

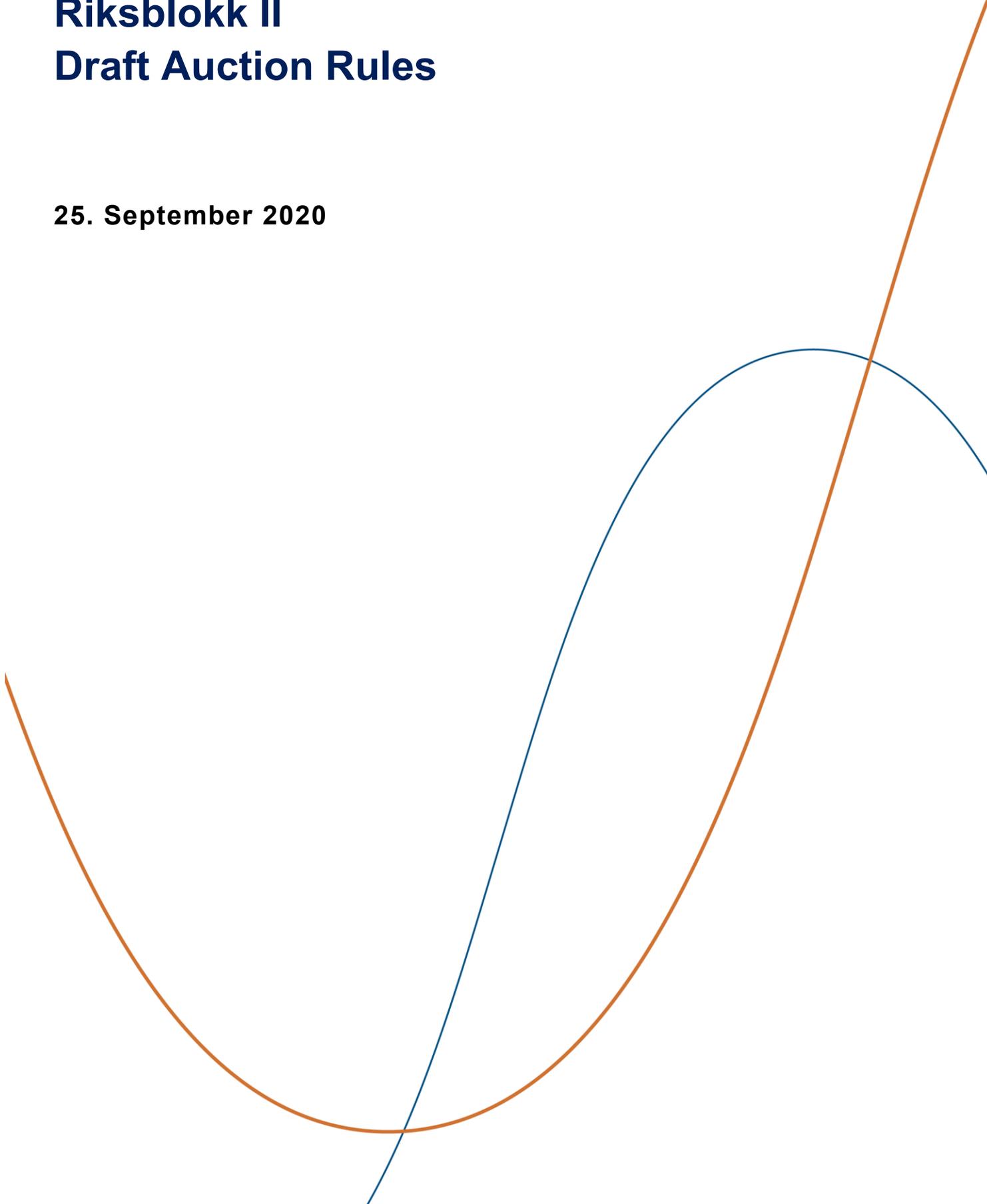


Nasjonal
kommunikasjons-
myndighet

 Medietilsynet

Riksblokk II Draft Auction Rules

25. September 2020



Contents

- Contents 2
- 1 Introduction 3
- 2 Description of the resource to be awarded in the auction 4
 - 2.1 Overview of the frequency block in the auction4
 - 2.2 Spectrum license4
 - 2.3 Facility license4
 - 2.4 Reserve price4
- 3 Requirements for participation in the auction..... 5
 - 3.1 The participants.....5
 - 3.2 Financial situation5
 - 3.3 Prohibition of collusive behaviour5
 - 3.4 Registration5
- 4 The registration process 6
 - 4.1 Required registration documents6
 - 4.2 Bank guarantee6
 - 4.3 Completion of registration documents6
 - 4.4 Registration of bidders7
 - 4.4.1 Deadline for submission of registration documents 7
 - 4.4.2 Approval and rejection of bidders..... 7
- 5 Legal consequences of bidding..... 8
- 6 Auction format and auction process 8
 - 6.1 Auction format8
 - 6.2 Time frame9
 - 6.3 Preparation for the bidders.....9
 - 6.4 Bidding.....9
 - 6.5 Auction Process9
 - 6.6 Determination of the Winning Bidder and Winning Price 10
 - 6.6.1 If more than one bidder bid the same highest bid..... 11
 - 6.7 Information Policy 11
 - 6.8 Schedule 11
- 7 Payment and issuing of frequency licence and facility licence 12
 - 7.1 Notification..... 12
 - 7.2 Payment of bid 12
 - 7.3 Failure to pay..... 12

7.4	Return of bank guarantee	12
7.5	Issuing of license	13
7.6	Transition period	13
8	Publication of the result	13
9	Questions regarding the conduct of the auction	14
9.1	Telephonic communication during the auction	14

1 Introduction

In this document entitled “Riksblokk II Draft Auction rules” the Norwegian Media Authority (NMA) and the Norwegian Communications Authority (Nkom) presents the draft auction rules for the award of facility licence and spectrum licence for Riksblokk II.

The auction will determine who will be awarded the facility licence and the spectrum licence for Riksblokk II, both valid from 1 January 2021 until 31 December 2031, together with the price the winner will be required to pay to be awarded the licences.

