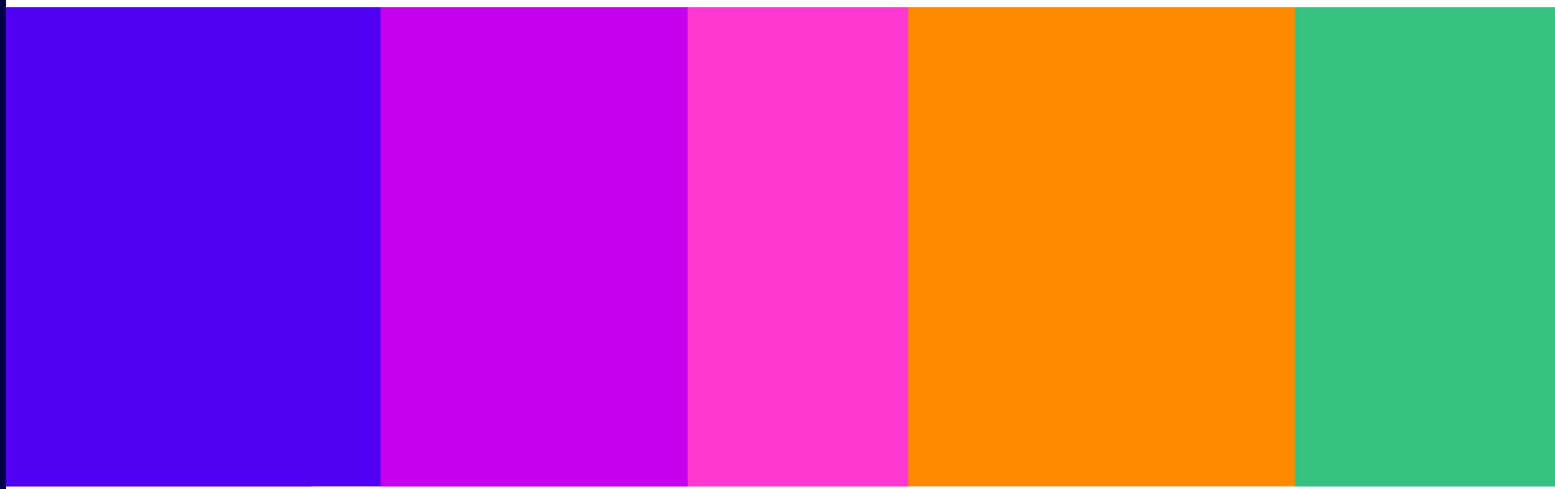


The final regulations for the award of spectrum in the 26 and 40 GHz frequency bands

Notice that Ofcom has made the Wireless Telegraphy (Licence award) Regulations 2025

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1. Overview

- 1.1 This document provides notice that Ofcom has made a statutory instrument for the award of spectrum in the 26 and 40 GHz frequency bands.

What we have decided – in brief

On 8 November 2023 and on 16 April 2024, we published statements setting out our final decisions on the design of the award of spectrum in the 26 and 40 GHz frequency bands. On 11 November 2024, we published a final draft of the regulations which would implement our decisions.

We have now made the regulations which implement those decisions.

This overview is a high-level summary only. The decisions and reasoning are set out in the full document.

2.Introduction

Background

- 2.1 Ofcom has the statutory power under sections 14 and 122(7) of the Wireless Telegraphy Act 2006 (the “**WTA 2006**”) to make regulations to award spectrum licences by means of an auction.
- 2.2 On 8 November 2023, we published a Statement and consultation on auction design, where we set out most of our decisions on the design of the award of spectrum in the 26 and 40 GHz bands (the “[November 2023 Statement and Consultation](#)”). Afterwards, on 16 April 2024, we published a statement setting out our final decisions on the design of the award (the “[April 2024 Statement](#)”).
- 2.3 On 14 May 2024, we published a notice in respect of our proposal to make the Wireless Telegraphy (Licence Award) Regulations 2024 (the “[May 2024 Notice](#)”). The May 2024 Notice included a draft statutory instrument and invited comments on this by 8 July 2024.
- 2.4 On 11 November 2024, we published a final draft of the regulations, taking account of the comments received in response to the May 2024 Notice (the “[November 2024 Notice](#)”).
- 2.5 The final regulations will be made on 10 June and will be known as the Wireless Telegraphy (Licence Award) Regulations 2025, rather than 2024 as previously indicated.

