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the Government Gazette [Staatscourant]

Our reference:
WJZ/10146523

Complimentary English Translation of the Authentic Dutch text,
adjustments included , 10th July 2012

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Date: January 6th 2012

Reference **Regulation of the Dutch Ministry of Economic Affairs, Agriculture
and Innovation dated January 6th, 2012 , no. WJZ/10146523, to
establish the application and auction procedure for licences for
the frequency spectrum in the 800, 900 and 1800 MHz bands for
mobile communication applications (Regulation regarding the
application and auction procedure for 800, 900 and 1800 MHz
licences)**

The Dutch Ministry of Economic Affairs, Agriculture and Innovation;
Having regard to Sections 2a, 4, 6, 6a and 8 of the Frequency Decree
[Frequentiebesluit];

hereby decrees:

§ 1. Definitions

Section 1

1. In this regulation, the following terms shall have the following meaning:

- a. Applicant: the party that has submitted an application;
- b. Newcomer: The applicant who is not a licence holder at the time specified in Section 9, Subsection (1) of one or more licences for the frequencies within the 880-915 MHz and 925-960 MHz bands and who is not a part of a group of which one or more members are licence holders of one or more licences for the frequencies within the 880-915 MHz and 925-960 MHz bands;
- c. Bid round: a primary bid round, the supplementary bid round or the assignment bid round;
- d. 800 MHz lower range: the 791-821 MHz frequency range;
- e. 800 MHz upper range: the 832-862 MHz frequency range;
- f. 900 MHz lower range: the 880-915 MHz frequency range;
- g. 900 MHz upper range: the 925-960 MHz frequency range;
- h. 1800 MHz lower range: the 1710-1780 MHz frequency range;
- i. 1800 MHz upper range: the 1805-1875 MHz frequency range;

- j. 2100 MHz lower range: the 1959.7-1969,7 MHz frequency range;
- k. 2100 MHz upper range: the 2149.7-2159,7 MHz frequency range;

l. Participant:

1. In Sections 14 to 23, in Annex II, in the primary bid rounds and in the supplementary bid round: an applicant that meets the requirements laid down in Section 11, whose application meets the requirements laid down in Sections 8 to 10, and who has been informed that the applicant has been admitted to the auction;

2. In the assignment bid round: an applicant as referred to under 1° whose bid is part of the combination of winning bids referred to in Section 31;

m. Winning participant:

1. In Annex III: a participant whose bid is part of the combination of winning bids referred to in Section 31;

2. In the assignment bid round, in Annex IV and in Section 43: a participant whose bid is part of the final combination of winning bids referred to in Section 40;

n. Group: A group as referred to in Section 24b of Book 2 of the Dutch Civil Code;

o. Interest: the interest calculated in accordance with actual/360 based on the Euro Overnight Index Average as determined by the European Central Bank minus 100 base points where a minimum of 0% applies;

p. Winning bid:

1. In the supplementary bid round and Annex III: a bid that is part of the combination of winning bids referred to in Section 31;

2. In the assignment bid round: a bid that is part of the final combination of winning bids referred to in Section 40;

q. Confidential information: information about an applicant which is not public and which, when disclosed to another applicant, shall or may affect the latter's decisions with regard to the auction;

r. Final primary bid: the last bid with an activity level higher than zero that a participant has issued during the primary bid round;

s. Package: the specific combination of licences in a bid of a participant;

t. Final package: the package on which a participant has bid in the participant's final primary bid.

2. A group is deemed to mean a corporate body or other legal entity in which two or more applicants hold an equal number of shares or have equal legal control.