Once the hearing of the draft auction rules are finalised, amendments deemed necessary will be implemented, NMA and Nkom will publish the final auction rules, which will constitute the regulations for the award.

The licences will be awarded using an ascending auction format, which is a well known and intuitive format. The auction software is provided by Innovative Auctions Limited. As the auction software is in English, the auction rules are in English.

The authorities assumes that the choice of language will cause few difficulties, but both Nkom and MNA will answer any questions regarding the understanding of this document.

All specific dates in this document are tentative proposals. The time schedule may be altered, and the process may be postponed.

2 Description of the resource to be awarded in the auction

2.1 Overview of the frequency block in the auction

The frequency resource Riksblokk II covers the whole of mainland Norway. The resource contains the frequency channels 11A (216,160 -217,696 MHz) and 12A (223, 168-224,704 MHz). See appendix 1 for frequency allocation.

2.2 Spectrum license

The spectrum license establishes the conditions for the use of the frequencies. The terms of the license follow in appendix 2, draft spectrum license.

The spectrum license is technology neutral. The frequencies shall be used for digital audio broadcasting, and the use shall at all times be in accordance with the regulations and specifications in the Final Acts of Regional Radiocommunication Conference 2006 (GE06 agreement) as well as coordination agreements with neighboring countries.

The licensee is required to pay annual administrative charges to Nkom, cf. Electronic Communications Act¹ § 12-1.

The administrative charges for 2020 for Riksblokk II is NOK 290 000.

2.3 Facility license

In the facility license, NMA will lay down standardized conditions for the establishment and operation of transmitter systems. The terms follow in appendix 3, draft facility license.

