



B I P T

**BELGIAN INSTITUTE FOR POSTAL SERVICES AND
TELECOMMUNICATIONS**

**AUCTION OF USAGE RIGHTS FOR THE 800 MHz BAND
INFORMATION MEMORANDUM**

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INTRODUCTORY COMMENTS

This memorandum was drafted by BIPT within the framework of the auction of usage rights for the 800 MHz band.

The terms and expressions used in this memorandum are defined in Annex A.

This memorandum is meant for information purposes only. It is made available on the express understanding that it will be used by the recipient for the sole purpose of considering his possible participation in the auction. This memorandum has no binding legal effect on BIPT.

This memorandum summarises and sums up the regulation in force as regards the auction of the 800 MHz band. However it should be clear that the ECA and the Royal Decree on 800 MHz and any other Belgian or European legislation relevant in this matter prevail over any interpretation contained in this memorandum.

BIPT draws special attention to the recent amendment to Article 30 of the ECA (by the Act of 29 May 2013) regarding the adoption of the Royal Decree of 6 June 2013 on radio access to the 790-862 MHz frequency band.

Each recipient must make its own independent assessment of the potential value of an assignment of spectrum in the 800 MHz band. The auction will be based on a single starting amount for all candidates, i.e. 25,000 euro per MHz and per month (which would be the amount of the fee in the absence of a higher bid) and the latter decide themselves what amounts they are prepared to propose, based on their proper calculations. BIPT will not provide any help or assistance in this matter.

The memorandum has no contractual or pre-contractual value and does not commit BIPT in any way. It shall not be used as a legal foundation for possible appeals that could be lodged on the occasion of the auction or on the occasion of the grant of usage rights.

All information contained in this memorandum is subject to updating, modification and amendment during the auction of the usage rights in the 800 MHz band. Any amendments will be published under the same terms as the publication of this memorandum.

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Chapter 1. Introduction

1.1. Summary

The Government has decided to auction usage rights for three 10 MHz duplex lots in the 800 MHz band, also called "800 MHz licences" in this memorandum.

This memorandum provides selected information for those candidates wishing to bid for an 800 MHz licence in Belgium. It is of an informative nature only. The existing legislation is binding and takes precedence over the memorandum.

This memorandum does on no account exempt candidates from reading the regulation concerning the auction. They shall submit their bids on their own full responsibility.

Candidates wishing to submit applications to take part in the auction should have read and understood the auction rules. Those will be published on the website www.auction2013.be.

In particular, the memorandum:

- summarises steps which recipients are to take in order to submit applications and take part in the forthcoming auction;
- summarises the principles of a number of rules and estimated timetable of the auction; and
- provides an outline of the regulatory framework.

1.1.1. Legislation

The usage rights granting process is especially governed by the Act of 13 June 2005 on electronic communications (ECA).

The assignment of the 800 MHz licences will be conducted in compliance with the provisions of the Royal Decree on 800 MHz.

Consolidated versions of the ECA and the Royal Decree on 800 MHz are available on the website www.auction2013.be.

1.1.2. Usage rights

Chapter 2 provides further information on the conditions for the exercise of the usage rights.

1.1.3. Application process

The main requirement for taking part in the auction is paying an initial 5 million EUR deposit. Further information on that matter is provided in Chapter 5. Definitive details are provided in Chapter 9, Section 1 of the Royal Decree on 800 MHz.

1.1.4. Auction

Article 30 of the ECA sets a minimum price (the minimum amount of the "unique fee") for the 800 MHz licences. This minimum price is set at 25,000 euro per MHz and per month for the 800 MHz band, i.e. 120 million euro for a 10 MHz duplex lot for a 20 year period.

The 800 MHz band has a total capacity of 30 MHz duplex. It is divided into three blocks of 10 MHz duplex.

The auction is held in a series of rounds according to an SMRA¹ procedure. In each round, candidates make bids simultaneously (rather than sequentially). During each round, candidates

¹ Simultaneous multiple-round ascending bid.

are allowed to bid for a single lot of 10 MHz duplex. A candidate holding the highest bid on a lot cannot make a new bid in the following round, nor withdraw from the auction. The other candidates must bid, withdraw or waive (up to a maximum of two waivers per candidate). Rounds continue until all the candidates who do not hold the highest bid for a lot have withdrawn, at which point the auction ends.

When the auction ends, each lot is awarded to the candidate holding the highest bid on that lot, subject to payment of a unique fee equal to his highest bid on that lot. BIPT will confirm the lot awarded to each successful candidate, as well as the amount of the applicable unique fee. The amount of the deposit of the successful candidates and the interests will be deducted from their unique fees for the 800 MHz licence.

The candidates will then have 15 days from the notification of the grant of the usage rights in which to pay the balance of the bid. They can also opt to pay by instalments, in accordance with Article 30 of the ECA.

More information on the auction procedure is provided in chapter 4. The auction rules will be published on the website www.auction2013.be.

1.1.5. Timetable

The current legislation imposes no timetable. Consequently, BIPT will determine the auction's timetable, allowing for the circumstances. However, in order to assist potential candidates in the preparation of bids, table 1.1 provides an indicative timetable of the intended process. BIPT is by no means bound by this indication. Definitive information will be provided at a later date on the website www.auction2013.be.

Call for candidates	14 August 2013
Submission of applications	23 September 2013
Notification of successful candidates	8 October 2013
Start of the auction	12 November 2013

Table 1.1: indicative timetable

1.2. Application instructions, enquiries and further information

Recipients wishing to submit applications should refer to the current regulation, in particular to the provisions of the Royal Decree on 800 MHz, as well as to the requirements that will be communicated by BIPT during the call for applications. Contact information for making enquiries or obtaining further information is provided in Chapter 6.

Recipients' attention is in particular drawn to the rules stated in the Royal Decree on 800 MHz. The candidates should take note of these rules and ensure compliance with them on their full responsibility. They should also be aware that any breach of these rules may lead to them being excluded from the auction, apart from any other legal consequences.

1.3. Current spectrum allocation

1.3.1. 900 MHz band

Belgacom and Mobistar each have 60 GSM channels, and KPN GB has 54 channels in the 900 MHz band, until 27 November 2015.

The channels are distributed as follows²:

- Belgacom, 1-30 and 61-90;
- Mobistar, 31-60 and 91-120;
- KPN GB, 975-1024 and 121-124³.

As from 27 November 2015 and until 15 March 2021, Belgacom, Mobistar and KPN GB will each have 50 GSM channels, whereas Telenet Tecteo Bidco will have 24 channels.

The division of spectrum between the various mobile operators in the 900 MHz frequency band will have to be modified for the period from 27 November 2015 until 15 March 2021. This modification will be treated in a later decision.

Belgacom, Mobistar and KPN GB are allowed to roll out the GSM technology in the 900 MHz frequency band.

The four 3G mobile operators are allowed to roll out the UMTS and LTE⁴ technologies in the 900 MHz frequency band. However, one or more mobile operators might be allowed to modify the standard they use in order to roll out another technical standard approved by the ITU within the IMT-2000 family.

The usage rights for the 900 MHz band expire on 15 March 2021.

1.3.2. 1800 MHz band

Belgacom and Mobistar may each have 104 GSM channels, and KPN GB may have 110 channels in the 1800 MHz band, until 27 November 2015.

The channels are distributed as follows²:

- Belgacom, 512-615;
- Mobistar, 630-733;
- KPN GB, 776-885.

As from 27 November 2015 and until 15 March 2021, Belgacom, Mobistar and KPN GB will each have 100 GSM channels, whereas Telenet Tecteo Bidco will have 50 channels.

The division of spectrum between the various mobile operators in the 1800 MHz frequency band will have to be modified for the period from 27 November 2015 until 15 March 2021. This modification will be treated in a later decision.

Belgacom, Mobistar and KPN GB are allowed to roll out the GSM technology in the 1800 MHz frequency band.

The four 3G mobile operators are allowed to roll out the UMTS and LTE⁴ technologies in the 1800 MHz frequency band. However, one or more mobile operators might be allowed to modify the standard they use in order to roll out another technical standard approved by the ITU within the IMT-2000 family.

The usage rights for the 1800 MHz band expire on 15 March 2021.

² See Decision of the BIPT Council of 16 November 2011 on the division of spectrum in the 900 MHz, 1800 MHz and 2 GHz frequency bands.

³ KPN GB has informed BIPT of the fact that it will abandon channels 121-124 after 2 July 2013.

⁴ See Decision of the BIPT Council of 16 November 2011 on the use of UMTS and LTE technologies in the 900 MHz, 1800 MHz and 2 GHz bands.

1.3.3. 2 GHz band

Belgacom has 15 MHz duplex in the paired (or FDD) bands and 5.4 MHz duplex in the unpaired (or TDD) band, while Mobistar and KPN GB each have 14.8 MHz duplex in the paired bands and 5 MHz duplex in the unpaired band, until 15 March 2021.

The allocated frequencies are distributed as follows:

	Base station reception (MHz)	Base station transmission (MHz)	Unpaired frequencies (MHz)
Belgacom	1920.3-1935.3	2110.3-2125.3	1914.9-1920.3
KPN GB	1935.3-1950.1	2125.3-2140.1	1899.9-1904.9
Telenet Tecteo Bidco	1950.1-1964.9	2140.1-2154.9	
Mobistar	1964.9-1979.7	2154.9-2169.7	1909.9-1914.9

Table 1.2: Spectrum allocation in the 2 GHz band

The four 3G mobile operators are allowed to roll out the UMTS and LTE⁴ technologies in the 2 GHz frequency band. However, one or more mobile operators might be allowed to modify the standard they use in order to roll out another technical standard approved by the ITU within the IMT-2000 family.

The usage rights for the 2 GHz band expire on 15 March 2021.

1.3.4. 2.6 GHz band

Belgacom and Mobistar each have 20 MHz duplex in the paired bands whereas KPN GB has 15 MHz duplex in the paired bands. BUCD has 45 MHz in the unpaired band.

The allocated frequencies are distributed as follows:

	Base station reception (MHz)	Base station transmission (MHz)	Unpaired frequencies (MHz)
Belgacom	2500-2520	2620-2640	
KPN GB	2535-2550	2655-2670	
Mobistar	2550-2570	2670-2690	
BUCD			2575-2620

Table 1.3: Spectrum allocation in the 2.6 GHz band

The 2520-2535 MHz and 2640-2655 MHz bands, i.e. 15 MHz duplex, are available.

No limitations are imposed as to the technology that can be used.

The usage rights for the 2.6 GHz band expire on 1 July 2026. After 1 July 2026 the usage rights may be extended by BIPT for supplementary five-year periods.

1.3.5. General view of the spectrum allocation

Tables 1.4 and 1.5 show the quantity of spectrum held by the operators in the various bands, respectively until and from 27 November 2015.

	900 MHz	1800 MHz	2 GHz	2.6 GHz
Belgacom	2 x 12	2 x 20.8	2 x 15	2 x 20
Mobistar	2 x 12	2 x 20.8	2 x 14.8	2 x 20
KPN GB	2 x 10	2 x 22	2 x 14.8	2 x 15
Telenet Tecteo Bidco	-	-	2 x 14.8	-
BUCD	-	-	-	45

Table 1.4: Quantity of spectrum (in MHz) until 27 November 2015

	900 MHz	1800 MHz	2 GHz	2.6 GHz
Belgacom	2 x 10	2 x 20	2 x 15	2 x 20
Mobistar	2 x 10	2 x 20	2 x 14.8	2 x 20
KPN GB	2 x 10	2 x 20	2 x 14.8	2 x 15
Telenet Tecteo Bidco	2 x 4.8	2 x 10	2 x 14.8	-
BUCD	-	-	-	45

Table 1.5: Spectrum allocation (in MHz) from 27 November 2015

1.3.6. 3.5 GHz band

Four operators have⁵ usage rights for the 3.5 GHz band by virtue of the Royal Decree of 24 March 2009 on radio access in the 3410-3500/3510-3600 MHz and 10150-10300/10500-10650 MHz frequency bands.

Chapter 2. Conditions for the exercise of the rights of use

The usage rights put up for auction will enable the holders to build an 800 MHz network, using the frequencies allocated and to provide consumers with electronic communications services.

2.1. Spectrum to be allocated during the auction

The following lots will be awarded during the auction, knowing that a relevant group is not allowed to have more than 10 MHz duplex in the 791-821 MHz and 832-862 MHz frequency bands:

Lots	Base station reception (MHz)	Base station transmission (MHz)
Lot 1	832-842	791-801
Lot 2	842-852	801-811
Lot 3	852-862	811-821

Table 2.1: Lots put up for auction

⁵ See the Communication of BIPT concerning a call for candidates who want to obtain rights of use for frequency bands 3410-3500 / 3510-3600 MHz and the Communication of BIPT concerning the results of the procedure for rights of use in the 3.5 GHz band.