§ 2. Licences available

Section 2

1. For the use of frequency bands for terrestrial electronic communication the following licences shall be allocated by means of an auction:
 - a. A1 licence: licences to use frequency bands of two times 5 MHz in the 800 MHz lower and upper bands where the two 5 MHz frequency spaces are always 41 MHz apart;
 - b. A2 licence: licences to use frequency bands of two times 5 MHz in the 900 MHz lower and upper bands where the two 5 MHz frequency spaces are always 45 MHz apart;
 - c. B licence: licences to use frequency bands of two times 5 MHz in the 800 MHz lower and upper bands where the two 5 MHz frequency spaces are always 41 MHz apart;
 - d. C licence: licences to use frequency bands of two times 5 MHz in the 900 MHz lower and upper bands where the two 5 MHz frequency spaces are always 45 MHz apart;
 - e. D licence: licences to use frequency bands of two times 5 MHz in the 1800 MHz lower and upper bands where the two 5 MHz frequency spaces are always 95 MHz apart;
 - f. E licence: licences to use frequency bands of two times 5 MHz in the 2100 MHz lower and upper bands where the two 5 MHz frequency spaces are always 190 MHz apart;
 - g. F licence: licence for the use of the 14.6 MHz frequency space within the 1900 and 1904.9 MHz frequency range and between the 2010 and 2019.7 MHz ;
 - h. G licence: licence to use the 5 MHz frequency space within the range of 2565 and 2615 MHz space;
 - i. H licence: Licence for the use of the frequencies within the range of 2615 - 2620 MHz.
2. Two A1 licences, one A2 licence, four B licences, six C licences, fourteen D licences, two E licences, one F licence, ten G licences and one H licence shall be available for the allocation as referred to in Subsection (1).
3. A1 and A2 licences shall only be awarded to newcomers.
4. At most two of the three available A1 and A2 licences shall be awarded to a single newcomer.
5. If a G licence is awarded to an applicant, at least two G licences shall be awarded to the applicant where, in order to prevent interference, limitations shall be imposed on the use of the lowest 5 MHz frequency space for which this applicant is awarded a G licence.
6. The H licence shall be awarded to the applicant who is awarded a G licence to use the frequencies between 2610-2615 MHz.

7. Whilst observing the provisions contained in Subsections (1) to (4), A1 and B licences shall be awarded in such a way that:
 - a. A1 and B licences of all the applicants are jointly contiguous in the lower band and start at 821 MHz;
 - b. A1 and B licences are jointly contiguous in the lower band for each applicant.
8. A2 and C licences shall be awarded in such a way that, with due observance of the provisions of Subsections (1) to (4):
 - a. A2 and C licences of all the applicants are jointly contiguous in the lower band and start at 880 MHz;
 - b. A2 and C licences are jointly contiguous in the lower band for each applicant.
9. D licences shall be awarded in such a way that, with due observance of the provisions of Subsections (1) to (4):
 - a. The D licences in the lower band of all the applicants together are contiguous and start at 1710 MHz;
 - b. The D licences in the lower band are contiguous for each applicant.
10. G licences shall be awarded in such a way that, with due observance of the provisions of Subsections (1) to (4):
 - a. G licences within the 2565 and 2615 MHz frequency range of all the applicants together are contiguous and start at 2565 MHz;
 - b. G licences of each applicant always concern contiguous frequencies.
11. No more A1, A2, B, C, D, E, F or G licences shall be awarded for each newcomer than what jointly match 220 activity points.
12. No more B, C, D, E, F or G licences shall be awarded for each applicant other than a newcomer than what jointly match 190 activity points.

Section 3

1. If applications have been submitted in accordance with Sections 8 to 10, by newcomers that meet the requirements set in Section 11, that are related to two or more licences A1 and that are not related to an A2 licence in total with regard to A1 and A2 licences, two licences A1, four B licences, seven C licences, fourteen D licences, two E licences, one F licence, ten G licences and one H licence shall be available in derogation from Section 2, Subsection (2) for the allocation as referred to in Section 2, Subsection (1).
2. Section 2, Subsection (8) shall apply in the case as referred to in Subsection (1) on the understanding that this shall only refer to the award of C licences.
3. In the case as referred to in the Subsection (1) and in derogation from Section 2, Subsection (12), no more licences shall be awarded than the ones that jointly correspond to 205 activity points, for each applicant other than a newcomer.