In other respects, broadcasting is regulated in the Broadcasting Act² and the Broadcasting Regulations³. The licensee is obliged to familiarize himself with current regulations, including the rules on sanctions. NMA draws special attention to the fact that in the event of repeated or serious breaches of the license conditions, or other provisions in the broadcasting regulations, the license may be withdrawn pursuant to the Broadcasting Act § 10-5 second paragraph.

2.4 Reserve price

The reserve price, i.e., the minimum bid for Riksblokk II is 100 000 NOK.

¹ Lov 4. juli 2003 nr. 83 om elektronisk kommunikasjon

² Lov 4. desember 1992 nr. 127 om kringkasting og audiovisuelle bestillingstjenester

³ Forskrift 28. februar 1997 om kringkasting og audiovisuelle bestillingstjenester

3 Requirements for participation in the auction

3.1 The participants

Any person or undertakings registered in the European Economic Area (EEA), Switzerland and United Kingdom may register for the auction. Note that the undertakings must be registered with an organisation number from The Brønnøysund Register Centre (www.brreg.no) before a facility licence and a spectrum licence will be issued.

In cases where persons or undertakings would be treated as a single economic unit, with respect to Article 53 (1) of the EEA agreement (Article 101 (1) of the TEU Treaty), only one of these may register as a bidder. This implies that two or more undertakings within the same corporate group may not register for the auction.

3.2 Financial situation

A person or undertaking cannot participate in the auction if the person or the undertaking:

- Is in suspension of payments
- Has entered into debt settlement negotiations/proceedings
- Is insolvent or is subject to a petition of bankruptcy or winding-up, or has passed a resolution for a voluntary winding up
- Has gone into bankruptcy/liquidation

3.3 Prohibition of collusive behaviour

Agreements or concerted practices which have as their object or effect the prevention, restriction or distortion of competition, i.e. collusive behaviour regarding bidding or bidding strategies, are prohibited under Section 10 of The Competition Act⁴.

Such practices as described above will be subject to sanctions as stated in Chapter 7 of The Competition Act.

3.4 Registration

Only persons or undertakings who register in accordance with the provisions set in these auction rules, cf. Section 4, are allowed to participate in the auction. The registered persons or undertakings will be referred to as the Bidder(s).

Registration for the auction does not oblige bidders to submit bids.

⁴ Lov 5. mars 2004 nr. 12 om konkurranse mellom foretak og kontroll med foretakssammenslutninger

4 The registration process

4.1 Required registration documents

Valid registration for participation in the auction requires submission/delivery of the following registration documents:

- 1) The registration form provided in Appendix 4
- 2) Company certificate from the Brønnøysund registers
- 3) Certificate of Registration that states signature requirements and power of procuration
- 4) Bank guarantee with wording conform to the template in Appendix 5
- 5) Written power of attorney for the financing bank/institute issuing the bank guarantee

4.2 Bank guarantee

In order to participate in the auction, the Bidder must provide an unconditional and irrevocable "on demand" bank guarantee of NOK 500,000 - five hundred thousand - to cover any payment obligations that arise during the auction.

The bank guarantee must be issued by a financing institution registered in the EEA or Switzerland, and otherwise meet the requirements stipulated by Nkom, see Appendix 5.

The guarantee must be valid until 1 June 2021.

Only original on-demand bank guarantee documents are accepted for registration.

The Norwegian State acts as self-insurer, consequently central bodies and categories of bodies governed by public law are exempted from presenting a bank guarantee. Nkom decides which bodies fall under the exemption.

The bank guarantee shall contain the same text as Nkom's template for the bank guarantee form, Appendix 5 to the auction rules, and no changes must be made to the text.

4.3 Completion of registration documents

If the person who is to register as a bidder needs guidance regarding the completion of the registration documents and bank guarantee, the person or company can contact Nkom via Pia Braadland (pia@nkom.no) or Nicolay Eckhoff (nec@nkom.no) at e-mail or telephone + 47 22 82 46 00.

Questions for filling in registration documents and bank guarantee must be received by Nkom no later than five working days before the registration deadline.