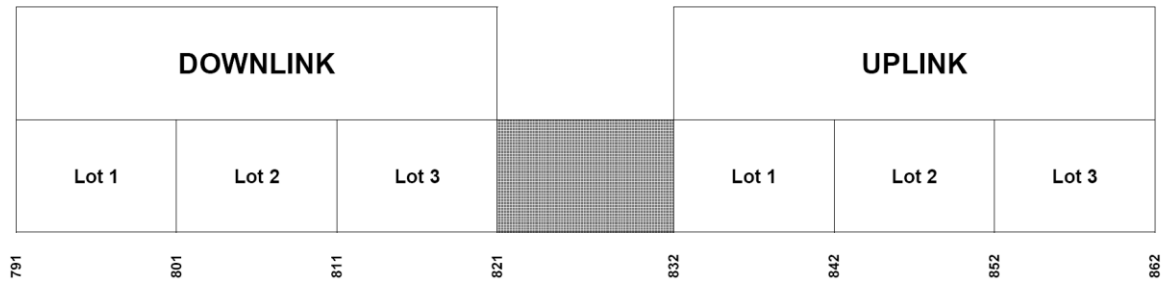


Figure 2.1: Lots put up for auction

2.2. Usage rights reserved in the 2.6 GHz band⁶

The 15 MHz duplex in the 2.6 GHz band not allocated in 2011 based on the 2.6 GHz Royal Decree is reserved for an 800 MHz operator, if any, who would not yet have usage rights for the 2.6 GHz band. If several operators were in that situation the order of priority would be as follows:

1. operator who has obtained lot 1;
2. operator who has obtained lot 2;
3. operator who has obtained lot 3.

The operator shall inform BIPT within 30 days following the notification of his 800 MHz licence whether he wants to make use of this possibility or not.

In order to align the expiry dates of all usage rights in the 2.6 GHz band, the end of the first period of validity of the usage rights for the 2.6 GHz band is set at 1 July 2027, similar to the usage rights granted in 2011⁷.

2.3. Technologies allowed

Applicants shall indicate⁸ in their applications which technology they plan to use if they obtain a usage right during the auction.

No limitations are imposed as to the technology that can be used. However, a number of technical obligations are imposed⁹ in order to ensure coexistence between neighbouring operators.

The 800 MHz operator is solely responsible for the operation of his network. He is responsible for any radio frequency interference caused by his network's base stations to other users of the radio spectrum.

All radio equipment in base stations shall comply with the applicable rules. In practice, this means that the equipment must comply with the requirements of the R&TTE Directive, as transposed in Article 32 and following Articles of the ECA and the Royal Decree of 26 September 2000 on radio and terminal equipment and the recognition of their conformity.

BIPT retains the right to change, if need be, the technical parameters that are applicable to the radio equipment.

⁶ Article 39 of the Royal Decree on 800 MHz.

⁷ Belgacom, Mobistar, KPN Group Belgium and BUCD.

⁸ Article 16, § 1, 8° of the Royal Decree on 800 MHz.

⁹ Annex 1 of the Royal Decree on 800 MHz.

2.4. Availability of the 800 MHz band

2.4.1. RTBF transmitters

Five terrestrial digital television transmitters of the RTBF, in operation, are using channels in the 800 MHz band. Those five transmitters are:

- Malmedy, channel 61 (790-798 MHz);
- La Roche en Ardenne, channel 63 (806-814 MHz);
- Couvin, channel 64 (814-822 MHz);
- Légglise, channel 66 (830-838 MHz);
- Marche, channel 66.

Those transmitters will have to change channels before wireless broadband networks are rolled out. The latest management contract of the RTBF plans substitute channels for those transmitters.

The RTBF thinks this change of channels will be effective:

- end September for the two biggest transmitters, namely, Légglise and Marche;
- end December for the three less powerful transmitters, namely Malmedy, La Roche en Ardenne and Couvin.

2.4.2. Coexistence with other applications

2.4.2.1. Wireless microphones

Wireless microphones are planned to be used in a part of the duplex guard band (821-832 MHz). For more information, see the Communication of the BIPT Council of 16 March 2012 on wireless microphones and other PMSE equipment in the 470-862 MHz band in radio interfaces B10 and F2.

2.4.2.2. Over-the-air digital television

As stated above, in Belgium broadcasting is a competence of the Communities.

Flemish Community

VRT's programmes are broadcast through terrestrial digital television.

The Flemish Government has adopted three decrees regarding over-the-air digital television:

- Decree of the Flemish Government of 12 October 2007 laying down the digital frequency plan for providers of radio and television broadcasting networks;
- Decree of the Flemish Government of 18 July 2008 on the terms and procedure to obtain a licence with a view to providing a radio and television broadcasting network and on the corresponding emission licences;
- Decree of the Flemish Government of 17 October 2008 laying down the packages of digital frequencies that will be released during the first comparative inquiry in view of obtaining a licence to provide a radio and television network and on the corresponding emission licences.

The decree of 12 October 2007 simply takes over all the coverages of the ITU's GE06 plan, destined for the Flemish Community. As a result this decree also took over the channels situated in the 790-862 MHz frequency band. It should be pointed out that BIPT had addressed an appeal for annulment of this decree to the Council of State, which has delivered a judgement of partial annulment (No. 218.637 of 27 March 2012).

As for the first comparative inquiry the decree of 17 October 2008 takes over all coverages of the plan, with the exception of the channels situated in the 790-862 MHz frequency band.

On the basis of these decrees the VRM assigned¹⁰ the frequency packages to Norkring België on 22 June 2009.

French Community

The management contract of the RTBF lists the digital TV channels assigned to the RTBF.

Up to now, no frequencies for terrestrial digital television have been assigned to a company other than the RTBF. However, channel 55 (mentioned in RTBF's management contract) is used by Télé Bruxelles.

German-speaking Community

By virtue of the decree of the Government of the German-speaking Community of 20 July 2009 laying down the digital frequency plan RRC-06 of the German-speaking Community in frequency bands III, IV and V and regulating the transition period, the Liège and Verviers transmitters, channel 45, are made available to the RTBF until 31 December 2012.

2.5. International frequency coordination

BIPT has concluded a multilateral agreement¹¹ on border coordination for the 800 MHz band with Germany, France, Luxembourg, Switzerland and the Netherlands.

The 800 MHz operator observes the obligations resulting from the cross-border coordination.

BIPT encourages agreements between operators to improve coordination in border areas and coverage of these areas, in compliance with the agreement¹² regarding the approval of arrangements between operators.

2.6. Duration¹³

The usage rights that will be granted have a duration of 20 years starting from the notification of their granting to the candidates selected during the auction.

However, the usage rights may be extended by BIPT for supplementary periods of five years maximum after the initial period of 20 years has expired. It is important to note that BIPT has no obligation whatsoever to extend the usage rights. In the case that the BIPT take a decision not to extend, a usage right holder will be notified about this at least two years before the expiration of the period of validity.

¹⁰ [2009-051 - Aanvraag licentie televisieomroepnetwerk NV Norkring België \(PDF\) - Algemene kamer - Televisie - erkenning - 22/06/2009.](#)

¹¹ Agreement between the Administrations of Belgium, France, Germany, Luxembourg, The Netherlands and Switzerland on frequency planning and frequency coordination at border areas for terrestrial systems capable of providing electronic communications services in the frequency band 790 - 862 MHz, Brussels, 11th October 2011.

¹² Agreement between the Administrations of Belgium, France, Germany, Luxembourg, The Netherlands and Switzerland concerning the approval of arrangements between operators of terrestrial systems capable of providing electronic communication services, Brussels, 11th October 2011.

¹³ Article 3, § 1, of the Royal Decree on 800 MHz.

2.7. Coverage obligations

2.7.1. Definition of coverage¹⁴

An 800 MHz operator's customers have to be able to do the following things in the coverage zone from and to a classical terminal device outside buildings:

1. establish communications with all end-users of a public fixed or mobile telephony network in Belgium or abroad;
2. access services and applications provided on public data transmission networks, in particular, on the world-wide web with a download speed of at least 3 Mbps.

The 3 Mbps speed should in principle be reached 7 days a week, 24/24. However, BIPT can set a period in the course of the day of maximum two hours (peak hours) during which the 3 Mbps speed does not have to be reached. This period can evolve with the evolution of traffic and the arrival of new applications.

The coverage obligations can be fulfilled using any frequencies for which the 800 MHz operator has usage rights in the 800 MHz, 900 MHz, 1800 MHz, 2 GHz and 2.6 GHz frequency bands.

When examining the coverage level the Brussels Capital Region is deemed to be entirely covered, regardless of its real coverage level.

Compliance with the coverage obligations will be examined by BIPT.

2.7.2. Basic obligations

The coverage obligations depend on the type of 800 MHz operator. Two types of 800 MHz operators are distinguished:

2.7.2.1. 800 MHz operators who are also 2G operators¹⁵

Table 2.2 shows the coverage obligations for 800 MHz operators who are also 2G operators¹⁶.

Complete years from notification of the usage rights	Population coverage
2	30%
4	70%
6	98%

Table 2.2: coverage obligations for 800 MHz operators who are equally 2G operators

2.7.2.2. 800 MHz operators who are not a 2G operator¹⁷

The rollout calendar is slower for 800 MHz operators who are not a 2G operator: they have 50% more time to attain the same coverage objectives. Table 2.3 shows the coverage obligations for 800 MHz operators who are not a 2G operator.

Complete years from notification of the usage rights	Population coverage
3	30%

¹⁴ Article 11, §§ 5 to 7 of the Royal Decree on 800 MHz.

¹⁵ Article 11, § 1, of the Royal Decree on 800 MHz.

¹⁶ Belgacom, Mobistar and KPN GB

¹⁷ Article 11, § 2, of the Royal Decree on 800 MHz.

Complete years from notification of the usage rights	Population coverage
6	70%
9	98%

Table 2.3: coverage obligations for 800 MHz operators who are not a 2G operator

2.7.3. Additional obligations¹⁸

This additional obligation only applies to one of the three 800 MHz operators. The auction procedure will determine which 800 MHz operator has to cover the priority municipalities within three years' time.

The 800 MHz operator who will have been awarded lot 3 (referred to in Article 4, § 1, 3°, of the Royal Decree on 800 MHz) has to cover at least 98% of the population of all the municipalities listed in annex 2 to the Royal Decree (annex D of the memorandum) within three years' time starting from the notification.

2.8. Other obligations

Apart from the terms of roll-out above, the 800 MHz operators will also be submitted to certain obligations resulting from the regulatory framework regarding electronic communications, including (without being complete):

- cooperation with security and emergency services;
- cooperation with telephone directory publishers;
- provision to BIPT of the standard contract(s) concluded with end-users;
- publication on their websites of the general terms and conditions;
- adoption of appropriate technical and organisational measures in order to ensure service security;
- provision of tariffing information to BIPT;
- provision upon request of detailed and precise billing information to end-users;
- collaboration with the Office of the Ombudsman;
- obligations with regard to privacy and data protection;
- obligations with regard to the publication of technical details regarding interfaces;
- obligations with regard to the publication of adequate and up-to-date information regarding access for end-users to services and the network;
- obligations with regard to interconnection;
- etc.

2.9. Fees

2.9.1. Unique fee

The unique fee offered during the auction has to be paid in accordance with the provisions of Article 30 of the ECA.

¹⁸ Article 11, § 3, of the Royal Decree on 800 MHz.

For the 800 MHz band the minimum amount of this unique fee is 25,000 euro per MHz awarded and per month, i.e. 120 million euro for one 10 MHz duplex lot for a 20 years' period.

Operators may choose between two methods of payment: either they pay the unique fee as a lump sum, or they pay by annual instalments.

In case of a lump sum the operator settles the whole unique fee within 15 days following the notification of the usage rights.

If the operator pays by instalments, he settles the unique fee as follows:

- the operator pays proportionally to the number of months remaining until the next calendar year, within 15 days following the notification of the usage rights.
- the operator pays the whole unique fee for the year to come on 15 December at the latest. If the usage rights expire in the course of the year to come, the operator pays proportionally to the number of months remaining until the usage rights expire.
- the legal interest rate¹⁹ is applicable as from the 16th day following the notification of the usage rights;
- the operator pays the interest on the outstanding amount, simultaneously with the unique fee.

Each eligible candidate's deposit (including accrued interest) will be offset against the fee to be paid at the time of notification by BIPT of the grant of the usage rights to that candidate.

2.9.2. Annual fees

800 MHz operators will also be required to pay the following annual fees to BIPT:

- 800 MHz licence management fee: 350,000 EUR a year;
- frequency availability fee²⁰: 87,500 EUR per MHz and per year;
- Annual fees for the use of numbers (see sections 3.5 and 3.6).