Section 4

1. If applications have been submitted in accordance with Sections 8 to 10, by newcomers that meet the requirements set in Section 11 that are in total only related to one A1 licence, and that are not related to a A2 licence with regard to A1 and A2 licences, one A1 licence, five B licences, seven C licences, fourteen D licences, two E licences, one F licence, ten G licences and one H licence shall be available in derogation from Section 2, Subsection (2) for the allocation as referred to in Section 2, Subsection (1).
2. Section 2, Subsection (8) shall apply in the case as referred to in Subsection (1) on the understanding that this shall only refer to the award of C licences.
3. In the case as referred to in the Subsection (1), and in derogation from Section 2, Subsection (12), no more licences shall be awarded for each applicant other than a newcomer than the ones that jointly correspond to 220 activity points .

Section 5

1. If applications have been submitted in accordance with Sections 8 to 10, by newcomers that meet the requirements set in Section 11, that in total are only related to one A1 licence and one or more A2 licences in total with regard to A1 and A2 licences, one A1 licence, one A2 licence, five B licences, six C licences, fourteen D licences, two E licences, one F licence, ten G licences and one H licence shall be available for the allocation, as referred to in Section 2, Subsection (1), in derogation from Section 2, Subsection (2).
2. In the case as referred to in the Subsection (1), and in derogation from Section 2, Subsection (12), no more licences shall be awarded than the ones that jointly correspond to 205 activity points for each applicant other than a newcomer.

Section 6

1. If applications have been submitted in accordance with Sections 8 to 10, by newcomers that meet the requirements set in Section 11, that in total with regard to A1 and A2 licences, are not related to a A1 licence, but are related to one or more licences A2, in derogation from Section 2, Subsection (2), one A2 licence, six B licences, six C licences, fourteen D licences, two E licences, one F licence, ten G licences and one H licence shall be available for the allocation as referred to in Section 2, Subsection (1).
2. Section 2, Subsection (7) shall apply in the case as referred to in Subsection (1) on the understanding that this shall only refer to the award of B licences.
3. In the case as referred to in the Subsection (1), and in derogation from Section 2, Subsection (12), no more licences shall be awarded than the ones that jointly correspond to 220 activity points for each applicant other than a newcomer.

Section 7

1. If no application is submitted by a newcomer in accordance with Sections 8 to 10, or if applications have been submitted by newcomers in accordance with Sections 8 to 10, that meet the requirements set in Section 11 that are not related to A1 and A2 licences, then six B licences, seven C licences, fourteen D licences, two E licences, one F licence, ten G licences and one H licence shall be available in derogation from Section 2, Subsection (2), for the allocation, as referred to in Section 2, Subsection (1).
2. Section 2, Subsection (7) shall apply in the case as referred to in Subsection (1) on the understanding that this shall only refer to the award of B licences.
3. Section 2, Subsection (8) shall furthermore apply in the case as referred to in Subsection (1) on the understanding that this shall only refer to the award of C licences.
4. In the case as referred to in the Subsection (1), and in derogation from Section 2, Subsection (12), no more licences shall be awarded than the ones that jointly correspond to 235 activity points for each applicant other than a newcomer.

§ 3. Licence application and provision of security (application stage)

Section 8

1. Any party wishing to be eligible for a licence as referred to in Section 2(1) must submit an application.
2. An applicant can only participate in the auction, either as a single entity or as a member of one group.
3. Only one application is submitted for each group.
4. An application of a newcomer is related to no more than two of the three available A1 and A2 licences.
5. An application from a newcomer shall refer to 220 activity points at most and an application of another applicant than a newcomer shall refer to 190 activity points at most.
6. In the case as referred to in Sections 3, Subsection (1), or 5, Subsection (1) and in derogation from Subsection (5), an application from another applicant than a newcomer is related to at most 205 activity points.
7. In the case as referred to in Sections 4, Subsection (1), or 6, Subsection (1) and in derogation from Subsection (5), an application of a newcomer is related to at most 235 activity points and an application of another applicant than a newcomer is related to at most 220 activity points.
8. In the case as referred to in 7, Subsection (1), an application of either a newcomer or another applicant than a newcomer is related to at most 235 activity points in derogation from Subsection (5).

