

ICT 2023 – 3 - Consultation Revision of the Fees for Mobile (Cellular) and Fixed Wireless Licences Spectrum



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A. Introduction

1. The Utility Regulation and Competition Office (the ‘Office’) is the independent regulator for the electricity, information and communications technology (‘ICT’), water, wastewater and fuels sectors in the Cayman Islands. The Office also regulates the use of electromagnetic spectrum and manages the .ky Internet domain.
2. Different decisions by the Office will affect persons and organisations throughout the country in different ways. It is therefore important that the Office makes decisions with the appropriate input from persons with sufficient interest or who are likely to be affected by the outcome of such decisions. Consultation is an essential aspect of regulatory accountability and transparency and provides the formal mechanism for these persons to express their views in this manner. The requirement for the Office to consult is mandated in its enabling legislation.
3. The purpose of this consultation is to seek the views of affected stakeholders, the general public, and other interested parties, regarding proposed changes to the fees for Mobile (Cellular) and Fixed Wireless Access spectrum.
4. Amongst the licences defined by OfReg are those relating to the delivery of ICT Services to citizens and businesses comprising mobile (cellular) and fixed wireless access, telephony, internet and television services. The fees for these services include the requirement to pay for the use of the radio spectrum. The Office specifies the spectrum licence for these services in its section 23(2)¹ notice as a “Type S” licence, the fees for which “*are to be paid annually*”. The Types S licence is defined as follows:

Type	Description	Comments or explanatory notes
S	All transmitters / transponders other than those licensed under Tables 2 or 3, or those otherwise exempted by the Office	Each transmission frequency or channel is required to be licensed. This requirement extends to most uses of spectrum whether that in use is in connection with a public or private network. For the avoidance of doubt, licences of Table 1 are required to obtain the appropriate Type S licences.

5. OfReg’s current implementation of the fee structure for Mobile (Cellular) and Fixed Wireless Access licences is that each active transmitter is charged an “Authorised Frequency Fee” of C\$75.00. Given that a significant amount of time has passed since this structure was implemented, with

¹ <https://www.ofreg.ky/viewPDF/documents/legislation/2021-04-15-01-36-33-Section-23-Notice-20-Nov-2017.PDF>

resulting changes in the local market and in international practices, the Office considers it is appropriate to review and update spectrum fees for these services and any associated policies or regulations.

6. This document sets out the proposed changes, explains the rationale behind the proposals, and invites feedback from stakeholders on the proposed changes.

B. Legal Framework

7. Under the Information and Communications Technology Act (the '**ICT Act**'), "Licence Fee" means **licence fees**" means the initial, annual or renewal fees for a licence payable to the [Office] by an applicant or a licensee.
8. Under the ICT Act, the Office is permitted to determine prescribed licence fees. **Section 30(1)** of the ICT Act states that "*A licence granted under this Law shall be subject to the prescribed licence fees which shall be determined by the Office*" and that these fees "*shall be payable directly by the applicant to the Office at such time or times as may be prescribed by the Office*".
9. Under section 9 of the ICT Act the Office shall:
 - (a) allocate the electromagnetic spectrum for facilities and specified services within the Islands, or between the Islands and elsewhere;
 - (b) determine methods for assigning the electromagnetic spectrum;
 - (c) issue licences authorising the use of specified portions of the electromagnetic spectrum, including those used on any ship, aircraft, vessel or other floating or airborne contrivance or spacecraft registered in the Islands; and
 - (d) institute procedures for ensuring the compliance by licensees with any obligations regarding the use of the electromagnetic spectrum, imposed by or under the licence, this Law or any regulations made hereunder.
10. Section 23 (6) of the ICT Act states that a licence may specify conditions to which the licensee is subject, including but not limited to [...] spectrum utilisation.

