



Case T-064

5G spectrum award

Invitation to Tender (ITT): proposals
for consultation

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1 Overview and summary

- 1.1 The duties of the Jersey Competition Regulatory Authority (the **Authority**) include assessing demand for radio spectrum needed to operate certain local mobile and wireless services and making subsequent recommendations to UK communications regulator Ofcom for any required spectrum licences. The Authority is presently progressing the award of spectrum for use by 5G services¹.
- 1.2 Having restarted the spectrum award process and consulted to reassess interest and demand, the Authority published an updated 5G Spectrum Award: Updated Statement of Intent (the **Updated Statement of Intent**) In June 2022². This sets out the 5G spectrum packages available for potential applicants, the minimum conditions associated with them and outlines the proposed application process.
- 1.3 The Updated Statement of Intent includes a commitment to consult on the proposed application process, which will follow a generally accepted Invitation to Tender (**ITT**) approach. This document contains a draft 5G Spectrum Award: ITT (**Draft ITT**) for consultation, with its key elements being:
 - (a) The proposed ITT will be for three Full Service spectrum packages as defined in the Updated Statement of Intent, not the Limited Service spectrum packages which will have a different application process to be fully determined following the completion of the Full Service spectrum package ITT³;
 - (b) The proposed ITT will be limited to holders of a current Jersey Class II or Class III telecoms licence, which must follow a structured and tightly controlled ITT process and pay associated fees;
 - (c) The proposed ITT will require applicants to commit to certain obligatory terms and submit certain required and supplementary information, which the Authority will use to carry out a comparative evaluation process for determining spectrum licence awards; and
 - (d) The Authority expects to announce spectrum licence awards within 14 weeks of the proposed ITT opening, after which the necessary steps will be taken to allocate spectrum licences and make any required local licence amendments.
- 1.4 The Authority would like to understand views from interested parties on the Draft ITT set out in this document before developing a final 5G Spectrum Award: ITT (**Final ITT**), which the Authority intends issuing in September 2022, but which may be subject to change.

¹ For brevity, consistency and clarity, this document will refer to '5G services' and '5G spectrum' throughout. For avoidance of doubt, however, the Authority is not advocating the use of any particular technology or services.

² JCRA Document 22/37 – T-064 5G Spectrum Award: Updated Statement of Intent

³ The Authority does not intend recommending Ofcom issue Limited Service spectrum package licences before those issued for the Full Service spectrum packages.

1.5 Details on how to respond to this consultation and these questions are shown in section 3, with the closing date for submissions being 23 August 2022.

2 Introduction and context

2.1 This section introduces and provides context for this consultation on the Draft ITT. Its contents include:

- The 5G licensing process
- Updated Statement of Intent and spectrum packages available
- The proposed ITT process
- Legal and regulatory framework
- Licensing process timetable

The 5G licencing process

2.2 One of the Authority's strategic goals is to deliver effective supervision of regulated sectors including telecoms. In relation to telecoms, it has the objective of ensuring 'secure, resilient and good value telecommunications' for 'Jersey consumers, citizens, businesses and the economy', and encouraging 'sustainable competition, which will deliver innovation, value for money and service development for the benefit of consumers' and ensuring 'investment in next generation services'.⁴

2.3 Fifth Generation or 5G is the next generation of common international mobile standards defined to further the development of mobile phones / terminals and associated networks and services⁵. For telecoms operators and their customers, 5G offers a major step forward for mobile data services with the potential for higher connectivity speeds, much greater capacity for data traffic and lower latency connections.

2.4 The Authority is presently progressing the issue of licences in Jersey to operate 5G networks and services, which requires operators to possess two licences:

- (a) A telecoms licence issued by the Authority under the Telecommunications (Jersey) Law 2002 allowing operators to provide local public telecoms services⁶; and
- (b) A spectrum licence issued by UK communications regulator Ofcom under powers awarded through the Wireless Telegraphy Act 2006 and the Communications Act 2003, in response to recommendations made by the Authority following a local assessment of interest and demand.

⁴ <https://www.jcra.je/media/598402/strategic-plan.pdf>, p14

⁵ For more information on 5G standards and development visit https://www.gsma.com/futurenetworks/ip_services/understanding-5g/

⁶ The Authority plans to make any required amendments to existing Class II and Class II telecoms licences rather than issue new ones.