The above-mentioned amounts for the annual fees, valid for the year 2013, are revised annually based on the consumer price index.

2.10. Modification of usage rights

The usage rights cannot be modified but in objectively justified cases and in a proportionate manner. The intended modification will first be submitted to the sector. Indeed, Article 14.1 of Directive 2002/20/EC ("Authorisation Directive") lays down that interested parties should be allowed a sufficient period of time to express their views on the proposed amendments.

2.11. Breach and revocation

If BIPT establishes that an 800 MHz operator is not complying with the conditions for the exercise of the usage rights awarded to him, or does not act in compliance with the Acts and regulations the observance of which is monitored by BIPT (including the ECA and the Royal Decree on 800 MHz) or with the decisions taken by BIPT, the latter may order the operator to remedy that situation, either immediately or within the period it allows, and impose an administrative fine in accordance with Article 21, §§ 1 to 5 of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors. If the 800 MHz

¹⁹ Article 2, § 1 of « loi du 5 mai 1865 relative au prêt à l'intérêt ».

²⁰ The frequency availability fee is due only for those frequencies that are actually put into operation.

operator is still in breach, BIPT may again impose an administrative fine on the 800 MHz operator (Article 21, § 6 of the Act of 17 January 2003).

Article 21, § 7 of the Act of 17 January 2003 adds that if the breach is serious or repeated and the measures taken have not remedied the breach, BIPT may suspend or revoke the usage rights granted, or order the operation of the 800 MHz network or the provision of the service involved, as well as the marketing or use of any service or product concerned to be suspended entirely or partly.

2.12. Notification under Article 9 of the ECA

A candidate which has already made a notification, according to Article 9 of the ECA, shall include the proof of it in the offer.

A candidate which has not yet made such a notification has to include the completed notification form in his application. Besides the unique fee due for the registration BIPT charges an annual monitoring fee. The candidate must pay the unique registration fee to BIPT by bank transfer only, but the annual costs will only be charged if this candidate is granted the usage rights after the auction.

Chapter 3. Regulatory issues

This chapter presents some of the main regulatory issues in Belgium. An overview of the regulatory structure of the Belgian telecommunications market is provided in Annex B.

3.1. National roaming

BIPT may require existing operators to offer newcomers national roaming on their networks, for a limited period.

Entrants are free to negotiate national roaming agreements with one or several existing operators. However, BIPT is not allowed to impose national roaming as a measure until it has found that the commercial negotiations between the operators in that matter do not result in an agreement within a reasonable amount of time.

The provisions of the European regulatory framework and Article 51 of the ECA, amended by Article 192 of the Act of 29 December 2010 (Belgian Official Gazette of 31/12/2010) pertaining to various provisions are applicable.

3.1.1. Time available to BIPT to impose national roaming²¹

If an 800 MHz operator fulfilling the coverage obligations makes a request, BIPT adopts the measures within six months following the reception of the request made by the operator who is entitled to national roaming.

3.1.2. Operators under the obligation to provide national roaming and those entitled to obtain national roaming²²

Belgacom, Mobistar or KPN GB will be obliged to offer national roaming if they obtain an 800 MHz licence. All other 800 MHz operators will be entitled to obtain national roaming.

²¹ Article 12, § 2, of the Royal Decree on 800 MHz.

²² Article 1, 15° and 16° of the Royal Decree on 800 MHz.

3.1.3. Minimum roll-out of a proper network by an operator who is entitled to national roaming²³

Unless otherwise agreed, the national roaming agreement will only take effect from the date on which the 800 MHz operator entitled to national roaming has achieved coverage of at least 20% of the Belgian population. However, an operator can make a request before having reached 20% coverage.

The level of coverage will be examined by BIPT (see section 2.7.1).

3.1.4. Geographical scope of the national roaming agreement²⁴

An 800 MHz operator entitled to national roaming is not entitled to roaming services on networks of the 2G operator in areas where it has rolled out its own 800 MHz network, unless otherwise agreed by the parties to the roaming agreement.

3.1.5. Service covered by the national roaming agreement²⁵

The services covered by a national roaming agreement concluded between an operator entitled to national roaming and an operator obliged to offer national roaming, include all electronic communications services provided under the GSM Royal Decree, the DCS Royal Decree, the 3G Royal Decree and the Royal Decree on 800 MHz.

In practice this covers all services provided in the 800 MHz, 900 MHz, 1800 MHz and 2 GHz bands.

3.1.6. Duration of the national roaming agreement²⁶

None of the measures related to national roaming that are imposed by BIPT will apply after a period of nine years, starting from the notification of the usage right to the operator who is entitled to national roaming.

3.1.7. Circumstances that may put an end to the national roaming agreement²⁷

A national roaming agreement concluded through the intervention of BIPT is terminated automatically in the following cases, unless otherwise agreed:

- if the operator who is entitled to national roaming, negotiates and concludes another national roaming agreement with another operator who is obliged to offer national roaming;
- if BIPT finds the operator who is entitled to national roaming not to meet his coverage obligations;
- if BIPT finds the operator who is entitled to national roaming to be a 3G operator²⁸ and not to meet his coverage obligations under the 3G Royal Decree.

²³ Article 12, § 4, of the Royal Decree on 800 MHz.

²⁴ Article 12, § 5 of the Royal Decree on 800 MHz.

²⁵ Article 12, § 6 of the Royal Decree on 800 MHz.

²⁶ Article 12, § 7 of the Royal Decree on 800 MHz.

²⁷ Article 12, § 8 of the Royal Decree on 800 MHz.

²⁸ Telenet Tecteo Bidco is the only 3G operator entitled to national roaming.

3.1.8. Retail minus pricing

If BIPT is required to intervene in a dispute over the pricing of national roaming, it will impose a tariff based on the “retail minus” price. The “retail minus” price means the price charged by the operator who has to offer national roaming to his end-users for the provision of a service, minus any costs that are not incurred in providing the same service to an operator entitled to national roaming, plus any costs reasonably incurred solely in providing such roaming services.

3.2. Antenna sites

3.2.1. Town planning permit and environmental exposure limits

For the creation of sites and the installation of antennas there may be a requirement to hold a town planning permit for that site. The Regions, i.e. the Brussels Capital Region, the Flemish Region and the Walloon Region are competent for town planning permits. Whether such a town planning permit is required or not depends on regional requirements, on differences per region and situation. Moreover, it is possible that additional municipal regulation is in force. More information on town planning requirements have to be requested from the respective Regions and municipalities.

Site construction also requires certificates proving that the regional regulation on observing maximum exposure limits regarding electromagnetic radiation is complied with. These certificates have to be requested from the respective Regions.

Some information is given here about the current situation in the three Regions.

BIPT has no competence in this matter. It cannot be held accountable in case the authorisations or permits required by the Regions are refused, nor when the exposure limits are exceeded.

3.2.1.1. Situation in the Brussels Capital Region

In the Brussels Capital Region a cumulative exposure standard of 0.024 W/m² (i.e. 3 V/m) at a 900 MHz frequency may not be exceeded on all locations accessible to the public according to the order of 1 March 2007 on the protection of the environment against any harmful effects and nuisance caused by non-ionising radiation. This standard is verified by comparing the following

weighted sum with the unit: $\sum_{0.1MHz}^{300GHz} \frac{S_i}{S_{ii}} \leq 1$ where S_i is the power density of the electromagnetic field and S_{ii} the following reference value:

- 0.01 W/m² for frequencies between 0.1 and 400 MHz;
- $f/40,000$ in W/m² between 400 MHz and 2 GHz, where f represents the frequency in MHz;
- 0.05 W/m² for frequencies between 2 GHz and 300 GHz.

Moreover, according to the decree of the government of the Brussels Capital Region of 30 October 2009 on certain antennas emitting electromagnetic waves, each operator is granted 25% of the above-mentioned 0.024 V/m standard. Besides, this decree imposes the obligation for operators to apply for an environmental permit for each antenna installation, showing that 25% of the standard is complied with²⁹. Applications for environmental permits are dealt with by the Institut Bruxellois pour la Gestion de l'environnement (IBGE) <http://www.ibgebim.be>. In addition, operators have to communicate to the IBGE certain technical features of their installations.

²⁹ A draft decree of the government of the Brussels Capital Region lays down that the period for observing that 25% limit for antennas existing before the decree of 30 October 2009 was in force, which ends in September 2013, is extended for two years.

The decree of the government of the Brussels Capital Region of 8 October 2009 laying down the methodology and terms for measuring the electromagnetic field emitted by some antennas as well as the Ministerial Order of 30 June 2010 concerning the validation of a simulation tool calculating the electric field emitted by an antenna emitting electromagnetic waves also apply.

Moreover, in principle a town planning permit issued by the regional administration is required for erecting an antenna. A Ministerial Order of 13 November 2008 lays down a number of exceptions to that principle, however.

For additional information, contact IBGE, Olivier Vandenbalck (permit-emf@ibgebim.be) at +32 (0)2 775 79 48.

It should be noted that the Brussels regulatory framework might soon be changed.

3.2.1.2. Situation in the Flemish Region

In the Flemish Region the decree of the Flemish Government of 19 November 2010 amending the decree of the Flemish Government of 1 June 1995 laying down the general and sector-bound provisions regarding environmental hygiene ("VLAREM II") as to standards of fixed and temporary transmitting antennas for electromagnetic waves from 10 MHz to 10 GHz, limits cumulative exposure at all locations accessible to the public, by calculating the following

weighted sum: $\sum_{10\text{ MHz}}^{10\text{ GHz}} \left(\frac{E_i}{E_{ii}} \right)^2 \leq 1$ where S_i is the power density of the electromagnetic field and E_{ii}

the value of the following reference:

- 13.7 V/m for frequencies between 10 and 400 MHz;
- $0,686 \sqrt{f}$ expressed in V/m between 400 MHz and 2 GHz, where f represents the frequency in MHz;
- 30.7 V/m for frequencies between 2 GHz and 10 GHz.

Next the decree of the Flemish Government of 16 December 2011 amending various provisions of the decree of the Flemish Government of 1 June 1995 laying down the general and sector-bound provisions regarding environmental hygiene ("VLAREM II") and the decree of the Flemish Government of 19 November 2010 as to standards of fixed and temporary transmitting antennas for electromagnetic waves from 10 MHz to 10 GHz, stipulates that an extra limit has to be observed separately, which again similarly depends on the frequency, valid in all places of residence:

- 2 V/m for frequencies between 10 and 400 MHz;
- $0.1 \sqrt{f}$ expressed in V/m between 400 MHz and 2 GHz, where f represents the frequency in MHz;
- 4.48 V/m for frequencies between 2 GHz and 10 GHz.

This decree also imposes a conformity attestation for each operation and modification of a stationary transmitting antenna, proving that the standard is observed. Applications are handled by the *Departement Leefmilieu, Natuur en Energie*.

In addition, in principle the Flemish town and country planning code requires the issue of a town planning permit to erect a transmitting antenna. That permit is issued by the Flemish authority. However, the code allows for a number of exceptions to that principle.

Further information can be obtained from the *Vlaamse Overheid -Departement Leefmilieu, Natuur en Energie, Afdeling Lucht, Hinder, Risicobeheer, Milieu en Gezondheid*, Hans Reynders, at +32 (0)2 553 11 78 (hans.reynders@lne.vlaanderen.be).

3.2.1.3. Situation in the Walloon Region

In the Walloon Region, the Decree of 3 April 2009 on the protection against any harmful effects and nuisance caused by non-ionising radiation generated by stationary transmitting antennas lays down a maximum exposure of 3 V/m per antenna in "places of residence", regardless of the frequency. An application is to be submitted for each installation to the Scientific Institute for Public Services (Institut Scientifique de Service Public - ISSeP).

Stationary transmitting antennas below 500 kW and the maximum EIRP of which is higher than 4 W are also subject to prior declaration in the sense of the Decree of 11 March 1999 on the environmental permit proving observance of the standard. The declaration is sent to the municipal council of the municipality on the territory of which the establishment is situated. Antennas over 500 kW are subject to the environmental permit.

In addition, in principle, the Code wallon de l'aménagement du territoire, de l'urbanisme, du patrimoine et de l'énergie ("CWATUPE") requires a town planning permit to erect a transmitting antenna. That permit is issued by the delegated civil servant or the Walloon Government. However, the CWATUPE allows for a number of exceptions to that principle.

Further details can be obtained from Mr W. Pirard of SSeP, at +32 (0)42 29 82 35 (w.pirard@issep.be).

3.2.2. Site sharing

The Government has decided to promote sharing of antenna sites, and has included measures to this end in the ECA. Site sharing is defined by Articles 25 to 27.

