

## **PART 1 - INTRODUCTION**

### **Section 1** *Scope*

This Regulation shall lay down the framework for the issuing and holding of licences in the 880-894.5/925-939.5 MHz (900 MHz) bands and the 1710-1754.5/1805-1849.5 and 1764.5-1771.3/1859.5-1866.3 MHz (1800 MHz) bands.

### **Section 2** *Purpose*

The purpose of this regulation is to lay down the foundation for the assignment of licences in the 900 and 1800 MHz bands through an auction where the objectives are:

- a) to assign licences through open, non-discriminatory and transparent procedures
- b) to assign licences to those who have the best combination of technical solutions and business plans and therefore value them the most
- c) to promote effective and sustainable competition for the provision of public telecommunications networks and services
- d) subject to the above objectives, realise the full economic value to the public of the spectrum.

## **PART 2 – AUCTION PROCEDURE**

### **Section 3** *Auctions*

The licences in the 900 MHz and 1800 MHz bands shall be sold in two separate auctions, each consisting of a single sealed bid.

### **Section 4** *Closing date for bids*

The Telecommunications Authority will announce the closing date for bids in each auction. The closing date for bids in the 1800 MHz auction will be announced after 900 MHz licences have been issued. The Telecommunications Authority may prior to the deadline decide to extend the deadline

### **Section 5** *Auction item*

The bidders may submit bids on abstract frequency blocks, i.e. blocks containing a defined bandwidth but with no defined spectral position.

### **Section 6** *Individual and combinatorial bids*

The bidders may submit one bid on a combination of two or more blocks and bids on a number of individual blocks where the price offered for each block may vary.

### **Section 7** *Decision on winning bids*

The Telecommunications Authority shall decide whether the bids are in compliance with sections 14-17.

The Telecommunications Authority will identify the set of bids on individual blocks and bids on combinations of blocks that maximises revenue and which does not violate the spectrum limitation rule, cf. section 12. If there are more than one set of revenue maximising bids, the winning combination of bids will be decided by drawing lots.

Derogation pursuant to section 13, subsection 2 shall not be granted between the opening of bids and the issuing of licences.

**Section 8** *Order of priority*

The Telecommunications Authority shall establish the order of priority for the revenue maximising bids. The bids shall be ranked from high to low.

If the set of revenue maximising bids contains a bid for a combination of blocks, this bid shall be ranked according to the value of the bid divided by the number of blocks in the combination. If two or more bids have the same value, the ranking of those bids will be decided by drawing lots.

**Section 9** *Choice of licences in the 900 MHz band*

Upon the establishment of the order of priority, the highest bidder will be offered the opportunity to notify the Telecommunications Authority of its choice of the licences that the Bidder concerned wishes to be awarded.

The Telecommunications Authority shall fix a time-limit within which a Bidder shall notify the Telecommunications Authority in writing of its choice of the licences. If a Bidder does not notify the Telecommunications Authority of its choice of the licences, cf. subsection 1 hereof, the Telecommunications Authority shall decide, which licences will be awarded to the Bidder concerned after the other bidders have notified the Telecommunications Authority of their choices.

**Section 10** *Allocation of licences in the 1800 MHz band*

The Telecommunications Authority shall allocate the frequency blocks between the bidders identified according to the provisions in section 16.

**Section 11** *Notification*

The Telecommunications Authority shall notify each of the Bidders that are to be awarded a licence, which licence the Bidder will be awarded together with the licence price.

**PART 3 – SPECTRUM LIMITATION**

**Section 12** *Spectrum limitation*

No licensee in the 900 MHz band shall have an attributable interest in a total of more than 14,4 MHz of (paired) spectrum in that band.

No licensee in the 900 MHz and 1800 MHz bands shall have an attributable interest in a total of more than 37,6 MHz of (paired) spectrum in those bands.

**Section 13** *Ownership attribution*

For purposes of section 13, ownership and other interests in licensees will be attributed to their holders pursuant to the following criteria:

- a) Controlling interest shall be attributable. Controlling interest means majority voting equity ownership, any general partnership interest, or any means of actual working control (including negative control) over the operation of the licensee, in whatever manner exercised.
- b) Partnership and other ownership interests and any stock interest amounting to 20 percent or more of the equity, or outstanding stock, or outstanding voting stock of a licensee shall be attributed.

c) Ownership interests that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 per cent interest.

The Telecommunications Authority may at any time grant derogation from the rules described in this section.

## **PART 4– BIDS**

### **Section 14** *Formalities*

Participants shall submit a minimum of one bid, a guarantee payable on demand cf. section 17, and additional information, cf. section 16. The bid and the guarantee payable on demand shall be submitted in one original copy. Three copies of the additional information shall accompany the bid. Bids and additional information shall be in Norwegian or English. Bids and guarantees shall be submitted in an opaque, sealed envelope, marked "900MHz Bid" or "1800 MHz bid", supplied with the Bidder's name. Bids shall reach the Telecommunications Authority, at the latest by a deadline published by the Telecommunications Authority, cf. section 4.