2.5 The process to award local spectrum licences started in 2018 with extensive consultation and engagement among interested parties. Having been placed on hold in 2020 because of concerns over 5G security requirements and economic impact of the Covid 19 pandemic, in July 2021 the Minister for Economic Development, Tourism, Sport and Culture⁷ requested the Authority restarts the process for awarding 5G spectrum licences. This commenced in February 2022 with a consultation to reassess interest and demand in local 5G spectrum⁸.

Updated Statement of Intent and spectrum packages available

2.6 Following the consultation to reassess interest in and demand for Jersey's 5G spectrum, the Authority issued the Updated Statement of Intent in June 2022⁹, which set out and justified the spectrum packages being made available to potential applicants. These are:

- (a) Up to three **Full Service spectrum packages**, intended for island-wide networks providing publicly available services for the maximum number of users; and
- (b) Multiple **Limited Service spectrum packages**, intended for potentially limited coverage networks providing either publicly available or private services for a potentially limited number of users.

2.7 The Updated Statement of Intent further defined the minimum associated conditions for the different packages, and outlined the proposed application process.

The proposed ITT process and next steps

2.8 The proposed ITT process will be for the Full Service spectrum packages only¹⁰.

2.9 Alongside establishing the 5G spectrum packages and minimum associated conditions, and outlining the proposed application process, the Updated Statement of Intent contained a commitment to consult on the application process.

2.10 Annex A of this document sets out a Draft ITT for consultation, with the Authority welcoming views from interested parties before issuing a Final ITT, which the Authority intends issuing in September 2022, but which may be subject to change. Specifically, responses to the following questions are welcome:

⁷ Jersey Government minister with responsibility for development of island telecoms policy.

⁸ JCRA Document 22/18 - 5G spectrum award process: Consultation to reassess interest and Demand. See <https://www.jcra.je/cases/2022/t-064-5g-spectrum-award-process-2022/t-064-5g-spectrum-award-process-2022-consultation/>

⁹ JCRA Document 22/37 – T-064 5G Spectrum Award: Updated Statement of Intent

¹⁰ Interest in the Limited Service spectrum packages should be expressed directly with the Authority which will evaluate and potentially award on a case-by-case, first-come, first-served basis, assessing each on its merits, backing and benefits for Islanders, local businesses and Jersey as a whole.

Question 1: Do you have any comments on the proposed 5G spectrum award tender and licensing process and timetable?

Question 2: Do you have any comments on the proposed 5G spectrum award ITT terms and conditions?

Question 3: Do you have any comments on the proposed 5G spectrum award tender contents?

Question 4: Do you have any comments on the proposed 5G spectrum award tender evaluation and selection procedure?

Legal and regulatory framework

2.11 The Telecommunications (Jersey) Law 2002 requires the Authority to carry out its functions in such manner as it considers is best calculated to ensure that (so far as is reasonably practicable) telecommunication services are provided, both within Jersey and between Jersey and the rest of the world, as to satisfy all current and prospective demands for them.

2.12 Consistent with the requirement above, the Authority shall:

- (a) Promote competition among telecoms operators in Jersey, while minimising restrictions placed upon them;
- (b) Promote efficiency, economy and effectiveness in the commercial activities of telecoms operators;
- (c) Further the economic interests of Jersey; and
- (d) Ensure that telecoms operators have sufficient financial and other resources to conduct their activities.

2.13 The Authority shall further have regard to considering whether services are accessible and affordable to the maximum number of users, are innovative, high quality and reliable.

Licensing process timetable

2.14 The remaining steps and provisional timeline, which may be subject to change, for completion of the 5G spectrum award process are as follows:

Jun 2022	Publish Updated Statement of Intent and draft ITT for consultation
Sep 2022	Publish final ITT and invite applications
Q1 2023	Announce tender winners and make recommendations for spectrum award to Ofcom

H1, 2023	Complete required local enabling activities for tender winners and Ofcom issue spectrum licences
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3 Next steps

3.1 The Authority invites written views and comments on the information contained and questions raised in this document. All responses to this consultation should be submitted in writing, clearly marked 'T-064 5G Spectrum Award: Draft ITT Process', and received by the Authority before 5.00 pm on 23 August 2022. Submissions can be sent by email to info@jcra.je or alternatively in writing to:

Jersey Competition Regulatory Authority
2nd Floor Salisbury House
1-9 Union Street
St Helier
Jersey
JE2 3RF

3.2 It would be helpful if any response includes direct answers to the questions asked in this document. It would also help if you can explain why you hold your views and how the Authority's proposals would impact on you, supported by any quantitative or qualitative evidence that you hold.