C. Proposals (Draft Determination)

11. OfReg's current implementation of the fee structure for Mobile (Cellular) and Fixed Wireless Access spectrum is that each active transmitter is charged at CI\$75.00 per channel (or transmission frequency) per annum. Neither the ICT Act, nor the Utility and Competition Regulation Act (the '**URC Act**') provide specific guidance on how a channel or transmission frequency should be interpreted.
12. Further, the current charging principles require that the total amount collected in each Regulated Financial Year for Authorised Frequency Fees from all Licensees shall not exceed the Office's annual estimated cost of electromagnetic spectrum management and other related activities.
13. In order to address the lack of definitions, ensure that the spectrum fees received better match the Office's costs and to update and address a number of other matters associated with the current spectrum fee structure (as described later in this document), it is proposed that the fees be revised and updated to become formula based as follows:

$$\text{Fee} = \text{SU} \times \text{BW} \times \text{BF}$$

Where:

- SU is the Spectrum Unit, which will be CI\$75.00 for the year 2024. This value will be index-linked annually based on the Consumer Price Index (CPI) value published by the Cayman Islands Economics and Statistics Office (ESO).
- BW is the bandwidth of spectrum used, based on multiples of 200 kHz channels. A duplex assignment will count as two channels.
- BF is a band factor, to recognize the relative value and utility of different parts of the radio spectrum and is defined as in the table below.

Frequency (f)	BF
$f < 1 \text{ GHz}$	1.5
$1 \text{ GHz} \leq f < 2.3 \text{ GHz}$	1
$f \geq 2.3 \text{ GHz}$	0.5

14. The proposed changes we are consulting on are to be considered the draft determinations in this matter and the Office welcomes feedback on the proposals which the Office will consider when making a final determination.

D. Rationale

15. OfReg's current implementation of the fee structure for Mobile (Cellular) and Fixed Wireless spectrum is that each active transmitter is charged a fee of CI\$75.00 per frequency channel per annum. In light of the time that has passed since this implementation was enacted and the need for the Office to review and update its policies and procedures from time-to-time, it is appropriate to consider whether improvements can be made.
16. The Office is required "When allocating spectrum, the [Office] attempts to balance the following, sometimes competing, requirements [...] To ensure the effective and efficient use of spectrum, a scarce national resource..." and as such, efficient spectrum use is a pillar of the way in which it should be managed. The approach currently applied by the Office could be enhanced to improve its effectiveness in ensuring efficient management of the spectrum. Specifically, the following attributes of the current fee structure are worth further consideration. The current structure:
 - Penalises operators each time they improve coverage through adding a new base station to their network, or new sectors or frequencies to an existing cell site;
 - Could more fairly reflect the amount of spectrum that is being used by different operators and different technologies;
 - Could differentiate between frequency bands with different characteristics and utility;
 - Can mean that operators could be charged different amounts for access to the same unit of spectrum;
 - Means that spectrum prices for an operator are not transparent in that they cannot be calculated by a third party without having detailed information about an operator's network;
 - Could be improved by adopting approaches which are common internationally (and thus could better reflect 'best practice').
17. The basic principles of efficient spectrum pricing (i.e. charging fees for the use of the radio spectrum) are usually taken to include the following premises²:
 - a) Prices should reflect the amount of spectrum being used;
 - b) In the absence of excess demand or scarcity, prices should be set to recover the cost of managing the spectrum;

² See, for example: https://eu-ems.com/event_images/filemanager/5G_Huddle_2020/day_2/2_-_Yi_Shen_Chan_-_Session_5.1.pdf

- c) Where there is excess demand or scarcity of supply, positive pricing may be used as a tool to encourage economic efficiency;
 - d) Prices should be based on objective factors and all licence holders in a given frequency band should be treated on an equitable basis;
 - e) The basis on which prices are calculated should be open and transparent.
18. If it is accepted that these are reasonable principles on which to form the basis of charging for the use of the spectrum, then the current situation in the Cayman Islands can be assessed.