The main obligations relating to site sharing are the following:

Obligation to use pre-existing supports

The operator makes every effort to install, as far as possible, his antennas on pre-existing supports, such as building roofs, pylons, façades; this list is not exhaustive.

Obligation to share sites

Sharing must be made available by operators who own a support in response to all reasonable requests. If adjacent premises are owned by an operator and offer the possibility to install various operators' equipment in separate rooms, this operator will allow the requesting operator to make use of this possibility also to install his base station.

When an operator is using a site (partially) owned by a third party, the operator may not prevent sharing it with another operator, nor impose any obligation or exert any influence on the third party owner to prevent sharing.

The fee for site sharing consists of total costs, i.e. the direct costs for acquiring the site, and the actual construction and maintenance costs to which a percentage is added equal to the weighted average capital costs of the operator who offers site sharing. That fee is first approved by BIPT. This fee is currently 4,000 EUR a year per 3 meter layer rented. More details can be obtained from BIPT.

If the site sharing entails building works the costs of this work are borne by the operators causing them.

Obligation to cooperate in case of urban planning permits

At least one month before submitting an application for an urban planning permit to the competent authority regarding a specific antenna site or part of a site in connection with shared use of a substantial part of a site, each operator shall inform the other operators who can authorise the shared use of his intention. If needed, the application for the urban planning permit will be adapted.

Obligation to contribute to a database

An antenna site database is created containing all relevant information to facilitate the evaluation of sites, with a view to sharing them. Cooperation from the operators in developing and using the antenna site database is obligatory.

The costs relating to that database are borne by the operators concerned, according to an agreement negotiated between them, or, if not, as set by BIPT.

3.3. Infrastructure sharing

Mobile infrastructures and more specifically shared use of the radio access network (RAN) becomes an important issue, which mobile network operators evaluate and consider in their expansion projects and investment decisions.

In that context with a view to ensuring total transparency for all market players BIPT has published a communication³⁰ in order to clarify the main concepts associated with shared use of mobile infrastructures, to explain the pros and cons involved, to give guidelines and to explain BIPT's expectations as to the operators' conduct on the Belgian market.

This communication also applies to the 800 MHz band.

3.4. Spectrum hoarding

Article 19/1 of the ECA stipulates that BIPT has to set rules to prevent spectrum hoarding, especially by setting strict deadlines for the actual operation of the usage rights by the holder and by applying sanctions. There are plans to organise a public consultation on the subject in the course of 2013.

3.5. Numbering

800 MHz operators need numbers to offer their services. Appropriate numbers will be selected in accordance with the numbering plan according to the type of service considered (telephony, Internet access, etc.) and the tariff principles.

A numbering capacity of types E.164, E212, ISPC, NSPC, SMS,... can be requested in accordance with the Royal Decree of 27 April 2007 on managing the national numbering space and the grant and withdrawal of number usage rights. This decree first lays down several general principles, then goes on to explain several procedures and also determines who can obtain and exercise which rights of use for what type of numbers.

According to the service features (Internet access, Value Added Services, premium rate numbers, broadband video, etc.), BIPT can allocate numbers in accordance with the Royal Decree of 27 April 2007.

Classical mobile phone services use E.164 numbers starting with service identity 4 (after prefix "0") where the second digit (i.e. after "4") cannot be "2" or "3". These numbers currently consist of 9 digits ("0" not included) to reach end-users. The numbering capacity available after this service identity can be reserved individually in series of 100,000 numbers.

For each series of 100,000 mobile numbers starting with service identity 4 a one-off application fee of 1,159 EUR is charged (file charges) as well as an annual user fee of 1,738 EUR. These amounts are related to the year 2013 and are adapted annually to the inflation rate.

³⁰ BIPT communication of 17 January 2012 presenting guidelines for infrastructure sharing.

As from 1 September 2013 there is a special number series for M2M communications³¹.

3.6. International Mobile Subscriber Identity Number

According to the Royal Decree of 27 April 2007 on managing the national numbering space and the grant and withdrawal of number usage rights BIPT issues the two-digit mobile network codes that follow the mobile country code to operators for roaming applications. The mobile network codes are followed by a ten-digit number. The international identification plan for equipment and users in roaming situations has been laid down by the International Telecommunication Union in the E.212 Recommendation. The mobile country code assigned to Belgium by the International Telecommunication Union is “206”. The International Mobile Subscriber Identity (IMSI) consists of the country code followed by the network code and 10 digits and is required to enable a “visited network” to identify the “roaming” terminal equipment.

The file charges per mobile network code are 1,159 EUR and the annual user fee is 14,482 EUR. These amounts are related to the year 2013 and are adapted annually to the inflation rate.

3.7. Number portability

Number portability is a facility that must be provided (the technical specifications are available on the BIPT website) through a central reference database for number portability.

The regulatory framework for mobile number portability is the Royal Decree of 23 September 2002 on portability for end-users of publicly available mobile telecommunications services and the Royal Decree of 20 March 2007 amending it.

In Belgium operators are under the obligation to make use of the central reference data base (CRDB) for number portability. It is run by a non-profit-making association the membership of which is open to all operators who are obliged to offer number portability. The CRDB is an intermediating platform through which all operational processes for porting a number take place, thus spreading routing information. The costs for using the CRDB have to be borne by the operators and the cost sharing is organised in the royal decrees mentioned above.

This is the name and full address:

Agoria ICT	Karla De Paepe Diamant Building Boulevard A. Reyers 80 1030 Brussels Tel.: Phone 0 2 706 81 26 Fax: +32 (0)2 706 80 09 E-mail: info@crdc.be	Secretariat of the NPA Board
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The schedule of a number porting process is currently organised by way of royal decrees. For example, Article 13, § 1, 4° of the Royal Decree of 16 March 2000 on the portability of numbers of telecommunications services subscribers lays down:

“the time available to the donor operator to meet the recipient operator’s number porting request amounts to:

³¹ See « Décision du Conseil de l'IBPT du 4 septembre 2012 concernant la modification de la décision de l'IBPT du 6 septembre 2011 concernant la détermination du plan de numérotation en matière de communication M2M » and « Décision du Conseil de l'IBPT du 6 septembre 2011 concernant la détermination du plan de numérotation en matière de communication M2M ».

- a) for PSTN and ISDN (simple installations): 2 working days maximum;
- b) for PSTN and ISDN (complex installations): 3 working days maximum;" (unofficial translation)

And in item 5° it continues:

"the recipient operator decides on the time of implementation, taking account of any preference formulated by the number porting subscriber, but is not allowed to request the actual implementation of number porting any sooner than 1 working day following the periods referred to in item 4°" (unofficial translation)

These timers also apply if for instance freephone and premium electronic communications services are offered on mobile networks.

The corresponding provisions for mobile number portability (typically for voice applications) can be found in § 5 and § 7 of Article 11 of the Royal Decree of 23 September 2002 on the portability of the numbers of end-users of publicly available mobile telecommunications services:

"§ 5. The donor operator is allowed the following maximum periods to validate the recipient operator's request for number porting:

a) for a simple porting:

1 day in 95% of the cases, but never more than 2 days;

b) for a complex porting:

2 days in 95% of the cases, but never more than 3 days.

A simple porting as referred to in the previous subsection means the porting of a single mobile number by a natural person. Any other porting is considered to be complex.

If a standardised SMS was sent, the periods referred to in the first subsection start one hour after sending the standardised SMS."

"§ 7. Without prejudice to the contractual provisions agreed between the donor operator and the recipient operator about the time in which a number porting request has to be implemented and without prejudice to the quality of service parameters imposed by the Minister under Article 105bis, subsection thirteen, of the Act of 21 March 1991, the recipient operator shall decide on the time of implementation, taking account of any preference formulated by the porting end-user." (unofficial translation)

As to sharing the CRDB costs the following rules apply to operators who have mobile numbers at their disposal. Regardless of the fact whether they are a member of the *vzw Nummeroverdraagbaarheid* (i.e. the non-profit-making association "Number Portability") in Belgium or a mandatory user, together the operators assume 75% of the central reference data base's annual cost remaining after deducting the fees requested from users other than mandatory users for consulting and accessing the central reference data base. One eighth of the part of the annual cost is destined to cover the basic costs. Mobile operators having their own assigned mobile number blocks at their disposal, bear an equal share of these basic costs. Seven eighths of the part of the annual cost is destined to cover the other costs. Each mobile operator having his own assigned mobile number series, pays a share of this, equivalent to the sum of the number of numbers he has ported as a donor operator and of the number of numbers ported to him as a recipient operator.

This arrangement is currently being reviewed in the light of Article 30.4 of the Universal Service Directive.

The royal decree on number portability that will replace all existing decrees is in the process of being adopted.

3.8. Data retention

Under Article 126 of the ECA operators have to register and save the traffic and identifications data of end-users, with a view to detecting and repressing criminal offences, with a view to repressing malicious calls to emergency services and for the purpose of the investigation by the Office of the Telecommunications Ombudsman into the identity of persons making malicious use of an electronic communications network or service and in order to accomplish the information tasks laid down by the Organic Act of 30 November 1998 of the intelligence and security services. According to that Article 126 the King shall lay down the terms regarding the storage of these data. Article 126 is expected to be replaced soon and a royal decree to be adopted based on that article, in order to complete the transposition of the Data Retention Directive.³²

Nevertheless, operators must delete traffic data relating to subscribers or end-users from their traffic data or make these data anonymous, as soon as they are no longer needed for the transmission of the communication (Article 122, § 1 of the ECA). However, the billing data can be processed and stored providing that the person to whom they relate, has been informed (Article 122, § 2). The traffic data may be processed for marketing purposes under the terms laid down in Article 122, § 3 of the ECA.

Mobile network operators are only allowed to process location data regarding subscribers or end-users if they have been made anonymous or when the processing is appropriate within the framework of providing a service with traffic or location data. This processing is subject to a number of terms laid down in Article 123 of the ECA.

3.9. Facilitation of the identification and legal interception

Under Article 127 of the ECA the operators have to take measures in order to allow caller identification, detecting, locating, tapping, taking notice of and recording private communications.

The technical and administrative measures are determined by the King.

The operators are obliged to observe the following two Royal Decrees, adopted on the basis of that Article 127 among other articles:

- Royal Decree of 9 January 2003 determining the conditions of the legal collaboration obligation in case of judicial requests on electronic communications;
- Royal Decree of 12 October 2010 determining the conditions of the legal collaboration obligation in case of judicial requests on electronic communications by the intelligence and security services.

3.10. Mobile termination rates

The regulation of the wholesale MTRs of any new mobile network operators in Belgium will be the subject, in due course, of appropriate supplementary BIPT decisions within the framework of market 7 listed in the Commission Recommendation of 17 December 2007³³.

³² Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks services and amending Directive 2002/58/EC.

³³ Commission Recommendation 2007/879/EC of 17 December 2007 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services.

However, depending on the result of the new specific market analysis to be conducted on this occasion, the SMP operators are already subject to a cost orientation principle of an efficient operator, by virtue of the BIPT decision of 29 June 2010 for the regulation of market 7³⁴. The new decisions to be taken for the new 800 MHz operators could lead to the same obligation.

For information, mobile operators, currently active in Belgium, have to fulfill the following obligations:

- access and interconnection;
- non discrimination;
- transparency;
- price monitoring and cost accounting system.

Further details on these obligations can be found in the decision of 29 June 2010, on the BIPT website³⁵.

However, as to price monitoring, it may be useful to mention the maximum termination rates imposed on all the mobile operators who are currently active since 1 January 2013:

€cent/min. (VAT excluded)	01/01/2013	01/01/2013
	Real tariffs	Nominal tariffs ³⁶
Belgacom	1.08	1.18
Mobistar	108	1.18
KPN GB	1.08	1.18

Table 3.1: maximum termination rates

It should be noted that proceedings for annulment of the decision of the BIPT Council of 29 June 2010 have been instituted. The Court of Appeal has rejected the substantive grounds but has addressed a preliminary question to the Constitutional Court on 16 May 2012 with regard to a procedural matter. A judgment of the Court is expected to arrive soon. However, the decision continues to have its effects, at least until the pronouncement of that judgment.

3.11. Obligations regarding the social element of the universal service

According to Article 74 of the ECA, each operator providing a public electronic communications service to consumers and whose turnover relating to publicly available electronic communications service exceeds fifty million euro, is obliged to offer special tariff conditions (laid down in Article 38 of the annex to the ECA) to certain categories of persons referred to in Article 22 of the annex to the ECA. This is about the social element of the universal service or the social tariffs. Other operators willing to provide the social element of the universal service

³⁴ Decision of 29 June 2010 regarding the market definition, the competitiveness analysis, the identification of SMP operators and the determination of appropriate remedies for market 7 from the list of the Commission Recommendation of 17 December 2007.