3.3 In accordance with Authority policy, non-confidential responses to the consultation may be made available on its website (www.jcra.je). Any material that is confidential should be put in a separate annex and clearly marked as such.

3.4 Once this consultation has closed, the Authority will review responses which may be taken into account within the Final ITT. The intention is publishing this shortly after the consultation period conclusion.

Annex A: 5G Spectrum Award: Draft Invitation to Tender

4 Introduction

4.1 The Jersey Competition Regulatory Authority (the **Authority**) is presently progressing the awarding of licences in Jersey to operate 5G networks and services, which in each case will require the operator to hold two licences:

- (a) a telecoms licence issued by the Authority under the Telecommunications (Jersey) Law 2002 allowing operators to provide local public telecoms services; and
- (b) a spectrum licence relating to the 5G spectrum issued by UK communications regulator Ofcom under powers awarded through the Wireless Telegraphy Act 2006 and the Communications Act 2003, in response to recommendations made by the Authority following a local assessment of interest and demand.

4.2 Having reassessed interest and demand in 5G spectrum and issued a Updated Statement of Intent setting out spectrum packages available, the minimum associated conditions for the different packages, and outlined the proposed application process (see JCRA Document No. 22/37), the Authority is inviting applications for 5G Licences in Jersey, with the proposed process to be followed shown below.

5 Spectrum packages available for application

5.1 The Authority intends inviting applications for three **Full Service spectrum packages**, as set out in its Updated Statement of Intent issued in June 2022 following a public consultation to reassess interest and demand.

6 Proposed tender and licencing process

6.1 The Authority proposes to establish and follow the application, evaluation and licensing process and timetable shown below:

Stage 1	Date ¹¹	The ITT process opens, with applicants able to register interest and receive the ITT details including the formal application document.
Stage 2	Date + 2 weeks	Applicants formerly express interest and pay required fees, after which there is an opportunity to submit and receive responses to appropriate clarification questions.

¹¹ Date being the date that the Authority chooses to open the 5G License ITT process – to be confirmed following the Draft ITT consultation.

Stage 3	Date + 10 weeks	Applicants prepare and submit tenders and pay required fees.
Stage 4	Date + 14 weeks	The Authority carries out a comparative evaluation of tender submissions to determine spectrum awards and announces successful applicants.
Stage 5	Date + 41 weeks	The Authority completes any necessary local enabling activities, and makes required recommendations to Ofcom and Ofcom issuing spectrum licences.

Question 1: Do you have any comments on the proposed 5G spectrum award tender and licensing process and timetable?

7 Proposed ITT terms and conditions

- 7.1 Tender submission is limited to current Jersey Class II and Class III telecoms licence holders only. If there are fewer applicants than available licences, or fewer than three applicants able to demonstrate their suitability and commitment, the Authority may consider running a second, subsequent application process open to any applicant including non-existing Class II or Class III telecoms licence holders.
- 7.2 Applicants must pay the following fees¹²:
- (a) An application fee of £20,000 which is non-refundable, following which the Authority will provide the 5G Spectrum Award: Invitation to Tender document; and
 - (b) A submission fee of £60,000 which must be paid at the time of tender submission, and which will be refunded to any unsuccessful applicants inclusive of any accrued interest within 30 days of award notification.
- 7.3 Applicants must comply with the following terms and requirements for their submission to be considered:
- (a) That they have met ITT application conditions by registering and paying applicable application and submission fees;
 - (b) That they have submitted their application by the designated deadline date and using the process specified in the formal application document; and
 - (c) That they have provided the information required by the tender process and in the format specified in the formal application document.

¹² Fees set at a level designed to allow the Authority to recover reasonable costs associated with carrying the 5G spectrum licensing process.

Question 2: Do you have any comments on the proposed 5G spectrum award ITT terms and conditions?

8 Proposed tender contents

Part 1: Applicant information

8.1 Applicants must provide full details of their organisation and the person identified as its direct point of contact during the ITT process and an explicit statement that they are authorised to act on behalf of the organisation.