4.4 Registration of bidders

4.4.1 Deadline for submission of registration documents

The registration form, bank guarantee and associated documentation can be delivered in a closed, anonymized envelope marked "Riksblokk II" and delivered to Nkom by ordinary mail or by courier company.

The registration documents can also be sent electronically to Nkom within the deadline, but Nkom must have the original bank guarantee, see the deadline for submission below.

The envelope or subject field in the e-mail must be marked with «Riksblokk II».

Address for electronic delivery:

firmapost@nkom.no, with a copy to pia@nkom.no and nec@nkom.no.

Postal address:

National Communications Authority

Att: Pia Braadland

PO Box 93

4791 Lillesand

Address for delivery by courier or in person:

National Communications Authority

Att: Pia Braadland

Nygård 1

4790 Lillesand

If registration documents are delivered by courier or in person it must be agreed, no later than the day before, the time for delivery with Nkom (Pia Braadland, pia@nkom.no or Nicolay Eckhoff, nec@nkom.no).

Registration documents, including original bank guarantee, must be received by Nkom by 24 November 2020 at 12:00.

4.4.2 Approval and rejection of bidders

Nkom and NMA assess whether the registration documents meet the requirements for registration. Nkom and NMA may provide a short deadline for correcting minor errors in the registration documents.

Registration documents submitted including reception of the original bank guarantee after the registration deadline will be rejected, and the person or company will not be able to participate in the auction.

Nkom or NMA will notify the person or company whether the registration is valid or not as soon as possible and no later than three working days after the deadline for registration.

5 Legal consequences of bidding

Bids submitted in the auction are legally binding up to and including 1 June 2021. Bidders can and will be released from their bids by notification from Nkom before this date, unless the bid is accepted as the winner of the auction.

Nkom will assume that any bids submitted in the auction using the authentication credentials given to the authorised representative are submitted on behalf of the relevant bidder.

Bidders are obliged to pay the price for winning bids in the payment method described and within the payment deadline specified in section 7.

6 Auction format and auction process

6.1 Auction format

As stated in the introduction of this document, the auction format proposed is an ascending auction. In an ascending auction, the price is gradually increased at predefined points in time. There are many different approaches to this format. The authorities, however, must ensure control over the duration of the auction, the information of the bidders and ultimately the cost of the implementation of the auction. On this basis the auction format proposed is an ascending clock auction, also known as Japanese auction.

A [Japanese auction](#) is a variant in which the current price is incremented at predefined points in time (checkpoints) according to the auctioneer's predetermined time schedule see section 6.8 Schedule. The price increment at each checkpoint is defined and bidders can at any point decide if and at what price to exit the auction.

The initial Minimum Bid price is 100 000 NOK.

6.2 Time frame

The bidders will receive an auction system user manual and password for registration, during week 49, before the scheduled auction. Innovative Auctions and Nkom will support bidders if they have questions, cf. section 9. The Auction will be held week 50. The auctioneer opens the auction at 8 December 2020 at 9:00 by announcing that the bidders can start bidding.

6.3 Preparation for the bidders

The auction will take place via the Internet using an online auction system provided by Innovative Auctions Limited. The auction system can be used with a regular web browser and hence no special software is required. Bidders will need a reliable broadband Internet connection. Bidders will be provided with a user manual, which will include recommendations for configuring the computer together with a list of supported web browsers. Innovative Auctions Limited will provide bidders credentials for accessing the auction system. Only the authorized representative(s) stated as the bidder's representative(s) in the registration form will be provided the credential information. Before the auction, each bidder must log into the auction system to ensure that they can access it.

6.4 Bidding

During the auction, each bidder may enter its bid, and then modify it as many times as they wish, until they exit the auction or win. All bids placed are confidential, and for each bidder, the most recent bid, as shown in the auction system, is binding. A bid may not be lower than the current Minimum Bid price, and bids cannot be withdrawn.

All bids are required to be in whole-numbered amounts of Norwegian Kroner (NOK).