³⁵ Ibidem.

³⁶ The nominal tariffs are the real tariffs corrected according to the inflation rate, referred to in paragraph 443 of the decision of 29 June 2010.

as well, can do so if they notify BIPT³⁷ under the obligation to provide these social tariffs for a 5 year duration.

The procedure for submitting and processing the applications for the grant of social telephone tariffs has been laid down in the Royal Decree of 20 July 2006 laying down the operating conditions of the social element of the universal service regarding electronic communications and article 74 of the electronic communications act of 13 June 2005. Anyone who meets the conditions to obtain social tariff and would like to benefit from it, submits a request to the operator of his/her choice. The conditions are then verified by way of the database created at BIPT.

Against a number of provisions of the ECA regarding universal service (in particular Article 74) proceedings for annulment have been instituted before the Constitutional Court under cause-list number 5564.

3.12. Financing of the universal service

The ECA provides for two separate funds to finance the universal service; one is intended for financing the social element of the universal service and the other for financing the other elements of the universal service (fixed geographical element, provision of public telephone booths, universal directory enquiry service, provision of the universal directory). Moreover a separate mechanism has been provided for to finance the database of beneficiaries of social telephone tariffs.

The financing of the universal service fund regarding social tariffs

The financing of the fund for the universal service regarding social tariffs has been laid down in Article 74/1 of the ECA. In addition, Article 45/1 of the annex to the ECA lays down the method for calculating the net costs of the social tariffs.

The financing mechanism in steps introduced by Article 74/1 inserted by the Act of 10 July 2012 pertaining to various provisions regarding electronic communications, with retroactive effect from 30 June 2005, can be described as follows:

First, the Institute evaluates whether the provision of the social element may or may not constitute an unfair burden on a provider.

- If not, the social element is not financed.
- If so:
 - the Institute asks each provider of social tariffs to communicate the indexed amount of the cost estimation, calculated in accordance with the calculation method of Article 45/1 of the annex. For a given year, the providers' estimation has to be communicated before 1 August of the following year;
 - the Institute calculates and publishes the indexed net cost of each provider, based on the estimations given by the providers and in accordance with the calculation method of Article 45/1 of the annex. For a given year, BIPT's calculation has to be made by 1 December of the following year.
 - the Institute then goes on to evaluate for each provider concerned, whether the net cost calculated, represents an unfair burden or not. This evaluation is made on the basis of the individual characteristics of each provider (especially: level of equipment, economic and financial situation, market share)

³⁷ The terms and conditions are laid down in the Royal Decree of 4 March 2013 on the content and terms of the notification regarding the voluntary provision of the social element of the universal service (Belgian Official Gazette of 29/03/2013).

- If the net cost proves to represent no unfair burden for each provider, no compensation from the fund is due and therefore the fund is not financed.
- If the net cost proves to represent an unfair burden for at least one provider, as the administrator of the fund, BIPT will see to the financing of the fund, through contributions paid by the providers of the social element, proportionate to their turnover regarding publicly available telephone services. Upon request, the fund compensates each provider of social tariffs for whom the provision of the social element represents an unfair burden. The compensation corresponds with the net cost borne by the operator concerned.

The costs for managing the fund, including among other things the costs relating to modelling the providers' net costs, are financed by the operators providing the social element, in proportion to their turnover regarding publicly available telephone services. Yet, the maximum amount of the costs for managing the fund have to be laid down by the King, by a decree deliberated in the Council of Ministers.

The financing of the fund for the universal service other than the social element

The financing of the universal service fund other than the social element has been laid down in Articles 92 and following of the ECA. This fund is financed with contributions from the operators and intended to pay back the providers of the universal service elements (excluding the social element), to the extent that the Institute has established that the net costs borne, represent an unfair burden. The fund has been endowed with legal personality and is managed by BIPT. However, its management costs are financed by the operators during the current year (the mechanism for participating in the costs of management therefore differs from the mechanism set up to finance the universal service operations).

Article 96 of the ECA defines the operators who are obliged to contribute into the fund. For a given year these are all the operators having introduced a notification in accordance with Article 9 of the ECA on 1 September of the calendar year preceding the year in which the universal service operations have taken place.

The calculation of the operators' contribution has been laid down in Articles 98 and 99 of the ECA.

The financing of the database of beneficiaries of the social telephone tariff

Apart from these two funds intended to finance the universal service operations, providers of social tariffs are obliged to participate in financing the database created at BIPT relating to the beneficiaries of the social telephone tariff. This financing is provided for by Article 30, §§ 2-5 of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors.

That article lists the various means of BIPT. Examples are the repayment of the costs of investment and maintenance for the database as referred to in Article 22, § 2 of the annex to the ECA (§§ 2 and 3) and the costs relating to the installation and possible use of a computer system of the XML/batch flux type (§ 4).

The distribution of the costs of investment and of database maintenance has been determined as follows:

- investment cost
 - 10% borne by BIPT;
 - 10% in equal parts between the providers of social tariffs insofar their turnover is at least € 1,240,000;

- 40% borne by the providers of social tariffs proportionate to the number of social customers they have (expressed in days of social subscription, a concept combining the number of social subscribers with the actual length of the period in which each of them really has benefited from the social reductions);
- 40 % borne by the providers of social tariffs proportionate to the number of system requests they have made;
- maintenance cost
 - 20% in equal parts between the providers of social tariffs insofar as their turnover is at least € 1,240,000;
 - 40% borne by the providers of social tariffs proportionate to the number of social clients they have;
 - 40 % borne by the providers of social tariffs proportionate to the number of system requests they have made.

As for the part of the costs proper to the XML/batch interface, only the operators who are really a provider and the real users of that interface have to bear the specific costs thereof.

Paragraph 5 of Article 30 of the "BIPT Act" lays down that the re-imbusement of the costs of investment and maintenance made after 31 December 2006 is subject to prior approval by way of a Royal Decree deliberated in the Council of Ministers.

Because of the current lack of a royal decree for the years after, this financing scheme of the investment and maintenance cost of the database of social tariff beneficiaries was applied for 2006 only, following the BIPT Council Decision of 21 October 2011 on the methodology to allocate the costs related to the database of the social element of the universal telecommunications service and to the calculation elements specific to the year 2006³⁸.

3.13. Financing of the Office of the Ombudsman

Article 45bis of the Act of 21 March 1991 stipulates that companies subject to mediation (see below) have to fund the activities of the Office of the Ombudsman.

According to Article 43bis of the Act of 21 March 1991, amended by the ECA, the following companies are under the obligation to contribute into the financing of the Office of the Ombudsman:

1. any operator as referred to in the ECA;
2. any person manufacturing, selling or distributing a directory as referred to in the ECA;
3. any person providing a service of directory enquiries as referred to in the ECA;
4. any person operating electronic communications systems as referred to in the ECA;
5. any person providing public encryption services as referred to in the ECA;
6. any person providing other electronic communications activities as referred to in the ECA.

The amount of the contribution due is set each year by BIPT. It corresponds with the amount of the financial means necessary for the functioning of the Office of the Ombudsman, multiplied by a coefficient equal to each company's share in the turnover of all companies concerned

³⁸ A previous BIPT decision of 22 April 2009 had been taken for the years 2006 and 2007; this decision was annulled later on by a judgment of the Brussels Court of Appeal of 7 September 2010 (2009/AR/1871) following proceedings for annulment instituted by Belgacom and Belgacom Mobile.

recorded during the previous year for the activities falling within the scope of the Office of the Ombudsman, minus the first bracket of 1,240,000 EUR.

3.14. Spectrum trading

Article 19 of the ECA allows an 800 MHz operator to transfer his usage rights provided that this transfer meets the requirements of an efficient and effective management of the radio frequency spectrum. That transfer is subject to BIPT's approval. The terms of the transfer are laid down in the Royal Decree of 26 February 2010 on the transfer of rights of use for radio frequencies that are used entirely or in part for publicly available electronic communications services.

The operator who transfers his usage rights can transfer them entirely or partially. The operator to whom usage rights are transferred observes the conditions required for obtaining and exercising these transferred usage rights.

Any transfer request requires the payment of a 500 EUR fee intended to cover the cost for examining the file. Within 6 weeks following the reception of the transfer request, BIPT may request all the additional information it needs to approve or disapprove the frequency transfer. If BIPT did not ask for additional information, it notifies its decision within 3 months following the reception of the transfer request. If BIPT asked for additional information, it notifies its decision within 3 months following the reception of the information in question.

Chapter 4. The auction

The auction will be conducted in accordance with the Royal Decree on 800 MHz. The auction rules will be published on the website www.auction2013.be.

4.1. Timetable

The prevailing legislation does not impose any legal requirements regarding the timetable. Article 35 of the Royal Decree on 800 MHz says that BIPT ensures the smooth course and practical organisation of the procedure for granting the usage rights. To that end it can take all useful measures. The timetable will be determined in a BIPT decision published on its website and on the website www.auction2013.be. However, in order to assist potential candidates in the preparation of their bids, the following indicative timetable is given. BIPT reserves the right to change this timetable at a later stage. Of course, potential candidates will be informed in due time.

Call for candidates	14 August 2013
Submission of applications	23 September 2013
Notification of eligible candidates	8 October 2013
Start of the auction	12 November 2013

Table 4.1: indicative timetable

Candidates should note that BIPT intends to allow a [4/6] weeks' period between the call for applications and the deadline for actually submitting applications. This deadline is reasonable and should enable candidates to prepare their offers under good conditions. This period may well start during the summer vacation. Annexed to this memorandum, the draft application form is already provided, though, as an indication.

4.2. Course of the procedure

BIPT will manage the day-to-day running of the auction. Communications in relation to the auction should be addressed to BIPT (see below for the full address).

BIPT has the power to take all necessary measures for the smooth course and practical organisation of the procedure to grant usage rights (RD on 800 MHz, Art. 35).

Specifically, BIPT can establish any breach that may lead to the nullity of the offer or to the exclusion from the procedure (RD on 800 MHz, Art. 36).

4.3. General rules

The rules that apply from the submission of the applications until the grant of the usage rights are described in the Royal Decree on 800 MHz and the candidates should refer to it. To make the rules easier to understand, BIPT gives the following summary. However, only the rules mentioned in the Decree on 800 MHz are valid and obligatory. In case of any contradiction the Decree on 800 MHz shall prevail over this memorandum.

4.3.1. Disruption to the auction

Any behaviour or communication that disrupts the smooth course of the auction procedure is forbidden³⁹.

4.3.2. Collusion

The candidates shall not exchange confidential information with other candidates, on penalty of being excluded. Neither shall they make any form of agreement with other candidates or perform any act that could impact the result of the process or affect competition during the auction⁴⁰.

When such a breach is established BIPT shall submit a complaint to the competition authorities and go to court submitting the complaint to the examining magistrate⁴¹.

4.3.3. Structure of the candidate and being part of a "relevant group"

Article 1, 6° and 7° of the Royal Decree on 800 MHz gives the following definitions of "control with regard to a person"⁴² and "relevant group"⁴³.

³⁹ Article 22 of the Royal Decree on 800 MHz.

⁴⁰ Article 23 of the Royal Decree on 800 MHz.

⁴¹ Article 36, § 2 of the Royal Decree on 800 MHz.

⁴² The legal or factual power to decisively influence the appointment of a majority of directors or general managers of this person, or the orientation of its management. The control can be exercised exclusively or jointly, directly or through an intermediary and will be interpreted in accordance with Articles 5 to 9 of the Companies Code, Book I, Title II, Chapter II, it being understood that where it is referred to a majority will consist of 50% or more. (unofficial translation)

⁴³ With regard to a person (the "first person"):

- a) the first person, and;
- b) any person who is controlled by the first person, and;
- c) any person (the "second person") who controls the first person, and;
- d) any person who is controlled by the second person, and;
- e) any person with whom the persons referred to under a) to c) forms a consortium as defined in Article 10 of the Companies Code, Book I, Title II, Chapter II. (unofficial translation)

Article 18 of the same decree prescribes that when several candidates are part of the same relevant group, only one shall be allowed to partake in the procedure. The candidates involved choose from their midst, at BIPT's request, the candidate who will participate in the procedure. When no choice is made, all candidates involved will be excluded from the procedure.

In accordance with Article 24 of the Royal Decree on 800 MHz, before the start of the auction, BIPT communicates to all candidates the identity of the candidates who will take part in the auction. That is the moment when all candidates should make sure that none of the other candidates belongs to a group that could be considered as being the same relevant group as them. If there is another candidate who belongs to the same relevant group, this fact must be communicated to BIPT, along with the name of the candidate selected to take part in the auction. If the candidates involved should fail to do so, they will be excluded from the auction.