D.1 Reflecting the amount of spectrum being used

19. The current method of charging for the use of spectrum for mobile (cellular) and fixed wireless access services in the Cayman Islands is based on the following principles:
- CI\$75.00 per transmitter/channel.
 - Fixed spectrum license fees are to be paid annually per transmitter.
 - Each transmission frequency or channel is required to be licensed.
20. Neither the Fee Schedule, nor the ICT nor URC Act provide specific guidance on what constitutes a channel, transmission frequency or a transmitter with regards to spectrum fees. With respect to the existing operators, this is currently taken to be whatever frequency bandwidth they are deploying from each sector of each cell. A single cell site may have multiple sectors, depending on the expected traffic that the site has to handle.
21. An operator using a 200 kHz wide piece of spectrum as required for a GSM channel currently pays the same for each transmitter as one deploying a 10 MHz wide piece of spectrum as required for LTE channel, despite the latter using 50 times more spectrum. This is the case even if the two services are operating in the same frequency band (i.e. using the same type of spectrum). This does not fairly reflect the amount of spectrum being used.
22. There may also be an issue pending with the introduction of 5G. The multiple-input, multiple-output (MIMO) antennas used for 5G have transmitters attached to each individual element of their antennas and as such there could be up to 256 transmitters associated with each antenna. Following the current definition, this would require 256 payments for each antenna which may be multiplied by the number of sectors on each site, for which an antenna is situated.

D.2 Absent excess demand or scarcity, prices should be set to recover the cost of managing the spectrum

23. Arguably there is currently no excess demand or scarcity as all ICT Network operators have reasonable portfolios of spectrum. However, in some parts of the spectrum (most notably below 1 GHz) there is little to no additional spectrum which could be made available for new cellular uses or users. In these frequency ranges it could therefore be argued that there is now a situation of scarcity.
24. Should new wireless operators wish to launch services in the country, there may be additional frequency ranges where demand could soon outstrip supply.
25. The Office recently assigned spectrum in the 600 MHz band to an ICT licensee. It later became apparent that another operator would have also wished to utilise some of that frequency band. This suggests that excess demand may be becoming an issue. At lower frequencies the amount of spectrum that is available for the future is very restricted simply due to the fact that such spectrum accounts for only a small proportion of that which exists. Given the particularly attractive characteristics of low frequency spectrum, any which does become available in the future may therefore be heavily contested.

D.3 Where there is excess demand or scarcity of supply, positive pricing may encourage economic efficiency

26. Positive pricing relates to the idea that the price of certain pieces of spectrum can be set in such a way as to encourage licensees to make the best economic use of it. For example, if fees are raised, licensees will need to improve the return they make on their investment on the use of that spectrum in order to cover the increase. In some circumstances, this may lead to higher end-user prices and this is not an outcome that is always in the economic interests of consumers which OfReg has a duty to protect.
27. OfReg currently aims to recover solely the cost of managing the spectrum from licensees and as such, no positive pricing exists. Only in the case that it becomes apparent that there is scarcity or excess demand would it therefore be appropriate to consider any form of positive spectrum pricing.

28. Arguably, the current fee structure actively discourages operators from acting with economic efficiency. Each time an operator extends coverage or provides additional capacity through the addition of a new transmitter, it is required to increase the amount it pays in spectrum fees. This penalises operators each time they improve their service, and whilst the additional fee may be relatively small, it is nevertheless counterintuitive given the desire for the country to receive the best possible coverage and capacity.
29. Another aspect of the existing fee system which can be improved is that whilst an operator may have been assigned a particular piece of spectrum, only when this spectrum is put into further use (i.e. transmitters are installed and switched on) will additional spectrum fees become payable. Not using spectrum efficiently is something that the Office needs to guard against. The current pricing rules could lead to situations where an operator is awarded spectrum but rolls-out service slowly deferring additional amounts they would pay for spectrum until the network is completed. It would be more logical to charge an operator for the spectrum that they have been assigned regardless of their level of use of it. This would encourage roll-out, and ensure that two operators with the same amount of spectrum would pay the same fee.