### **Section 15** *Bids*

Bids shall be unconditional, irrevocable, expressed in terms of Norwegian Kroner. Bids shall be submitted, using a form prepared by the Telecommunications Authority. Such form must contain information about the Bidder's name and state the Bidder's bid and bear the original signatures of the persons who are empowered to sign for the Bidder or who are otherwise authorised to bind the Bidder. No modifications or additions may be made to this form.

### **Section 16** *Additional information*

The following information shall be submitted in addition to the bid:

- a) The Bidder's name and address, telephone number, fax number and e-mail address, where the Bidder may be contacted on working days between 9.00 a.m. and 5.00 p.m. (local time).
- b) Information about, and documentation of the names, occupations and signatures of a person or persons who are empowered to sign for the Bidder or who are otherwise authorised to bind the Bidder, whether separately or together jointly for the Bidder, in any respect in relation to the auction.
- c) A certified copy of the Bidder's articles of association or - if no articles of association apply to the Bidder - a similar document.
- d) A solemn declaration from persons who are empowered to sign for the Bidder or who are otherwise authorised to bind the Bidder stating that the Bidder, or in case the Bidder is a partnership, a joint venture or equivalent, etc. then the relevant partners or parties,
  1. are not in suspension of payments, liquidation, or bankruptcy or winding-up proceedings;

2. are not subject to a petition for bankruptcy or winding-up, or subject to an administration order, etc.; and
  3. are duly established under the legislation governing the country in which the Bidder's registered office is situated.
- e) A detailed, clear and, to the best knowledge of the Bidder, exhaustive outline of the ownership structure for the Bidder, including interest in entities in which the bidder would hold an attributable interest pursuant to section 13 if these entities were licencees in the 900 or 1800 MHz bands.
- f) A summary of any agreement according to which one or more persons have Control over the Bidder pursuant to section 13 a).

**Section 17** *Guarantee payable on demand*

The Bidders shall provide a guarantee payable on demand, issued by a financial institution registered in the European Economic Area. The guarantee shall be for an amount equivalent to the sum of the Bidders bid on the terms stipulated by the Telecommunications Authority. The guarantee shall be valid for the following 6 months, however not longer than until the licence price has been settled or the bidders have been released from their bid pursuant to section 27.

**Section 18** *Opening of bids*

The Telecommunications Authority shall open the bids submitted in a closed meeting.

**Section 19** *Receipt*

The Telecommunications Authority shall issue a receipt to acknowledge the bid.

**Section 20** *Further rules concerning form and contents.*

The Telecommunications Authority may change or supplement the rules contained in sections 14-17 by laying down further rules concerning the form and contents of a bid.

**Section 21** *Subsequent bids*

Upon the submission of a bid, however prior to the expiry of the closing date for bids, a Bidder shall be entitled to submit one or more additional bids to the Telecommunications Authority.

**Section 22** *Updating of information*

Bidder shall immediately notify the Telecommunications Authority of any change in the matters mentioned in section 16.

**Section 23** *Rejection of bids*

Bids received after the expiry of the closing date for bids will be returned unopened.

Bids not in accordance with sections 14-21 will be rejected.

The Telecommunications Authority may grant derogation from the rules described in subsection 1

## **PART 5 – LICENCES**

### **Section 24** *Duration*

The licences and the licence conditions is given in appendix x. Each licence expires 31. December 2013. Upon expiry, all the licences shall lapse without further notice.

### **Section 12** *Annual charges*

The spectrum licences will be subject to charges. The charge will be payable annually as long as the provider has the use of the frequencies. The first payment is due 1 August 2001. The annual charge is NOK 200 000.- per. duplex channel. The Telecommunications Authority may vary the amount to reflect the need to ensure the optimal use of these resources.

## **PART 6 - PAYMENT AND ISSUE OF LICENCES**

### **Section 26** *Payment*

A bidder who have received a notification pursuant to section 11 shall, not later than 14 days after such receipt, pay in cash the licence price(s). The licence price shall be equal to the accepted bid. All payments to be effected by a Bidder shall be made in the manner and to the place of payment stated by the Telecommunications Authority.

### **Section 27** *Issue*

After the settlement of the licence price by a bidder, the telecommunications authority will issue the licence(s).

When all the licences have been issued, the Telecommunications Authority shall inform the remaining Bidders that they will not be awarded any licence and that they have been released from their bids. The Telecommunications Authority shall publish the names of the Bidders that have been awarded a licence together with the licence prices.

## **PART 7- FINAL PROVISIONS**

### **Section 28** *Complaints*

Decisions made by the Telecommunications Authority pursuant to section 4 and sections 7-10 may not be brought before any other administrative authority.

### **Section 29** *Applicable law and jurisdiction*

Any controversy or dispute between the State, including the Telecommunications Authority, and a Bidder or a licensee shall be governed by Norwegian Law and shall be subject to the jurisdiction of the Norwegian courts of law.

In the event that a Bidder or a licensee does not have venue in Norway, the agreed venue for the Bidder or the licensee shall be Oslo Byrett

### **Section 30** *Entry into force*

The Executive Order shall enter into force on [..]