Part 2: Application declaration

8.2 Applicants will be required to agree to be bound by the following terms:

- (a) That they agree to the terms and conditions of the ITT and that all information submitted through the application process is true and accurate;
- (b) That they will launch a service using the initial allocation of 5G spectrum within five years of receiving a spectrum licence from Ofcom, and that failure to meet this deadline may result in the Authority recommending that Ofcom withdraw the spectrum licence;
- (c) That they will launch a service using the initial allocation of 5G spectrum and roll-out at least 10 active 5G equipped base stations before receiving an incremental allocation of 5G spectrum, subject to it being equally available to all licensees through a planned defragmentation process;
- (d) That they accept the award of an incremental allocation of 5G spectrum is wholly reliant on a process to defragment the local 3.4-3.8 GHz spectrum band, which may take at least five years to achieve, and that the award of an incremental allocation of spectrum will be made available equally to all licensees as it becomes available but conditionally to individual licensees that have met condition (b) and (c) above;
- (e) That they will work constructively (if required) with the Authority in support of the process to defragment the local 3.4-3.8 GHz spectrum band; and
- (f) That they will pay all fees associated with this tender process.

Part 3: Required information

8.3 Applicants are required to demonstrate their suitability for being awarded 5G spectrum through providing responses to the following required information categories:

Requirement 1	Applicants must demonstrate they possess or have access to the financial means and commitment required to invest in and sustain a full service 5G network and associated services.
Requirement 2	Applicants must demonstrate they possess or have access to the technical knowledge and resources required to develop and operate a full service 5G network and associated services.
Requirement 3	Applicants must demonstrate they possess or have access to the operational and commercial experience required to provide and support a full service 5G network and associated services.

Part 4: Supplementary information

8.4 Applicants are further invited to state how Jersey, its consumers and businesses will benefit from and not be adversely impacted by the applicant receiving the award of 5G spectrum through providing responses to the following supplemental information categories:

Supplemental 1	Applicants should state how receipt of a 5G spectrum licence will benefit Jersey as a whole.
Supplemental 2	Applicants should state how receipt of a 5G spectrum licence will specifically enhance the telecoms experience of local consumers and businesses.
Supplemental 3	Applicants should state how they will minimise and mitigate the environmental impact of a potential proliferation of new network infrastructure following the receipt of a 5G spectrum licence.

Part 5: Optional information

8.5 Applicants will be able to state preferred allocations in the 700 MHz and 3.4-3.8 GHz spectrum bands.

Question 3: Do you have any comments on the proposed 5G spectrum award tender contents?

9 Proposed tender evaluation and selection procedure

- 9.1 The Authority will treat all tenders received with the strictest confidence, eliminating any not meeting required ITT terms and conditions.
- 9.2 The Authority will carry out a comparative evaluation of accepted tenders using an independently audited process¹³, assessing the **required information** provided and scoring using the following criteria and weighting:

Criteria	Explanation	Weighting
Completeness	How complete is the information provided?	20%
Consistency	Is the information provided consistent with other aspects of the submission?	20%
Credibility	How credible is the information provided?	60%

- 9.3 The Authority reserves the right to reject tenders failing to achieve a minimum score established to ensure any applicant is suitable to be awarded a 5G spectrum licence.
- 9.4 The Authority will conclude the ITT and award 5G licences if there are three or less applicants remaining after assessing the required information provided. If there are more than three applicants remaining, the Authority will assess the **supplemental information** provided and score using the same criteria and weighting set out in section 9.2 to determine which three applicants receive a 5G spectrum licence based on the highest cumulative awarded scores¹⁴.
- 9.5 The Authority will notify successful applicants once assessment is complete, stating the spectrum bands allocated based on scores achieved, with the highest scoring applicant gaining first preference, second scoring applicant gaining second preference, and so on.

Question 4: Do you have any comments on the proposed 5G spectrum award tender evaluation and selection procedure?

10 Other information

- 10.1 Stage 2 of the ITT process (shown in section 6.1) allows registered tender applicants to submit and receive responses to appropriate clarification questions. These must be submitted in writing

¹³ The Authority intends engaging an recognised independent third party expert to review the planned ITT process and confirm its suitability.

¹⁴ Cumulative score = score achieved for required information plus score achieved for supplemental information.

using a defined process, with questions and responses provided shared with all registered tender applicants.