9. The application shall specify the names of one or more natural persons, with a maximum of four, who are each individually authorised to perform acts on the applicant's behalf during the auction and who have valid and adequate power of attorney to do so.

10. The application shall also contain the data and documents as referred to in Annex I and the format shall be in accordance with the model in this Annex.

11. The application shall be drawn up in Dutch.

12. Details and documents pursuant to the law of one of the other Member States of the European Union, or one of the other states that are party to the European Economic Area Agreement, shall be considered equivalent to the details and documents referred to in Subsection (10).

13. In derogation from Subsection (11), the details and documents referred to in Subsection (12) may be drawn up in one of the official languages of the European Union or the European Economic Area. In that case, those details and documents shall be accompanied by a Dutch translation thereof.

14. The applicant has provided a sum as security for the acceptance of his or her bid at the time as referred to in Section 9, Subsection (1) in accordance with Section 15.

Section 9

1. The application must have been received by 16 July 2012 at 14.00 hours, either by post or by personal delivery to the following address:

Radiocommunications Agency Netherlands [Agentschap Telecom]

Attn: 800, 900 and 1800 MHz Auction Team

Emmasingel 1

9726 AH Groningen

2. If the applicant fails to satisfy the requirements laid down in Subsection (1), the application shall be rejected.

Section 10

1. The applicant shall inform the Minister immediately about a change with regard to the data and documents as referred to in Annex I, part A. The applicant shall inform the Minister by post or through a personal submission of information about the change at the address as referred to in Section 9, Subsection (1).

2. The data as referred to in Annex I, part B, shall not be changed after the time as referred to in Section 9, Subsection (1).

3. If the applicant fails to satisfy :

a. The requirements set in Section 8, Subsection (2), (3), (9), (10), (11) or (13);

b. The requirement set in Section 8, Subsection (4);

c. The requirement set in Section 8, Subsection (5), (6), (7) or (8);

d. The requirement set in Section 8, Subsection (14);

the Minister announces this to the applicant and gives the applicant the opportunity to rectify the omission.

4. The applicant shall have a period of seven working days, counting from the day after the notification referred to in Subsection (3) was dispatched, in which to rectify the omission.

5. The data for the rectification of an omission as referred to in Subsection (3), (a), (b) and (c), shall be sent by post or shall be personally submitted at the address as referred to in Section 9, Subsection (1).

6. The rectification of an omission as referred to in Subsection (3), (d), shall take place in accordance with Section 15.

7. If the omission as referred to in Subsection (3), (a) and (d), is not rectified within the period as specified in Subsection (4) or should the application not meet the set requirements as specified in Section 8, Subsections (2), (3), (9), (10), (11), (13) or (14) after rectification, the Minister may decide not to process the application in accordance with Section 4:5 of the Dutch General Administrative Law Act [Algemene wet bestuursrecht].

8. If the omission as referred to in the Subsection (3), (b), has not been rectified within the period as specified in Subsection (4) or the application does not meet the requirements set in Section 8, Subsection (4), the application shall be rejected insofar this concerns more A1 and A2 licences than the applicant is eligible for based on Section 2, Subsection (4).

9. If the omission as referred to in the Subsection (3), (c), has not been rectified within the period as specified in Subsection (4) or the application does not meet the requirements set in Section 8, Subsection (5), (6), (7) or (8), the application shall be rejected insofar this concerns more activity points than the applicant is eligible for based on Section 2, Subsection (11) or (12), Section 3, Subsection (3), Section 4, Subsection (3), Section 5, Subsection (2), Section 6, Subsection (3) or Section 7, Subsection (4).

