licence holder to meet the conditions of the existing licence.
- Breach of licence conditions by licence holders that have been repeatedly informed of the breach and warned of the risk.
- Significant evidence that market restructuring is required and competition for the spectrum assets is likely. (In most cases, new-entrant investment is unlikely, so introducing market mechanisms such as auctions for licence renewal are expensive, time consuming and unlikely to change the market dynamics.)

Assuming that all the conditions have been made, there should be a presumption by regulators and governments that licences will be renewed. Without this assurance, the investment

risk is high. A presumption in favour of the existing licence holder minimises costs for operators and consumers, increases certainty and assures service continuity.

## The relicensing process

All stakeholders should take part in the open and transparent licence renewal process to minimise market disruption and to ensure key areas are addressed:

- *Consultation with the operators* and others stakeholders throughout the process. While individual operators will have preferences for particular solutions, they will also have a deep understanding of the potential risks of a specific course of action. A well-executed consultation process, including competition aspects where appropriate, will highlight these risks and mitigate poor outcomes leading to inefficient use of spectrum.
- *A clear and open process is critical.* As the majority of relicensing is undertaken through administrative procedures, it is especially important that the process be clear and that the decision framework be open and transparent.
- *Spectrum road maps and plans are important to plan network evolution and development.* Without a clear road map for spectrum and a clear understanding of licence renewal plans (and the rules associated with spectrum holdings), there is significant uncertainty in the valuation of existing licenses. A spectrum road map makes it possible for operators to make rational decisions regarding licence renewal.
- *Uncertainty needs to be minimised.* For operators to determine whether it is appropriate to hold the spectrum or to release it, they require a clear understanding of the obligations related to a particular licence, the rights attributed to the spectrum, the charges to be levied during the life of the licence and the duration of the licence.
- *Cost of renewal.* There should not be a presumption that fees and conditions need to change on the renewal of the licence. As existing usage fees and annual charges for spectrum will have been set and reflect a market rate and the services are not changing, the presumption would be that these will remain unchanged.

## Relicensing and multiband portfolios

Where governments have a desire to introduce competition into the market, it is likely this is best achieved through the allocation of new spectrum rather than a reassignment of spectrum already licensed for mobile services. Reassignments should only be considered if they are likely to result in better market outcomes than through the status quo.

If considering a reassignment it is imperative that:

- The existing holder of the spectrum has the capacity and sufficient alternative spectrum holdings to maintain services for their consumers.
- Any reassignment of spectrum is utilised by the competing operator to generate economic and consumer benefit. Reassigning spectrum that is subsequently unused has a significant economic and societal cost.

- Reassigned spectrum must be technically capable of being utilised efficiently by any new licence holder.
- Governments must avoid the risk of stranding investments by changing relicensing terms and preventing operators from being able to sustain and develop their services.

## Timing of licence renewal

Licence holders should understand the process and terms for the renewal 3–4 years in advance of the expiry of the licence. Advance notice is essential, to allow operators to maintain service continuity for their customers.

If a government is considering any changes to the terms and conditions of the licence, is assessing the relicensing process or is reviewing the pricing of a licence, it is essential that this be done well in advance of the licence expiry. Any proposed revision that affects the licence holder (positively or negatively) should be undertaken in the context of the overall spectrum policy, in full consultation with the industry stakeholders.

## Approaches to licence renewal

There are two main approaches to spectrum relicensing and licence renewal that governments can take: administrative procedure or market mechanism (e.g., auction). The best approach always depends on the specific market circumstances.

Most markets have used an administrative procedure for licence renewal, primarily because, in most cases, the existing operators want to renew their licences and market-based approaches only create unnecessary uncertainty and costs.

Market-based approaches should only be used for licence renewal when there is a reasonable prospect of a reallocation of resources between operators, or where an existing licensee decides to reject a renewal offer.

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### **GSMA Government and Regulatory Affairs**

A country's citizens benefit most when the private and public sectors work together in a spirit of openness and trust. To this end, the GSM Association is committed to supporting governments and regulators in their efforts to introduce pro-investment telecommunications policies.

The GSMA's government and regulatory affairs team represents the mobile industry around the world, advocating for a regulatory environment that encourages investment, maximises innovation and creates opportunity for mobile operators, the wider mobile ecosystem and mobile users. Through direct engagement with governments, we help to shape the global regulatory agenda.

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