The Royal Decree on 800 MHz does not provide for a change of the composition of a relevant group following the submission of applications. However, candidates are required to notify BIPT of any change or any proposed change to their relevant group of which they are or will be part or of which they become aware following the submission of their applications⁴⁴. If a change should occur as a result of which various candidates would belong to the same relevant group, a selection will have to be made among the candidates who are members of the same relevant group, in order to keep only one candidate in accordance with Article 18 of the Royal Decree on 800 MHz. If not, all candidates concerned will be excluded from the rest of the procedure.

4.4. Applications

Applications should be submitted in accordance with the provisions of the Royal Decree on 800 MHz, which are described in Chapter 5.

4.5. Admissibility⁴⁵

In order to be admitted to the auction, candidates have to satisfy among others the following requirements:

- the application must be submitted at the latest on the last day of the term for submitting applications, between 9 a.m. and 5 p.m.;
- the application has to be submitted to BIPT against delivery of a receipt, in two copies, with indication of an original copy signed by the candidate's competent representative(s);
- the 5 million euro deposit must be paid unconditionally and irrevocably in cleared funds in euro ultimately at the moment of submitting the application. It is paid for the benefit of the Belgian State at the National Bank of Belgium into an account, the number of which will be communicated at a later stage;
- the application must be complete, providing all requested information in the correct form (see chapter 5 of this memorandum);
- the application must be submitted by a corporate body, which must not be in a state of liquidation or bankruptcy, has not filed for bankruptcy and is not involved in a liquidation procedure or judicial concordat, and is not involved in a similar situation or process.

After being submitted the applications may not be modified.

⁴⁴ Article 14, § 3 of the Royal Decree on 800 MHz.

⁴⁵ Articles 15 to 19 of the Royal Decree on 800 MHz.

After having received the applications BIPT will communicate the names of the candidates to all other candidates, requesting, if need be, to make a selection within the relevant group. After having received this information from BIPT the candidates immediately notify BIPT in writing whether there is another candidate belonging to a group that could be considered, for this candidate, to be the same relevant group.

Once the applications' admissibility has been decided upon, the candidates will be informed of this fact. Before the start of the auction, BIPT communicates to all eligible candidates the identity of the candidates who take part in the auction.

The application must be in French, Dutch or German.

4.6. Deposits

Candidates must submit a deposit of 5 million euro as part of their application. Failure to provide this deposit will automatically lead to the application's inadmissibility.

The deposit is to be paid into the account of the Belgian State at the National Bank of Belgium not later than on the date and time set by BIPT for submitting the application and published in the Belgian Official Gazette.

Transfer commissions and all other costs or taxes incurred in transferring funds to the account are for the account of the party making the transfer. Candidates should make sure that funds are received net of any commission.

4.6.1. Deposit interest⁴⁶

The deposit will yield an interest at the interest rate of the deposit facility of the European Central Bank, with a minimum of zero per cent. This interest will be calculated on a daily basis, and will be compounded on the last working day of the TARGET payment system of each month.

The funds will earn interest from the day of transfer, provided they have been paid into the account of the National Bank before the TARGET cut-off-time for clearing. The funds will earn interest up to the day prior to their refund.

4.6.2. Ratchetting the deposit⁴⁷

During the bidding the deposit will be required to increase by 2.5 million euro as bidding passes set thresholds (multiples of 50 million EUR), starting from 150 million euro.

Amount bid	Deposit threshold
120 million euro	5 million euro
150 million euro	7.5 million euro
200 million euro	10 million euro
250 million euro	12.5 million euro
250 + (n x 50) million EUR ⁴⁸	12.5 + (n x 2.5) million EUR

Table 4.2: Ratchetting the deposit

⁴⁶ Article 17, § 2 of the Royal Decree on 800 MHz.

⁴⁷ Article 28 of the Royal Decree on 800 MHz.

⁴⁸ Where n is a positive integer.

As stated above bids made without ratchetting the deposit are null and void.

Candidates are allowed to pay the amounts of extra deposits well in advance before they reach the corresponding threshold of the bid.

The candidates shall send BIPT proof of the higher deposit before making the bid that gives rise to the higher deposit.

All information relating to the deposits will be kept strictly confidential. Upon request, information will be provided on the balance of the deposit, including the interest accrued. Bidders can only request information about their own deposits. As set out above, all deposit amounts will attract interest at the rate of the deposit facility of the European Central Bank, at a minimum of zero per cent. This interest will be compounded on the last working day of the TARGET payment system of each month.

4.6.3. Possible repayment of the deposit

Deposits, plus interest earned, will be repaid to candidates deemed inadmissible⁴⁹ and to candidates who have not won usage rights⁵⁰.

The deposit is not paid back to candidates who have not made a single regular bid during the auction⁵¹

4.7. Overview of Auction

This section provides an overview of the auction format for the 800 MHz auction. The detailed auction rules will be published on the website www.auction2013.be at a later stage. All information provided in this section and in the detailed auction rules should be consistent with Chapter 9, Section 3 of the Royal Decree on radio access to the 790-862 MHz frequency band, which is the prevailing document.

4.7.1. Simultaneous Multiple-Round Ascending Auction

The auction format selected for the 800 MHz award is a Simultaneous Multiple-Round Ascending (SMRA) Auction. The SMRA format is “simultaneous” because it assigns all lots together in a single process. The SMRA format is a “multiple-round ascending bid” auction because it offers bidders the opportunity to submit bids, in response to ascending prices, over successive bidding rounds.

There are three lots in the auction, as described in Section 2.1 above. Each bidder can place a bid on at most one of the three lots in a bidding round. By placing a bid, the bidder indicates that it is willing to purchase the lot at the prevailing price, i.e. the price announced by the auction system. A bid is a binding offer that cannot be rescinded.

Article 30 of the ECA sets the minimum bid for the auction, which will be the price that applies for each lot in the first bidding round of the auction. The minimum bid is set at EUR 25,000 per MHz per month of the licence. As the usage rights are valid for an initial period of 20 years and the lots all have a size of 10 MHz duplex, the minimum bid amount is EUR 120 million per lot.

4.7.2. Bidding Procedure

Bidding will be conducted using a check box procedure. In each bidding round, BIPT will specify a fixed prevailing price for each available lot. Bidders check the relevant box associated with

⁴⁹ Article 20 of the Royal Decree on 800 MHz.

⁵⁰ Article 37, § 3 of the Royal Decree on 800 MHz.

⁵¹ Article 37, § 4 of the Royal Decree on 800 MHz.

their preferred lot in order to submit a bid for that lot at the prevailing price. Bidders have no discretion to select a higher or lower bid amount.

In the first bidding round, all qualified bidders are eligible to bid on any one of the three available lots at the prevailing price, which is the minimum bid. At the end of the bidding round, BIPT determines the identity of the provisional winning bidder for each lot (if any) and the level of the prevailing price for each lot in the next bidding round:

- If there are no bids on a lot, there is no provisional winning bid, and the prevailing price will be unchanged in the next bidding round;
- If there is only one bid on a lot, that bid will be selected as the provisional winning bid, and the prevailing price of the lot will be increased in the next bidding round;
- If there are two or more bids on a lot, the provisional winning bid will be selected at random from amongst these bids, and the prevailing price of the lot will be increased in the next bidding round.

From the second bidding round onwards, provisional winning bidders must maintain their bids and are not allowed to place new bids on any lot in the current bidding round. The status of provisional winning bidder on a particular lot is maintained unless and until another bidder submits a higher bid for that lot. A bidder that does not have a provisional winning bid and has not withdrawn from the auction may place a bid on any one of the three lots. If one or more new bids are received for a lot, the prevailing price of the lot will be increased in the next bidding round; otherwise, the prevailing price will remain unchanged.

The amount by which prevailing prices are increased after each bidding round (i.e. bid increments) is determined by BIPT, but – for each lot – will not be less than 3% of the prevailing price nor more than 10% of the prevailing price.

In any bidding round, a bidder that does not have a provisional winning bid may, as an alternative to placing a new bid:

- *Use a waiver.* A bidder that does not have a provisional winning bid may use a waiver, which maintains the bidder's eligibility to place a bid in the subsequent bidding round. Each bidder is allowed a maximum of two waivers during the auction, which may be deployed actively or passively. If the bidder fails to place a bid or a waiver, the auction system automatically places a waiver on behalf of the bidder, unless the bidder has no waivers remaining, in which case the bidder is deemed to have withdrawn from the auction.
- *Withdraw from the auction.* In each bidding round, a bidder that (a) does not have a provisional winning bid; (b) does not place a new bid; and (c) does not use a waiver, is deemed to have withdrawn from the auction, and is not allowed to bid in the auction in subsequent bidding rounds. Any bidder that withdraws from the auction without having placed a bid in any of the bidding rounds will forfeit its deposit.

After the end of each bidding round, the auction system will announce to all bidders information about the activity in the completed bidding round and parameters for the next bidding round, including:

- For each lot: the amount of the provisional winning bid (if any); the identity of the provisional winning bidder (if any); and the prevailing price of the lot in the next round.
- The identity of the bidders who have withdrawn from the auction.
- The identity of the bidders who have used a waiver.
- The identity of bidders who have been excluded from the auction.
- The start time and end time for the next bidding round.

The final bidding round will be a bidding round in which no new bids are placed and no waivers are used. In this case, the provisional winning bids will be declared the winning bids, and the final price (the unique fee) of each winning bid will be the amount of each winning bid in the final bidding round.

4.7.3. Electronic Auction System

The auction will be conducted through an electronic auction system, allowing bidders to submit bids securely over the public Internet.

Bidders will be able to connect to the electronic auction system through the public Internet using a standard web browser (e.g. Internet Explorer or Firefox). To that end bidders will be required to have a good quality and reliable Internet connection, and to use a computer with a supported web browser. We anticipate that no other specialist hardware or software will be required in order to participate in the auction. Appropriate security procedures will be utilised to ensure the integrity of the system and maintain the confidentiality of bid submissions.

The bidder interface of the electronic auction system will provide real-time information about the status and progress of the auction, including a timetable of the bidding rounds, bid submission forms and reports with results of bidding rounds.

Registered bidders will be provided with a bidder manual prior to the start of the auction. This manual will contain all relevant information about the electronic auction system, including hardware and software requirements, login instructions and how to use the bidder interface. There will also be a training session for registered bidders, and a trial auction shortly before the start of the actual auction.

4.8. Grant of usage rights⁵²

At the end of the auction, each lot is awarded to the candidate holding the highest bid on that lot, subject to payment of a unique fee equal to his highest bid on that lot. BIPT will formally notify each successful candidate of the grant of his usage rights, and confirm the unique fee due. The amount of the deposit and accrued interest will be set off against the unique fee due. Candidates will have 15 days to pay the balance due according to the conditions and terms laid down in Article 30, § 1/3 of the ECA. Non-payment, late or incomplete payment of the balance of the unique fee leads to the loss of the 800 MHz licence. Instructions for the payment of the balance will be sent in due course to the successful candidates.

Chapter 5. Applications

During the call for applications, the following elements will be published on the BIPT website:

- the deadline for the submission of applications;
- the bank account number into which the deposit is to be paid before the deadline for the submission of applications;
- an application form (an indicative draft is included in Annex C), with guidelines as regards the content and the submission of applications.

⁵² Articles 37 and 38 of the Royal Decree on 800 MHz.

Chapter 6. Additional information

6.1. Information request

Information on this memorandum and the auction, including during the procedure, must be requested in writing or by e-mail to BIPT with the indication “Questions Auction 800 MHz”:

Belgian Institute for Postal Services and Telecommunications
Ellipse Building - Building C
Boulevard du Roi Albert II, 35
B-1030 Brussels
Fax: +32 2 226 88 82
E-mail: auction2013@ibpt.be
Website: www.auction2013.be

An acknowledgement of receipt will be sent for each e-mail.

BIPT reserves the right not to reply to questions. However, if BIPT does give an answer, it will publish the question (in a form that does not disclose the identity of the party asking the question) and the answer on the auction website. Therefore, the author of the question will see to it that his question does not include any confidential information that should not be published. If need be, he will draw BIPT's attention to the confidential parts contained in his question and will also submit a non-confidential version of the question. This information will be treated by BIPT in accordance with Article 23, § 3, 1°, of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors.

6.2. Availability of the memorandum

This document can be downloaded in French, Dutch or English at the following website: www.auction2013.be. BIPT will not provide the document in writing.