10. If the omission is related to Section 8, Subsection (10), consisting of an indicated preference for an A1 or A2 licence while the applicant is not a newcomer, the application shall be rejected insofar as it is related to an A1 or A2 licence and the number of activity points applied for shall be reduced accordingly. Before the Minister rejects the application, the Minister shall communicate the intended decision to the applicant in question, and the applicant shall be given the opportunity, in accordance with Subsection (4), to indicate its preferred licences and frequency band.

11. Within two weeks at the latest after the Minister has, in accordance with Subsection (7), decided not to process the application the Minister shall transfer the deposit back to the relevant applicant or the Minister shall send a written statement as referred to in Annex II (II) (4) to the bank of the applicant that has issued a bank guarantee as a security. The Minister shall send a copy of this

statement to the applicant; Section 44, Subsection (2), shall apply mutatis mutandis.

Section 11

1. The applicant shall be a private legal entity under Dutch law, or the equivalent thereof under the law of one of the other Member States of the European Union or one of the other states that are party to the European Economic Area Agreement, and shall have its registered office, its management board or its headquarters within the European Economic Area.
2. Furthermore, the applicant shall satisfy the following requirements:
 - a. the applicant is not in a state of bankruptcy or liquidation;
 - b. the applicant has not been granted a moratorium, nor has the applicant applied for a moratorium, and
 - c. there has been no attachment of the applicant's equity or one or more of the applicant's assets that constitute a substantial part of the applicant's equity.
3. Requirements under the law of one of the other Member States of the European Union or one of the other states that are party to the European Economic Area Agreement shall be considered equivalent to the requirements laid down in Subsection (2).
4. Within six weeks after the moment as referred to in Section 9, Subsection (1), the Minister shall determine whether the applicant whose application has been taken into consideration, meets the requirements as referred to in Subsections (1) and (2) and whether the applicant is a newcomer. This term can be extended once by four weeks at most.
5. If the application should not show that the requirements as referred to in the Subsections (1) and (2) have been met, the Minister shall reject the application.

§ 4. Establishing the need to hold an auction

Section 12

1. To determine whether there is a need to hold an auction for A1 to G licences, the applications that have been submitted in accordance with Sections 8 to 10 that meet the requirements set in Section 11 are considered when applying Subsections (2) to (5).
2. The A1 to G licences shall be awarded without an auction being held whilst observing the provisions made in Section 2, Subsections (3) to (12), if:
 - a. The demand for A1, A2, B, C, D, E, F and G licences as referred to in Annex I (B.1) (a) and none of the applicants has expressed a preference for a specific frequency space as referred to in Annex I, (B.2), (a); or
 - b. only one application has been submitted.