Making and publication of the Regulations for the award

- 2.6 This document gives notice that we made the final Wireless Telegraphy (Licence Award) Regulations 2025 (the “**Auction Regulations**”) on 10 June 2025, and they will be available on www.legislation.gov.uk.
- 2.7 A copy of the final version of the Auction Regulations is also in annex 1 of this statement for indicative purposes, in the form submitted for registration and publication after it was made by Ofcom. However, www.legislation.gov.uk is the only authorised source for published statutory instruments.
- 2.8 We have also published a separate document, ‘[Process guidance for potential applicants and bidders in the auction](#)’ on 11 November 2024. That document provides guidance on how we will run the auction process.

Document structure

- 2.9 **Annex 1** of this document is a final version of the Auction Regulations in the form submitted for registration and publication.
- 2.10 **Annex 2** of this document is a copy of the regulatory impact assessment for the Auction Regulations.

3. Next steps

- 3.1 The Auction Regulations will come into force on **30 June 2025**.
- 3.2 We have published [guidance for prospective applicants](#) on how to apply to participate in the auction award process.

A1. The Auction Regulations

- A1.1 A [final version of the Auction Regulations](#), in the form submitted for registration and publication.

A2. Regulatory Impact Assessment

The Wireless Telegraphy (Licence Award) Regulations 2025

- A2.1 Ofcom acts in accordance with government practice that, where a statutory regulation is made, a Regulatory Impact Assessment (RIA) must be undertaken. We also comply with our duty under section 7 of the Communications Act 2003 (the “CA 2003”) to undertake impact assessments.
- A2.2 On 14 May 2024, Ofcom published a Statutory Notice proposing regulations awarding spectrum licences by auction for the 26 GHz and 40 GHz spectrum bands. This document is a regulatory impact assessment relating to Ofcom’s proposal to make these regulations, which will be known as the Wireless Telegraphy (Licence Award) Regulations 2025. This analysis is consistent with Government practice on RIAs and Ofcom’s duty under the CA 2003 Act. The RIA considers that the benefits of conducting an auction, as set out in the regulations, outweigh the costs involved.
- A2.3 Regulatory impact assessments are a valuable way of assessing different options for regulation and showing why the preferred option is chosen. They form part of best practice policy-making and are commonly used by many regulators. In producing the assessment in this document, Ofcom has had regard to such general guidance as it considers appropriate, including [Cabinet Office guidance](#).

The issue being considered and the citizen/consumer interest

- A2.4 This impact assessment concerns the award of spectrum licences in the 26 and 40 GHz frequency bands. The frequencies being awarded are 25.1 – 27.5 GHz in the 26 GHz band, and 40.5 – 43.5 GHz in the 40 GHz band. These licences will allow the use of the spectrum in UK major towns and cities (referred to as “designated areas” in the Regulations). These frequency bands are particularly suitable for providing mobile electronic communications services.
- A2.5 Ofcom believes that citizens and consumers will benefit from this spectrum award. The direct benefit to consumers and businesses will come from the provision of improved mobile communications services using this spectrum. Both bands are likely to be used by mobile networks to meet the increasing demand for mobile broadband services, and to invest in new technologies, including 5G.

The policy objective and the public benefit

- A2.6 Our objectives for awarding the 26 and 40 GHz frequencies are based on our statutory duties. Our principal duties are to further the interests of citizens in relation to communications matters and to further the interests of consumers in relevant markets,

where appropriate by promoting competition. In discharging these principal duties, we are further required to secure the optimal use for wireless telegraphy of the electro-magnetic spectrum.

A2.7 Our objectives for this award are to:

- achieve an efficient allocation of spectrum;
- sustain strong competition in mobile markets;
- encourage investment and innovation in new uses; and
- ensure timely availability of spectrum.

A2.8 Radio spectrum is a scarce and finite resource. Access to spectrum is a major asset to the UK economy and society because it facilitates the operation of all wireless communications devices. Therefore, bringing the frequencies to be awarded into use, and achievement of the objectives for this award, will be of direct benefit to citizens, consumers and businesses.

Benefits of the award of the 26 and 40 GHz frequency bands for citizens, consumers and businesses

A2.9 Demand for mobile data has increased substantially in recent years, driven by the rapid take-up of internet enabled devices like smartphones and tablets and the ability of these devices to deliver popular data intensive services such as video streaming, the use of social media, etc.

A2.10 We believe that strong growth in demand for enhanced mobile data services will continue for some time as technology continues to evolve, enabling ever more data-rich services.