D.4 Prices should be based on objective factors and licence holders in a given frequency band should be treated on an equitable basis

30. The current pricing structure is set on objective factors and arguably the treatment of all users within a frequency band is therefore equitable. However, the fact that the amount paid depends upon the number of transmitters (cell sites) that each operator has, and does not take into account the amount of spectrum they use, means that the amount that two operators pay may be vastly different to provide the same service.
31. Equally, two operators providing very different services (e.g. one with a limited voice service and the other with a high-bandwidth data service) may pay the same fee for their spectrum.

D.5 Prices should be calculated on open and transparent basis

32. From the perspective of the licensees, the price which they pay is currently transparent to them as it is calculated based on their site and spectrum portfolio. Anyone outside that licensee, though, would not be able to calculate the fees given that they would not have access to the information

necessary to do so. Thus whilst the charging structure could be argued to be open and transparent, the resulting fees arguably are not.

D.6 International practices

33. Many countries are increasingly using auctions to award radio spectrum for cellular and fixed wireless access services, especially where excess demand can be foreseen, as they put the onus on those bidding to decide what an appropriate value for the spectrum should be. Once spectrum is awarded and paid for, the operators are then at liberty to use their spectrum in any way they see fit (within some technical limitations), meaning that adding new sites, or changing technologies, does not incur additional costs.
34. Auctions also fulfil the requirements of equality of treatment, transparency and openness, and generally reflect the amount of spectrum being used though it is possible for bidders to end up paying somewhat different prices for the same amount of spectrum.
35. As most countries have used auctions to assign spectrum for cellular and fixed wireless access services, only a limited number of countries charge for spectrum on a recurring annual basis. Some of these do so as the result of auctions where the required fees are annualized and this is not informative in comparing their situation with that in the Cayman Islands.
36. The table below sets out some examples of how spectrum fees for cellular and fixed wireless access services are calculated in a number of countries which employ non-auction-based fees for spectrum. The countries used in this exercise have primarily been chosen on the basis that they charge for cellular spectrum on an annual, recurring basis rather than employing auctions to determine prices. They also reflect a wide range of territories from large to small, with varying degrees of GDP generation.

Country	Pricing Arrangement	Notes
United Arab Emirates ³	$\text{Frequency Fees} = (\text{FF} \times \text{CF} \times \text{P} \times \text{BW}) / 4000$ <ul style="list-style-type: none"> FF = Frequency Factor (different bands have different rates) CF = Coverage Factor (more coverage leads to higher fees) P = Price Per MHz BW = Bandwidth in MHz 	The UAE has only two cellular operators and thus does not feel the need to use auctions.

³ <https://tdra.gov.ae/-/media/About/regulations-and-ruling/EN/Frequency-Spectrum-Fees-Regulations-v4-0-pdf.ashx>

Country	Pricing Arrangement	Notes
Nigeria ⁴	$\text{Spectrum Fee} = U \times B \times K_1 \times K_2$ <ul style="list-style-type: none"> • U = Fee per State • B = Bandwidth in MHz • K₁ = Band Factor (different bands have different rates) • K₂ = Tenure Duration (length of licence) 	More recently Nigeria has also used spectrum auctions
Bahamas ⁵	$\text{Fee} = C \times \text{FBF} \times \text{IF} \times \text{TF} \times \text{BW}$ <ul style="list-style-type: none"> • C = Constant • FBF = Frequency Band Factor (different bands have different rates) • IF = Island Factor (different islands have different rates) • TF = Time Factor (1 for 1 year) • BW = Bandwidth in MHz 	URCA conducted a spectrum auction for a new operator in 2015
Kenya ⁶	$\text{Fee} = (\text{BW} \times C_1) + (C_2 \times n \times \text{Rate})$ <ul style="list-style-type: none"> • BW = Bandwidth in kHz divided by 8.5 • C = Constant • n = number of transceivers • Rate = factor relating to the total number of transceivers deployed 	The number of transceivers (sites) also plays a role in pricing