6.5 Auction Process

When the auction starts, the Minimum Bid price is equal to 100 000 NOK. The auction system increases the Minimum Bid price according to an auction schedule published by NKOM before the auction. An example of an auction schedule is given in Table 1.

Auction Start: Dec 8, 9:00 **Reserve Price:** NOK 100

Checkpoint	Time (CET)	Checkpoint Price (NOK)
1	10:00	200
2	10:40	300
3	11:00	400
4	11:20	600
5	11:40	800
6	12:00	1,100
7	12:20	1,400
8	12:40	1,800
9	13:00	2,300
10	13:20	3,000

Table 1: Example of an auction Schedule. The Checkpoint prices and checkpoint times are only examples and are not representative for the Riksblokk II auction in December

The auction schedule specifies a series of Checkpoints. Each Checkpoint has a Checkpoint Deadline and an associated Checkpoint Price⁵. Each time a Checkpoint Deadline is reached:

- 1) The Minimum Bid price is increased to the corresponding Checkpoint Price.
- 2) Any bidder whose bid is lower than the Checkpoint Price automatically exits the auction and may no longer modify its bid.
- 3) If there are two or more remaining bidders, the auction continues. The remaining bidders may choose to modify their bids, subject to the new Minimum Bid price.
- 4) If there are fewer than two remaining bidders, the auction ends. The auction system determines the Winning Bidder and Winning Price, as described below.

Note that, because of (2) above, at all times during the auction, a bidder who would like to continue bidding after the next Checkpoint Deadline must bid at least the associated Checkpoint Price. The auction system will clearly state how much the bidder is required to bid in order to continue bidding in the auction (the upcoming Checkpoint Price), and by what time (the upcoming Checkpoint Deadline).

6.6 Determination of the Winning Bidder and Winning Price

When the auction has ended, the system determines which bidder or bidders had the highest binding bid. If there is only one such bidder, this bidder becomes the Winning Bidder, and the Winning Price is equal to the second highest binding bid.

⁵ The period between two Checkpoints in Table 1 can be thought of as a bidding round.

6.6.1 If more than one bidder bid the same highest bid

If more than one bidder bid the same highest binding bid, these bidders are referred to as the Tied Bidders, and the highest binding bid is referred to as the Tie Price. A tie-breaking auction is held immediately, which follows the same rules described above, except that:

- Only the Tied Bidders can participate as bidders in the auction.
- The Minimum Bid Price is set to the Tied Price.
- When the tie breaking auction starts, all bidders are deemed to have placed a bid at the Tied Price.
- The next Checkpoint Deadline is set by the Auctioneer, and no next Checkpoint Price is defined, meaning that all bidders, regardless of their bid amount, will exit the auction, and the auction ends.
- If there is again a tie, the software will determine at random which of the newly tied bidders is declared the Winning Bidder, and the Winning Price is the new tied price. Otherwise, the usual procedure for determining the Winning Bidder and the Winning Price is followed.

6.7 Information Policy

No bid price or bidder identity will be disclosed at any time, except after the auction has ended, only the Winning Bidder will learn the Winning Price. At no point during the auction will the number of participating bidders or the number of remaining bidders be disclosed.

6.8 Schedule

An example of an auction schedule is presented, in Table 1. NKOM will announce to the bidders the final schedule for the auction one day before the auction – 7 December 2020.

NKOM may change the schedule at any time, provided that all remaining bidders are notified of the change, through an announcement in the auction system or, if the auction has not yet started, through email or other means.

If the change causes any checkpoints deadline to occur sooner than previously scheduled, the notification must be sent no less than one hour in advance of the soonest checkpoint deadline time that has changed. If less than one hour' notice is given, the change requires approval from all remaining bidders, through the message facility in the auction system or other written means.

Similarly, any change to Checkpoint Prices must be announced with at least one hours' notice. If less than one hours' notice is given, the change requires approval from all remaining Bidders, through the message facility in the auction system or other written means.