A2.11 The increasing demand for mobile data services will place pressure on mobile network operators (MNOs) to increase their capacity in order to meet growing consumer and business demand. If this demand cannot be met it will be to the detriment of citizens, consumers and businesses as end-user prices would be higher than otherwise and service quality would be degraded due to congestion.

A2.12 There are different ways operators could potentially meet rising demand but deploying additional spectrum is likely to be very important.

A2.13 The characteristics of the 26 and 40 GHz frequency bands we are awarding makes them well suited to providing connectivity to the most concentrated areas with high data traffic in towns and cities. This is because there is a large amount of frequencies in the bands with the potential to carry large amounts of data, but their propagation is typically limited to short distances. The 26 and 40 GHz frequencies have been harmonised for mobile services and 5G services in Europe. Development of 5G services has the potential to deliver significant benefits for UK consumers and businesses, including superfast broadband, greatly expanded capacity and innovative new services.

A2.14 Overall, we consider that the net effect of the 26 and 40 GHz award on citizens, consumers and businesses (both small and large businesses) will be positive. We are confident that this award will enable a release of the frequencies as quickly as possible and will therefore maximise the benefits.

Identification and assessment of options and the impacts on stakeholders

A2.15 In deciding how to make the 26 and 40 GHz frequency bands available we have sought to design an award that is most likely to achieve our objectives to: achieve an efficient allocation of spectrum; sustain strong competition in mobile markets; encourage investment and innovation in new uses; and ensure timely availability of spectrum.

Decision to hold an auction

A2.16 In our '[Spectrum management strategy for the 2020s](#)' statement published on 19 July 2021 we explained that the key objective when managing spectrum is to ensure it is efficiently used so that it can continue to transform the way the citizens in the UK live and work – helping to make the UK more productive and benefitting industries across the economy. To do this, we explained further that we will usually rely on market mechanisms where possible and effective, but also take regulatory action where necessary. Consistent with this strategy, we have decided to award the spectrum in the 26 and 40 GHz bands, in UK major towns and cities, by holding an auction.

Consultations on the impact of the award

A2.17 We consulted on our proposals for the 26 and 40 GHz award and its impact on citizens, consumers and businesses as follows:

- **[May 2022](#)**: we published a consultation to make the majority of the 26 GHz band frequencies available through an auction in major towns and cities, while proposing to make first come first served local licences available in the rest of the UK and remaining frequencies in major towns and cities. To do this, we proposed revoking the existing fixed link licences in the 26 GHz band. For the 40 GHz band, we consulted on either varying the existing licences to mobile use, or revoking licences and re-allocating the spectrum alongside the 26 GHz. We also set out initial views on the design of a 26 GHz auction, as well as potential competition measures in an award.
- **[March 2023](#)**: we published a statement and further consultation. We decided to auction the majority of the 26 GHz band and all of the 40 GHz band by the means of an auction in UK major towns and cities. Alongside this, we decided to revoke the existing 26 GHz fixed link licences and the existing block assigned 40 GHz licences. We also decided not to have competition measures in the award. We consulted on our proposed design of the auction for both the 26 and 40 GHz frequencies.
- **[September 2023](#)**: we published a statement setting out further decisions for the 26 GHz and 40 GHz bands. This included holding the auction after the CMA's decision on the proposed merger between H3G and Vodafone, setting a 15-year term for the auction licences and the technical characteristics (such as power levels) that any winners would have to adhere to.
- **[November 2023](#)**: we published a statement and consultation on the design of the auction. We decided in this document most of the design of the auction, including the format, reserve prices and the lot categories. We also consulted on whether to

include a negotiation period in the assignment stage of the auction to give winners of spectrum in a band an opportunity to agree that their respective allocations of spectrum would be adjacent.

- [April 2024](#): we published a statement on the design of our auction, where we decided not to include a negotiation period in the assignment stage of the auction.

A2.18 All these documents considered the impact of our proposals and decisions on citizens, consumers and businesses and constitute the regulatory assessment for the award.

Competition Assessment

A2.19 Our general approach to awarding spectrum is to allow the market to determine the best allocation, however, there may be circumstances in which an unfettered market approach may be detrimental to consumers. For example, if an auction outcome resulted in weaker competition, this could lead to an increase in prices and/or a reduction in the quality of services in some cases.

A2.20 We concluded that no competition measures (e.g. spectrum caps) were required in this award as there was no evidence of a serious and persistent competition concern that would likely arise. We reached this decision in our March 2023 Statement and Consultation, having taken account of stakeholders' responses to the May 2022 Consultation.