⁴ <https://ncc.gov.ng/documents/118-commercial-frequency-pricing-formula/file>

⁵ <https://www.urcabahamas.bs/wp-content/uploads/2023/02/Fee-Schedule-2023.pdf>

⁶ <https://www.ca.go.ke/wp-content/uploads/2018/04/Frequency-Spectrum-Fees-Schedule.pdf>

Country	Pricing Arrangement	Notes
Eswatini ⁷	$\text{Fee} = \text{UNIT} * \text{FREQ-M} * \text{BW} * \text{HD} * \text{SHR} * \text{AF}$ <ul style="list-style-type: none"> FREQ-M = Frequency Factor BW = Bandwidth in MHz HD = High Demand Factor (different bands have different demands) SHR = Sharing Factor (exclusive assignments are more expensive) AF = Area Factor 	
Papua New Guinea ⁸	$\text{Spectrum Fee} = V * (2600/F) * B * T * L + 4600 * n$ <ul style="list-style-type: none"> V = Value per MHz F = Frequency Factor B = Bandwidth in MHz T = Exclusivity Factor L = Area Factor n = Number of base stations 	<p>The number of Base Stations also plays a role in pricing</p> <p>V is index linked</p>
Guyana ⁹	$\text{Fee} = C * BF * N$ <ul style="list-style-type: none"> C = Constant BF = Band Factor (below or above 900 MHz band) N = Number of Cell Sites 	The only other country identified which bases fees solely on the number of cell sites
Sri Lanka ¹⁰	$\text{Fee} = K_1 * B * 4500 + n * \text{BSF}$ <ul style="list-style-type: none"> K₁ = Band Factor B = Bandwidth (in kHz) n = Number of base stations BSF = Factor based on number of base stations 	<p>Number of base stations also plays a role in pricing.</p> <p>More recently Sri Lanka has introduced spectrum auctions</p>
Turks and Caicos Islands ¹¹	Fee is dependent on the amount bandwidth licensed and frequency band in use. No specific formula is applied.	

⁷ <https://www.esccom.org.sz/mandate/spectrum/SCHEDULE-OF-SPECTRUM-FEES.pdf>

⁸ <https://www.nicta.gov.pg/licensing/licensing-fees/radio-spectrum-fees/>

⁹ <https://telecoms.gov.gy/feestructures>

¹⁰ https://www.pta.gov.pk/media/satrc/01-160817_6.pdf

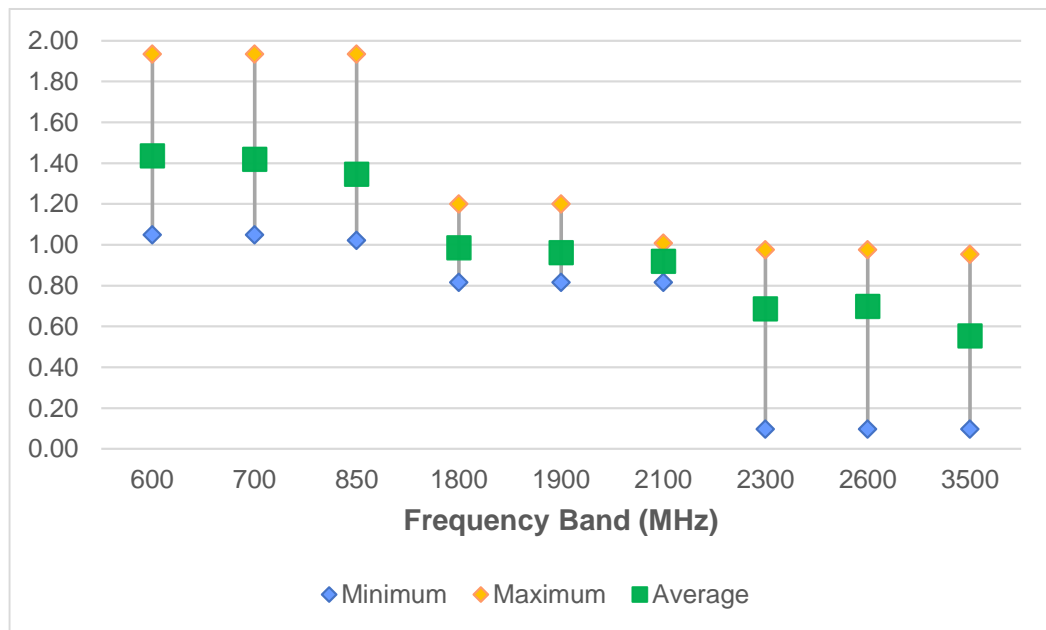
¹¹ <https://telecommission.tc/wp-content/uploads/2021/04/Telecommunications-Fee-Structure-Regulations-2020.pdf>