ANNEXE A. DEFINITIONS AND GLOSSARY

For the purposes of this document, the following terms shall have the following meanings:

BIPT	The Belgian Institute for postal services and telecommunications
ECA	Act of 13 June 2005 on electronic communications
Royal Decree on 800 MHz	Royal Decree of 6 June 2013 on radio access to the 790-862 MHz frequency band
GSM Royal Decree	Royal Decree of 7 March 1995 on the establishment and operation of GSM mobile telephone networks
DCS Royal Decree	Royal Decree of 24 October 1997 on the establishment and operation of DCS-1800 mobile telephone networks
3G Royal Decree	Royal Decree of 18 January 2001 laying down the specifications and the procedure for granting licences for third-generation mobile telecommunications systems.
800 MHz band	791-821 MHz and 832-862 MHz frequency bands
900 MHz band	880-915 MHz and 925-960 MHz frequency bands
1800 MHz band	1710-1785 MHz and 1815-1880 MHz frequency bands
2.1 GHz band	1900-1980 MHz and 2110-2170 MHz frequency bands
2.6 GHz band	2500-2690 MHz frequency band
3.5 GHz band	3410-3500 MHz and 3510-3600 MHz frequency bands
800 MHz licence	Usage rights granted according to the Royal Decree on 800 MHz.
800 MHz operator	A party holding an 800 MHz licence
2G-operator	A party holding usage rights granted according to the GSM Royal Decree and/or the DCS Royal Decree
3G-operator	A party holding usage rights granted according to the 3G Royal Decree.
800 MHz network	Mobile radiocommunications network rolled out thanks to an 800 MHz licence
GSM	GSM standard, including the evolutions (for example EDGE) as standardised by ETSI.
IMT-2000	IMT-2000 standards as specified in the Recommendation ITU-R M.1457 of the ITU
ITU	International Telecommunication Union.
Application form	Form the format of which is specified by BIPT, as included in Annex C
Application	Application form and all enclosed documents prepared by the candidates who wish to apply for an 800 MHz licence
Candidate	A candidate applying for an 800 MHz licence, who has submitted an application in accordance with the provisions of the Royal Decree on 800 MHz.

Auction	The auction procedure, as defined by the Royal Decree on 800 MHz. The auction rules will be published on the website www.auction2013.be .
Recipient	Any person who receives this memorandum
Memorandum	This information memorandum
Electronic Auction System	The auction will be conducted through an electronic auction system, allowing bidders to submit bids securely over the public Internet.
Bid	A bid on a lot is a commitment to purchase the lot at the prevailing price.
Bid Increment	The amount the prevailing price is increased by between two bidding rounds.
Bidder	A bidder is an eligible candidate, i.e. a candidate who has submitted a successful application in accordance with the Royal Decree on 800 MHz.
Bidding Round	The auction is conducted as a series of bidding rounds, offering bidders multiple opportunities to submit bids in response to ascending prices.
Final Price	The amount of a winning bid in the final bidding round. The final price is the unique fee each winning bidder has to pay.
Lot(s)	There are three lots in the auction, as described in section 2.1 of the Memorandum.
Minimum Bid	The prevailing price that applies to each lot in the first bidding round, i.e. EUR 120 million.
Prevailing Price	The price at which bidders can place bids in any given bidding round.
Provisional Winning Bidder	The bidder who has placed the highest bid on a given lot. The provisional winning bidder will be selected at random in case two or more bidders have placed the same bid on a lot.
Provisional Winning Bid	The highest bid on a given lot after a bidding round.
Waiver	A bidder who is not a provisional winning bidder and who does not place a bid, may use a waiver to preserve eligibility to bid in subsequent bidding rounds.
Winning Bid	Provisional winning bids at the final bidding round are declared winning bids.
Withdraw	A bidder who is not a provisional winning bidder and who does not place a bid or use a waiver, is withdrawing from the auction.

ANNEXE B. REGULATORY AUTHORITIES AND RELEVANT TELECOMS LEGISLATION

B.1. Belgian Institute for Postal Services and Telecommunications

The Belgian Institute for Postal Services and Telecommunications (hereinafter referred to as “BIPT”) is the national regulatory authority of the postal and telecommunications sectors in Belgium. The Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors made BIPT into an independent institution of public interest.

BIPT is active in the field of telecommunications, broadcasting in Brussels and postal services.

When performing its duties BIPT follows the principles below:

Independence

The Act of 17 January 2003 bestowed on BIPT a status that guarantees its independence. The governing body of BIPT is the Council, composed of four members. The Council takes its decisions autonomously and independently of the executive branch. It has no links whatsoever with the operators active on the relevant markets. Obviously, any party involved can challenge the Council’s decisions before a competent court of law (Brussels Court of Appeal).

Transparency

As an administrative authority, BIPT has an obligation to motivate its actions while observing the confidentiality of the information at its disposal.

Cooperation and dialogue

In its daily practice, BIPT favours dialogue and consultation. The decision-making process is preceded by consultations. BIPT then communicates its draft opinions or decisions and studies the comments on these drafts. In case of disputes between them, the operators have the option of requesting a conciliation procedure with BIPT before considering other appeals (e.g. with the Competition Council).

B.2. Dispute settlement mechanisms

Appeal against BIPT decisions

In accordance with Article 2 of the Act of 17 January 2003 on the legal remedies and the conciliation of differences with reference to the Act of 17 January 2003 on the status of the regulator of the Belgian Postal and Telecommunications Sectors, BIPT decisions may be subject to proceedings for annulment before the Brussels Court of Appeal.

Competition Council

The Competition Council pronounces judgement on disputes between telecommunications operators or telecommunication service providers regarding interconnection, leased lines, special access, local loop unbundling and shared access, as well as disputes between postal operators regarding the implementation of the provisions of their licences (Article 4 of the Act mentioned above). Against such decisions of the Competition Council an appeal can be lodged with the Brussels Court of Appeal.

Conciliation procedure

BIPT has the power to formulate conciliation proposals in the event of a dispute between providers of telecommunications networks, services or equipment, or in the event of a dispute between postal operators, or in case of a dispute between the electronic communications service or network providers or broadcasting companies referred to in the Act of 30 March 1995 on broadcasting networks and services and the pursuit of broadcasting activities in the bilingual Brussels-Capital Region (Article 14, § 1, 4° of the Act of 17 January 2003 on the status

of the regulator of the Belgian postal and telecommunications sectors). This procedure takes place according to the Royal Decree of 5 May 2006 determining a conciliation procedure before the Belgian Institute for Postal Services and Telecommunications.

B.3. Office of the Ombudsman

The Office of the Telecommunications Ombudsman created by virtue of Article 43bis of the Act of 21 March 1991, is competent for relations between end-users and telecommunications operators. This office is entitled to intervene in order to facilitate an amicable settlement of disputes, to address recommendations to the concerned companies if no settlement can be reached, to give a verdict as an arbitrator based on an arbitration agreement concluded between this office and the companies concerned, and to examine the request of every person who claims to be the victim of malicious calls.

Further information about the Office of the Ombudsman can be found on www.ombudsmantelecom.be.

B.4. Selected Belgian telecommunications legislation

B.4.1. Act of 13 June 2005 on electronic communications (ECA)

The ECA makes a distinction between the requirements for:

- offering electronic communications services or networks;
- holding radio communications transmitters and/or transceivers, or installing and operating a station or a non-public radio communications network;
- obtaining and exercising usage rights for radio frequencies entirely or partially used for electronic communications services offered to the public.

Offering electronic communications services or networks

In accordance with Article 9 of the Act of 13 June 2005 the provision or resale in one's proper name and on one's own behalf of electronic communications services or networks can be started after notification submitted to BIPT. The relevant terms and conditions were laid down in the Royal Decree of 7 March 2007 regarding the notification of electronic communications services and networks.

Holding radio communications transmitters and/or transceivers, or installing and operating a station or a non-public radio communications network

In accordance with Article 39 of the ECA a written licence from BIPT is needed for holding a radio communications transmitter and/or transceiver, or for installing and operating a station or a non-public radio communications network in Belgium or on board a sea-going vessel, an inland navigation vessel, an aircraft or any other bearer subject to Belgian law. The relevant terms are developed in the Royal Decree of 18 December 2009 on private radio communications and usage rights for fixed networks and trunk networks.

B.4.2. Royal Decree of 27 April 2007 on managing the national numbering space and the grant and withdrawal of number usage rights

In accordance with Article 11, § 1 of the ECA BIPT has the task of managing the national numbering space, specifying and amending the national numbering plans, the grant and withdrawal of number usage rights and the implementation of the procedures involved as well as the publication of the national numbering plans, including additions or modifications.

The relevant terms and conditions have been laid down in the Royal Decree of 27 April 2007 on managing the national numbering space and the grant and withdrawal of number usage rights.

B.4.3. Act on the protection of economic competition, coordinated on 15 September 2006

This Act forbids agreements between companies which distort competition on the Belgian market (Art. 2) and forbids misuse of market power (Art. 3). The Competition Council is created as an administrative court having power of decision (Article 11).

The ECA provides for a number of cases in which BIPT requests the Competition Council's opinion referring to Article 55, § 4 and § 4/1, e.g. in order for BIPT to impose non-discrimination and price monitoring obligations.

The Act of 17 January 2003 on the appeals and the settling of lawsuits following the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors also provides for cooperation between BIPT and the Competition Council. Under the provisions of this Act the Competition Council investigates certain disputes such as those mentioned under B.2. During the investigation of those disputes by the Competition Council BIPT delegates a representative who investigates the case together with the rapporteur of the Competition Department. BIPT sees to it that the Competition Council's decisions taken in accordance with the first subsection, are implemented (Art. 4).

B.5. European regulatory framework and relevant European directives

The European Union has adopted a number of directives and decisions on electronic communications networks and services. The main purpose is to ensure fair competition in the operation of such networks and the provision of such services. This section only intends to give an incomplete brief overview of those directives and decisions with relevance for the grant of frequency usage rights for offering third- and fourth-generation electronic communications systems.

B.5.1. Relevant EU Directives

There are five main directives regarding electronic communications:

- Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services ("Framework Directive");
- Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services ("Authorisation Directive")
- Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities ("Access Directive");
- Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services ("Universal Service Directive")
- Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)

Framework Directive

The purpose of this directive is to establish a harmonised framework for the regulation of electronic communications networks and services. It lays down the framework for implementing the other directives: scope and basic principles, basic definitions, general

provisions regarding national regulatory authorities (NRAs), the new notion of “significant market power” and rules for assigning specific necessary facilities such as radio frequencies, numbers and rights of way.

Authorisation Directive

The purpose of this directive is to implement an internal market in electronic communications networks and services through the harmonisation and simplification of authorisation rules and conditions in order to facilitate their provision throughout the Community. This directive applies to authorisations for the provision of electronic communications networks and services. The directive covers authorisation of all electronic communications networks and services whether they are provided to the public or not. It only applies to the granting of rights to use radio frequencies where such use involves the provision of an electronic communications network or service, for remuneration.

The purpose is to create a harmonised market for electronic communications networks and services by limiting regulation to the absolute minimum.

The main innovation of this text is the replacement of individual licences by general authorisations, whilst a specific regime for the assignment of frequencies and numbers is maintained. According to this principle the provision of electronic communications networks or services can therefore only be subject to a general authorisation. In other words, the undertaking concerned may be required to submit a notification but may not be required to obtain an explicit decision or any other administrative act by the national regulatory authority (NRA) before exercising the rights resulting from the authorisation.

A clear distinction is made between the conditions that apply within the framework of a general authorisation and those linked to rights of use for radio frequencies and numbers.

Access Directive

Within the framework set out in the Framework Directive, this Directive harmonises the way in which Member States regulate access to, and interconnection of, electronic communications networks and associated facilities. The aim is to establish a regulatory framework, in accordance with internal market principles, for the relationships between suppliers of networks and services that will result in sustainable competition, interoperability of electronic communications services and consumer benefits.

This Directive establishes rights and obligations for operators and for undertakings seeking interconnection and/or access to their networks or associated facilities. It sets out objectives for national regulatory authorities with regard to access and interconnection, and lays down procedures to ensure that obligations imposed by national regulatory authorities are reviewed and, where appropriate, withdrawn once the desired objectives have been achieved. The term “Access” in this Directive does not refer to access by end-users. This directive applies to any type of communication networks in charge of public communication networks.

Universal Service Directive

This directive, set out in the framework of the Framework Directive deals with the provision of electronic communications networks and services to end-users. The aim is to ensure the availability throughout the Community of good quality publicly available services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market.

This Directive establishes the rights of end-users and the corresponding obligations on undertakings providing publicly available electronic communications networks and services. With regard to ensuring provision of universal service within an environment of open and competitive markets, this Directive defines the minimum set of services of specified quality to

which all end-users have access, at an affordable price in the light of specific national conditions, without distorting competition.

Directive regarding the protection of privacy and electronic communications

This Directive harmonises the provisions of the Member States required to ensure an equivalent level of protection of fundamental rights and freedoms, and in particular the right to privacy, with respect to the processing of personal data in the electronic communication sector and to ensure the free movement of such data and of electronic communication equipment and services in the Community. It makes provisions for traffic data backup, the emission of unsolicited messages and personal data in public phonebooks.