Auction format and design

A2.21 In the November 2023 Statement and Consultation, and the April 2024 statement, we set out our decisions on the form and design of the auction. We had consulted stakeholders on the available options in our May 2022, March 2023, and November 2023 consultations.

A2.22 We set out our initial view to use a clock auction format for the principal stage of the auction in our May 2022 consultation. Having considered responses to that consultation and the March 2023 consultation responses, we decided on the clock auction format in the November 2023 Statement and consultation.

A2.23 Our initial view in the May 2022 Consultation was to auction each high density area (referred to as "designated areas" in the Regulations) as a separate category, on the basis that there may be operators that would consider deploying in specific cities, but would not consider doing so across all high density areas. However, as no respondent to the March 2023 Statement and Consultation expressed potential interest in a licence for any disaggregated high density area, we therefore decided to combine high density areas to award subnational licences in our November 2023 Statement and Consultation.

A2.24 In the March 2023 Statement and Consultation, we proposed 100 MHz lots in three spectrum lot categories (26 GHz lower, 26 GHz upper and 40 GHz). In the November 2023 Statement and Consultation, we set out our decision to auction the spectrum in 200 MHz lot sizes in the same three lot categories, since all stakeholder responses considered this size to be more suitable for radio deployment.

Reserve Prices

- A2.25 In the March 2023 Statement and Consultation, we proposed to set reserve prices that will be materially lower than possible market value using the benchmarks of prices from similar auctions in other jurisdictions.
- A2.26 Having considered responses to the March 2023 Statement and Consultation, we decided to set the following reserve prices for the lot categories in the auction in the November 2023 Statement and Consultation:
- 26 GHz lower: £2m per 200 MHz lot
 - 26 GHz upper: £2m per 200 MHz lot
 - 40 GHz: £1m per 200 MHz lot

Costs to Ofcom and the public sector

- A2.27 The following costs, to Ofcom and the public sector, are associated with our decision to auction the 26 and 40 GHz spectrum:
- b) One-off administrative costs associated with making Statutory Instruments; and
 - c) Costs of carrying out the award process.
- A2.28 We consider that the level of costs in the two categories is relatively low. For example, whilst there are costs of carrying out the award process itself, they amount to at most a few million pounds. In comparison, the likely consumer benefits generated by consumption of enhanced mobile services on 5G networks will exceed the costs.

Cost to business, including small business and the voluntary sector

- A2.29 The business sector most directly affected by the 26 and 40 GHz spectrum auction is the mobile communications service provision sector. Those businesses wishing to take part in the auction will face the costs of participation. Additionally, businesses which are successful in acquiring spectrum through the auction process will face paying fees for the resulting licences, based on their winning bids.
- A2.30 The costs faced by the businesses in the mobile services sector are likely to be more than offset by benefits (e.g. additional profits) derived from using any spectrum rights they win.
- A2.31 We recognise that bidders who are unsuccessful in acquiring spectrum will have faced costs for participation that are irrecoverable. However, we consider these to be proportionate when set against the benefits of an efficient auction aimed at delivering the optimum use of spectrum, and against the benefit of citizens, consumers and businesses. Those businesses which choose to take part in the auction can undertake their own assessment of the costs and benefits of participation.
- A2.32 We do not consider that our decision to make these Regulations will have any material cost implications for any particular sectors of society, including the voluntary sector.

Conclusion

- A2.33 We have assessed the impact of a wide range of aspects of our auction of frequencies in the 26 and 40 GHz spectrum bands.
- A2.34 We have done so in terms of their potential benefit to citizens, consumers and businesses, as against the likely costs involved in adopting these approaches. We have also assessed the potential impact of a number of alternative approaches to particular aspects of the award, including those suggested by stakeholders in response to our various consultations.
- A2.35 We consider that the final decisions set out in our November 2023 Statement and Consultation and the April 2024 Statement – and put into effect through the auction Regulations – will deliver our objectives for the award of the 26 and 40 GHz frequencies, as set out in paragraph A2.7 above.
- A2.36 Further, we consider that the benefits of conducting an auction in the way summarised in this regulatory impact assessment outweigh the costs involved and that our auction format is proportionate.
- A2.37 Accordingly, the auction will deliver benefits for citizens, consumers and businesses by bringing 5.4 GHz of spectrum into use.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs. Signed:

David Willis

Group Director of Spectrum Group

For and by the authority of the Office of Communications

Date: 10 June 2025

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