37. There are a number of factors which are almost universal for the calculation of fees amongst these countries:
 - The use of a factor which takes into account the amount of spectrum (or 'bandwidth') that a licensee has (only Guyana does not adopt this approach); and
 - A band factor which takes into account the varying scarcity, utility, demand or value of different parts of the radio spectrum.
38. Kenya, Sri Lanka and Papua New Guinea include the number of base stations as a factor in their calculations in addition to a fee based on the amount of spectrum assigned. Only Guyana's pricing uses the number of base stations as a fundamental factor in the total fee calculation, however they also employ a band factor. It is worth noting that a payment structure which includes the number of sites an operator has as a factor in their spectrum fees is generally regarded as counterproductive if a policy objective is to ensure universal coverage or to achieve wider roll-out of wireless broadband services.
39. The notion that licensees should pay based upon the amount of spectrum they employ is common across all jurisdictions examined¹² except Guyana and would also largely be the case for spectrum which has been auctioned. It would therefore follow international best practice to adopt the same approach in the Cayman Islands.
40. Many countries charge on a 'per MHz' basis and this approach could be used, however the current smallest channel assignment in the country is 200 kHz, and these transmitters currently pay the CI\$75.00 fee. It therefore seems reasonable to consider multiples of 200 kHz to be the basis on which fees are calculated as this would mimic existing fees for GSM services, and will then reflect the additional spectrum deployed for those technologies which use wider bandwidth channels.
41. The band factor employed in all of the jurisdictions considered points to higher fees for lower frequency spectrum and performs multiple purposes, taking into account the fact that:
 - lower frequencies are able to provide coverage over larger areas and thus less infrastructure (and investment) is required to achieve the same degree of coverage, making it more attractive to operators;

¹² Many ECTEL countries have adopted similar approaches which charge solely on the bandwidth licensed, but do not reflect a band value.

- lower frequencies are better able to penetrate from outside to inside buildings, making it more valuable for providing coverage indoors when cellular infrastructure is outdoors;
- there is less spectrum available at lower frequencies (i.e. below 1 GHz) and thus it carries a larger scarcity value than higher frequencies;
- in addition to there being less spectrum at lower frequencies, there is also less potential for any more spectrum to be identified for cellular or fixed wireless access services in the future, making the spectrum that is available more sought after.

42. The band factors used by the various countries being benchmarked are illustrated below. The range of prices charged has been re-based so that the average factor for each country is 1. The chart shows the average benchmarked value for each of the mobile frequency bands licensed in the Cayman Islands (the green square) as well as the maximum (yellow diamond) and minimum (blue diamond) charged in each of the jurisdictions examined.



Re-based Band Factors for the frequency bands employed in the Cayman Islands

43. The ranges of values used for band factors clearly reflect the tendency to charge higher fees for lower frequencies and vice versa. It is also clear that price ranges tend to fall into three categories:
- Frequencies below 1 GHz, where the average band factor is approximately 1.4;
 - Frequencies between 1 and 2.3 GHz where the average band factor is approximately 1; and
 - Frequencies at and above 2.3 GHz where the average band factor is around 0.6.
44. We have considered whether it would be appropriate to implement band-dependent pricing in spectrum bands in the Cayman Islands and have concluded that, based on the reasons provided above and the fact that it follows best practice, the use of a band factor to take account of these differences is reasonable and appropriate.