7 Payment and issuing of frequency licence and facility licence

7.1 Notification

After the auction has been concluded, winning bidders will receive a notification from Nkom and NMA. The notified winning bidder shall pay the auction price in full within 1 January 2021.

The authorities will notify the losing bidders of the winner and the winning bid after the auction has concluded.

7.2 Payment of bid

Payment shall be made to:

National Communications Authority

PO Box 93

4791 Lillesand

DNB account number: 7694 05 01632

For international money transfers, the following information must be included: IBAN: NO 79 7694 05 01632 SWIFT: DNBANOKK Bank: DNB Bank ASA

7.3 Failure to pay

In the event of non-payment, delayed or incomplete payment of the winning bid, Nkom has the right to demand payment under the bank guarantee to cover the bid or unpaid part of the bid.

If delayed payment is due to events constituting force majeure under Norwegian law, Nkom will prolong the deadline for payment accordingly.

Nkom may claim damages under the bank guarantee

7.4 Return of bank guarantee

The guarantee will be returned to the bidder in the following cases:

- The bidder is excluded from participating in the auction
- The bidder does not win the auction
- The auction process has been completed and the bidder has won the frequency license and has paid the winning price in full

7.5 Issuing of license

NMA and Nkom will issue the licenses to the winner of the auction when the winning bidder has paid the full amount of the price it is liable for.

7.6 Transition period

If the temporary licensee (A-media AS) is not granted a spectrum license and facility license after the auction, Nkom and the Norwegian Media Authority see a need for a transitional arrangement so that the content licensees, if desired, have time to regroup. In the event of such a transitional arrangement, the previous holder will be given the opportunity to use his established transmission sites, with associated technical terms, for a transition period up to and including 31 March 2021. The previous holder will not have the opportunity to set up new transmission sites during the period.

The company who becomes the holder of Riksblokk II from 1 January 2021 (new holder) can use the resources from this time. It is emphasized that from this point on, the new holder will be responsible for the permits to the authorities, and that the previous holder will only be given a time-limited right of use for existing transmission sites in line with existing technical conditions. During the transition period, the previous holder is responsible for keeping the new holder updated at all times on the transmission sites that is in use, and the new holder is responsible for ensuring that new transmission sites do not lead to disturbances for the transmission sites covered by the transitional arrangement. Nkom must approve new transmission sites before they are taken into use.

The previous holder pays a sector fee for each transmission sites, with 1/12 of the annual sector fee for each commenced month of the transitional scheme used. From and including 1 January 2021 to and including 31 March 2021, the new holder pays a sector fee for the entire resource, less the fee paid by the previous holder who uses the transition period.

The previous holder must notify Nkom by 31 December if the company wants to use this scheme.

If a transitional arrangement is implemented, this will be set as a condition in the spectrum permit and the construction license for Riksblokk II.

8 Publication of the result

Nkom and NMA will publish the results of the auction when the bidders have been notified in accordance with section 7.1.

The participants in the auction shall not publish information about the auction until Nkom has made the above announcement.

Nkom will not publish the names of bidders who have not won in the auction, nor the size of non-winning bids. The number of bidders can be announced after the auction. Publication of tenders is subject to the rules in the Public Administration Act and the Public Access to Information Act.

9 Questions regarding the conduct of the auction

To ensure that all bidders receive the same information in the auction process, questions to Nkom and NMA regarding the conduct of the auction shall be formulated in writing. Nkom and NMA will prepare anonymised questions and answers which will be published on the auction page within five working days after the question has been received.

Please send any questions to pia@nkom.no and nec@nkom.no. The subject field in the e-mail must be marked with «Riksblokk II»

Questions asked in the last five working days before the auction will not be expected to be answered.

9.1 Telephonic communication during the auction

A dedicated phone number at Nkom will be provided for registered bidders for use during the auction in case a bidder needs to contact Nkom, for example if the bidder should experience technical problems.

Nkom will provide bidder's representative(s) with caller codes for the auction. When contacting Nkom, the caller will need to state a code according to Nkom's request in order to identify the caller as the bidder's representative.