The above-mentioned Directives have been amended by the following Directives:

- Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks, Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and Directive 2002/20/EC on the authorisation of electronic communications networks and services;
- Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/CE concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) N° 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

This reform was adopted in order to achieve the internal market of electronic communications. It was indeed noted that the fragmentation and regulatory inconsistencies between the activities of the national regulatory authorities could not only thwart the sector competition, but also reduce the considerable advantages that the consumer could have from international competition. This is why Community regulatory mechanism for SMP operators on the main markets is reinforced.

This reform also includes the elaboration of an efficient and coordinated spectrum management strategy in order to achieve a Single European Information Space and to reinforce provisions for end-users with disabilities, in order to create an inclusive information society. This reform forces Member States to observe the principle of technological neutrality towards services within the framework of granting radio spectrum usage rights.

Directive 87/372/EEC of the Council of 25 June 1987 on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community

The 890-915 MHz and 935-960 MHz frequency bands are reserved by this directive for a public pan-European cellular digital communications services that must be guaranteed in each Member State according to a common standard named GSM. After that, so-called the extension frequency band (880-890 MHz and 925-935 MHz) was opened to mobile communications. These cumulated frequency bands are referred to as the "900 MHz band".

This directive has been amended by Directive 2009/114/EC of the European Parliament and of the Council of 16 September 2009. This was necessary in order to allow new digital technologies to be rolled out in the 900 MHz band in coexistence with GSM systems. The exclusive reservation of this band for GSM was removed. In order for other systems to coexist with GSM systems in the same band, harmful interference should be avoided by applying technical usage conditions applicable to technologies other than GSM using the 900 MHz band. Following this amendment, the 900 MHz band was thus open to UMTS, a system that can coexist with the GSM systems, as well as other systems, as soon as it can be demonstrated that

those systems can coexist with GSM systems, in accordance with the procedure set in the Radio Spectrum Decision to ensure harmonised conditions for the availability and efficient use of radio spectrum.

Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity

This Directive establishes a regulatory framework for the placing on the market, free movement and putting into service in the Community of radio equipment and telecommunications terminal equipment.

B.5.2. Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office

Regulation 1211/2009 establishes the Body of European Regulators for Electronic Communications (BEREC)⁵³ and the support office. BEREC is composed of a Council of Administration made up of the heads of the 27 national regulators (NRAs). The Office is headed by a Management Committee which represents all the NRAs as well as the European Commission. BEREC's main tasks are organising a consultation between the NRAs and advising the European Commission. The NRAs have to consult BEREC in different situations⁵⁴. BEREC's objective is to apply a consistent European regulation. The development of optimal regulatory practices and the provision of advice on draft decisions of national regulators, among others, should allow a more harmonised application of the European regulatory framework.

BEREC reports are not binding but discussion notes.

B.5.3. Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community, amended by Regulation (EC) No 544/2009 of the European Parliament and of the Council of 18 June 2009

This regulation introduces a common approach that allows users of public mobile communications networks who travel inside the Community not to pay overpriced Community roaming services, in comparison with the competitive national prices, when they make and receive phone calls, send and receive text messages and use services for packet-switched data communication, and also contribute to the harmonised functioning of the internal market, and at the same time guaranteeing a high level of consumer protection, by stimulating competition and transparency on the market and by offer innovation incentives as well as a choice to consumers.

The regulation defines the rules on wholesale and retail fees that mobile network operators may consider when providing Community roaming services for voice calls and text messages that originate and arrive inside the borders of the Community. It also defines wholesale fees that mobile network operators may receive for services for packet-switched data communication used by subscribers roaming on a mobile communication network in another Member State.

53 Body of European Regulators for Electronic Communications.

54 For example, when a draft decision of an NRA on the establishment of a relevant market is likely to influence trade between States.

B.5.4. Decision 2002/676/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision).

The aim of this decision is provide a guideline for the use of the radio spectrum, allowing for economic, cultural, scientific and social aspects, as well as regarding security, general interest and freedom of expression. It also aims at creating a legal framework in order to ensure harmonised conditions with regard to the availability and efficient use of radio spectrum. At last, the goal is to safeguard the interests of the European Community in international negotiations on spectrum use.

In order to contribute to the definition, the elaboration and the implementation of the Community policy on radio spectrum, the European Commission is assisted by a committee, named "Radio Spectrum Committee". It is made up of representatives of the Member States and is chaired by a representative of the Commission.

The committee examines the propositions of the Commission on the prevailing technical measures aimed at harmonising conditions regarding the availability and use of the radio spectrum.

B.5.5. Decision 2008/477/EC of the Commission of 13 June 2008 on the harmonisation of the 2500-2690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community

This decision aims at harmonising the conditions of provision and efficient use of the 2500-2690 MHz band for terrestrial systems capable of providing electronic communications services in the Community.

The decision obliges Member States to design then provide the 2500-2690 MHz band for terrestrial systems capable of providing electronic communications services in the Community, in accordance with the parameters set in the Annex to the decision, at the latest 6 months after the entry into force of the decision. These obligations must be met within six months following the entry into force of the decision.

B.5.6. Commission Decision 2009/766/EC of 16 October 2009 on the harmonisation of the 900 MHz and 1 800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community

This decision aims at harmonising the technical conditions of provision and efficient use of the 900 MHz and 1800 MHz bands for terrestrial systems capable of providing electronic communications services in the Community.

This decision lists in its annex the terrestrial systems capable of providing electronic communications services that can coexist with the GSM systems in the 900 MHz band.

The decision also prescribes that the 1800 MHz band is designated and made available for GSM systems by 9 November 2009 and that the 1800 MHz band is designated and made available for those other terrestrial systems capable of providing pan-European electronic communications services that are listed in the annex. The deadline for implementing this decision is set at 9 May 2010.

B.5.7. Commission Decision 2009/978/EC amending Decision 2002/622/EC establishing a Radio Spectrum Policy Group

This decision amends Decision 2002/622/EC establishing a Radio Spectrum Policy Group in order to adapt the tasks of this group to the new European regulatory framework that applies to the electronic communications and that comes from the 2009 revision.

In accordance with that decision the Group assists and advises the Commission on radio spectrum policy issues, on coordination of policy approaches and, where appropriate, on harmonised conditions with regard to the availability and efficient use of radio spectrum necessary for the establishment and functioning of the internal market. In addition, when it turns out to be necessary to ensure the effective coordination of the European Community interests within the international organisations entrusted with radio spectrum, the Group assists the Commission in the preparation of the general objectives common to the Parliament and the Council.

B.5.8. Commission Decision 2010/267/EC on the harmonisation of the 790-862 MHz frequency band for terrestrial systems capable of providing electronic communications services in the European Union

This decision aims at harmonising the technical conditions of provision and efficient use of the 790-862 MHz band (800 MHz band) for terrestrial systems capable of providing electronic communications services in the European Union.

This decision imposes on Member States when they design or provide the 800 MHz band to other networks than high power broadcasting networks, to do so on a non-exclusive basis, for terrestrial systems capable of providing electronic communications services in accordance with the parameters set in the Annex to the decision.

Moreover the Member States see to it that these systems offer adequate protection to the systems in the adjoining bands.

B.5.9. Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme

This decision aims to allow the use of the 800 MHz band for electronic communications services in the European Union. It obliges Member States to implement by 1 January 2013 at the latest the authorisation process in order to allow the use of the 800 MHz band for electronic communications services.

In consideration (1) of this decision it is said that the multiannual radio spectrum policy programmes should support the goals and key actions outlined in the Commission Communication of 3 March 2010 on the Europe 2020 Strategy and the Commission Communication of 26 August 2010 on 'A Digital Agenda for Europe'. Considerations (8), (15) and (19) of the decision establish a clear link between the goals of the Digital Agenda 2020, the multiannual radio spectrum policy programme and the availability of the 800 MHz band.

According to Article 6.6 of the decision the Member States should, in cooperation with the Commission, promote access to broadband services using the 800 MHz band in remote and sparsely populated areas, where appropriate. In doing so, Member States should examine ways and, where appropriate, take technical and regulatory measures, to ensure that the freeing of the 800 MHz band does not adversely affect programme making and special events (PMSE) users.

ANNEXE C. DRAFT APPLICATION FORM

Application form

Auction of 800 MHz licences

Instructions for the candidates regarding the application form

Below you will find instructions regarding the information required to fill out the application form and regarding the manner in which it is to be presented. The terms used in the application form and in these instructions shall have the meaning given in the Royal Decree of 6 June 2013 on radio access to the 790-862 MHz frequency band.

The application must be in French, Dutch or German.

Candidate's details and documents to be provided:

- 1.1 The name of the candidate.
 - 1.2 The address, phone number, fax number in the EU, at which the candidate may be contacted on working days, from 8 a.m. to 7 p.m. This full address will be deemed to be the candidate's official address for sending documents, communications and notifications.
 - 1.3 The name, title, capacity and signature of at least one person legally authorised to fully represent the candidate by virtue of the law or the candidate's articles of association for all actions that may relate to the procedure for granting the usage rights.
 - 1.4 The candidate's articles of association, or for lack thereof, equivalent documents governing the functioning of the candidate. If the original documents are not available in French or Dutch, an official translation (in one of these languages) must be provided, with the version in the original language. The candidate is responsible for the accuracy of any translation.
 - 1.5 Proof or if such proof is not provided in the country where the candidate is head-quartered, a statement on word of honour that the candidate
 - a) is not in a state of bankruptcy, liquidation, or similar situation; and
 - b) has not made any declaration of bankruptcy and is not involved in a liquidation procedure or judicial concordat, and is not involved in a similar situation under foreign regulation.
- The certificates provided by the candidates must be in French or in Dutch, or accompanied by an official French or Dutch translation. The candidate is responsible for the accuracy of any translation.
- 1.6 Proof of payment of the amount referred to in Article 17 of the Royal Decree of 6 June 2013 on radio access to the 790-862 MHz frequency band. The proof shall include the unconditional and indisputable instructions of payment given to the bank(s) tasked with the payment, with the confirmation from the bank(s) that the payment has been made through the clearing system (a confirmation from the bank(s) that the deposit has been paid into the recipient's account must not be produced).

1.7 The candidate's bank account number into which the amount can be reimbursed in accordance with Articles 20 and 37, § 3 of the Royal Decree of 6 June 2013 on radio access to the 790-862 MHz frequency band.

1.8 The technical standard or the technology the candidate is planning to use.

1.9 The proof of notification in accordance with Article 9 of the Act of 13 June 2005 on electronic communications.

1.10 A clear, comprehensive and detailed view of the candidate's ownership structure.

Payment instructions:

2.1 The deposit shall be paid into the account [BANK ACCOUNT] with mention "800 MHz procedure".

Application instructions:

Applications must be submitted by [23 September 2013] at the latest.

Applications shall be submitted between 9 a.m. and 5 p.m. at:

BIPT
Ellipse building C
Boulevard du Roi Albert II, 35
1030 Brussels

Applications shall be submitted in two copies (1 signed original, along with a certified copy).

Applications shall be submitted in sealed boxes with mention:

BIPT
[Name of the candidate]
Application 800 MHz auction
Box [box number] of [total number of boxes]

Comment

Candidates will note that the application must be complete when it is submitted, with the correct amount of copies, with neither mistakes nor omissions. The application shall also be submitted during the hours indicated, and at the latest by the date specified by BIPT. If these requirements are not met, the application can be turned down.

ANNEXE D. PRIORITY MUNICIPALITIES

AMEL	HABAY	ONHAYE
AYWAILLE	HAMOIS	ORP-JAUCHE
BASTOGNE	HAVELANGE	PALISEUL
BERTOGNE	HONNELLES	RAEREN
BERTRIX	HOREBEKE	RAMILLIES
BIEVRE	HOTTON	RENDEUX
BRUNEAUT	HOUFFALIZE	ROCHEFORT
BÜLLINGEN	HOUTHULST	RUMES
BURG-REULAND	JALHAY	SAINTE-ODE
BÜTGENBACH	KELMIS	SAINTE-HUBERT
CHIMAY	KORTEMARK	SANKT VITH
CINEY	LA ROCHE-EN-ARDENNE	SOMME-LEUZE
CLAVIER	LIBRAMONT-CHEVIGNY	STADEN
COUVIN	LONTZEN	TELLIN
DAVERDISSE	MEIX-DEVANT-VIRTON	THEUX
EUPEN	METTET	TINTIGNY
FLOBECQ	MODAVE	TROIS-PONTS
FLORENVILLE	MOMIGNIES	VAUX-SUR-SURE
FROIDCHAPELLE	NASSOGNE	VRESSE-SUR-SEMOIS
GOUVY	OHEY	WELLIN