D.7 Conclusions and proposals (Draft Determination)

45. In order to better ensure fairness, promote efficient spectrum use and to better follow international best practice for calculating fees for cellular and fixed wireless access spectrum, it is proposed that a formula based approach be adopted in the Cayman Islands, defined as follows:

$$\text{Spectrum Fee} = \text{SU} * \text{BW} * \text{BF}$$

Where:

- SU is the spectrum unit of pricing. This will be set at CI\$75 for the year beginning 2024 and will then be index-linked, based on the CPI published by the Cayman Islands ESO for each ensuing year¹³.
- BW is the bandwidth factor. This will be based on the number of multiples of a 200 kHz channel which are licensed in a particular band. For duplex (FDD) assignments, both uplink and downlink frequencies will be charged for.
- BF is the band factor. This is to allow for recognition that different frequency bands have different levels of value and utility.

¹³ If, for example, ESO determines the CPI for 2024 to be 4%, the SU in 2025 would rise to CI\$78. This helps ensure that the fees collected keep track with the Office's costs.

The value for BF will be defined as follows:

Frequency Range	BF
$f < 1 \text{ GHz}$	1.5
$1 \text{ GHz} \leq f < 2.3 \text{ GHz}$	1
$f \geq 2.3 \text{ GHz}$	0.5

46. This charge will be for the spectrum used only and will no longer be on a per transmitter basis.

47. For the sake of clarity, this fee structure would apply to all use of spectrum for ICT services in the frequency bands which are defined in the 3GPP standards for public cellular services¹⁴. This includes, but is not limited to, the following:

- Band 71 (617 – 652 // ¹⁵ 663 – 698 MHz)
- Bands 12, 13, 14 and 17 (699 – 768 MHz)
- Band 26 (824 – 849 // 869 – 894 MHz)
- Band 3 (1710 – 1785 // 1805 – 1880 MHz)
- Band 2 (1850 – 1910 // 1930 – 1990 MHz)
- Band 1 (1920 – 1980 // 2110 – 2170 MHz)
- Band 40 (2300 – 2400 MHz)
- Band 41 (2496 – 2690 MHz)
- Band n77 (3300 – 4200 MHz)

48. This does not include spectrum used for maritime, aeronautical nor land mobile services.

E. Consultation Questions

49. Based on the above, the Office invites all interested parties to submit their comments, with supporting evidence, on the following question:

Question 1: Do you have any comments regarding the proposed changes to fees for mobile (cellular) and fixed wireless access spectrum?

¹⁴ Including Table 5.5-1 in 3GPP TS 136.101 and Table 5.2-1 in 3GPP TS 38.101-1

¹⁵ The '//' representation indicates spectrum which is used in pairs (e.g. duplex assignments)

F. How to Respond to This Consultation

50. This consultation is conducted in accordance with the Consultation Procedure Guidelines determined by the Office and found on the Office's website here:
<http://www.ofreg.ky/upimages/commonfiles/1507893545OF20171DeterminationandConsultationProcedureGuidelines.pdf>
51. The Office considers that because the proposed changes are published as part of this consultation, this consultation will be conducted as a single-phase consultation over a period of **thirty (30) days**.
52. All submissions on this consultation should be made in writing, and must be received by the Office by **5 p.m. on 17 November 2023** at the latest. If you wish to file any information in confidence with the Office, you should, at the time of submitting your response, also file redacted versions for the public record along with the reasons for each confidentiality claim and the other requirements for confidentiality claims as specified in section 107 of the URC Act.
53. The Office will post any comments received on or before **5 p.m. on 1 December 2023**.
54. Submissions may be filed as follows:

By e-mail to:
consultations@ofreg.ky

Or by post to:
Utility Regulation and Competition Office
P.O. Box 10189
Grand Cayman KY1- 1002
CAYMAN ISLANDS

Or by courier to:
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