3. In the case as referred to in Section 3, Subsection (1), and in derogation from Subsection (2), A1 and B to G licences shall be awarded whilst observing the provisions made in Sections 2, Subsections (3) to (12), and 3, Subsection (2) and (3), without holding an auction if the demand for A1, B, C, D, E, F and G licences can be met as referred to in Annex I (B.1) (b) and none of the applicants has expressed a preference for specific frequencies as referred to in Annex I (B.2) (b).
4. In the case as referred to in Section 4, Subsection (1), and in derogation from Subsection (2), A1 and B to G licences shall be awarded whilst observing the provisions made in Sections 2, Subsections (3) to (12), and 4, Subsection (2) and (3) without holding an auction, if the demand for A1, B, C, D, E, F and G licences can be met as referred to in Annex I (B.1) (c) and none of the applicants has expressed a preference for specific frequencies as referred to in Annex I (B.2) (c).
5. In the case as referred to in Section 5, Subsection (1), and in derogation from Subsection (2), A1 and B to G licences shall be awarded whilst observing the provisions made in Sections 2, Subsections (3) to (12), and 5, Subsection (2), without holding an auction, if the demand for A1, A2, B, C, D, E, F and G licences can be met as referred to in Annex I (B.1) (d) and none of the applicants has expressed a preference for specific frequencies as referred to in Annex I (B.2) (d).
6. In the case as referred to in Section 6, Subsection (1), and in derogation from Subsection (2), A2 to G licences shall be awarded whilst observing the provisions made in Sections 2, Subsections (3) to (12), and 6, Subsection (2) and (3) without holding an auction, if the demand for A2, B, C, D, E, F and G licences can be met as referred to in Annex I (B.1) (e) and none of the applicants has expressed a preference for specific frequencies as referred to in Annex I (B.2) (e).
7. In the case as referred to in Section 7, Subsection (1), and in derogation from Subsection (2), B to G licences shall be awarded whilst observing the provisions made in Sections 2, Subsections (3) to (12), and 7, Subsection (2) to (4) without holding an auction, if the demand for B, C, D, E, F and G licences can be met as referred to in Annex I (B.1) (f) and none of the applicants has expressed a preference for specific frequencies as referred to in Annex I (B.2) (f).
8. Within two weeks at the latest after the Minister has decided, based on Subsection (2), (3), (4), (5), (6) or (7), that the licences shall be awarded without holding an auction, the Minister shall transfer back the deposit to the relevant applicants or the Minister shall send a written statement as referred to in Annex II (II) (4) to the bank of the applicants who have submitted a bank guarantee as security. The Minister shall send a copy of this statement to the applicant; Section 44, Subsection (2), shall apply mutatis mutandis.
9. The A1 to G licences shall be awarded by applying Sections 36 to 44 whilst observing the provisions made in Section 2, Subsections (3) to (12) if:
 - a. the demand for A1 to G licences can be met; and

- b. An applicant has expressed a preference for specific frequencies as referred to in Annex I, Part B.2 (a).
10. In the case as referred to in Section 3, Subsection (1), and in derogation from Subsection (9), the A1 and B to G licences shall be awarded whilst observing the provisions made in the Sections 2, Subsections (3) to (12), and 3, Subsections (2) and (3) whilst applying Sections 36 to 44 if:
- a. the demand for A1 and B to G licences can be met; and
 - b. An applicant has expressed a preference for specific frequencies as referred to in Annex I, Part B.2 (b).
11. In the case as referred to in Section 4, Subsection (1), and in derogation from Subsection (9), the A1 and B to G licences shall be awarded whilst observing the provisions made in the Sections 2, Subsections (3) to (12), and 4, Subsections (2) and (3) whilst applying Sections 36 to 44 if:
- a. the demand for A1 and B to G licences can be met; and
 - b. An applicant has expressed a preference for specific frequencies as referred to in Annex I, Part B.2 (c).
12. In the case as referred to in Section 5, Subsection (1), and in derogation from Subsection (9), A1 to G licences shall be awarded whilst observing the provisions made in Sections 2, Subsections (3) to (12), and 5, Subsection (2), whilst applying Sections 36 to 44 if:
- a. the demand for A1 to G licences can be met; and
 - b. An applicant has expressed a preference for specific frequencies as referred to in Annex I, Part B.2 (d).
13. In the case as referred to in Section 6, Subsection (1), and in derogation from Subsection (9), A2 to G licences shall be awarded whilst observing the provisions made in Sections 2, Subsections (3) to (12), and 6, Subsection (2) and (3), whilst applying Sections 36 to 44 if:
- a. the demand for A2 to G licences can be met; and
 - b. An applicant has expressed a preference for specific frequencies as referred to in Annex I, Part B.2 (e).
14. In the case as referred to in Section 7, Subsection (1), and in derogation from Subsection (9), the B to G licences shall be awarded whilst observing the provisions made in the Sections 2, Subsections (3) to (12), and 7, Subsections (2) to (4) whilst applying Sections 36 to 44 if:
- a. the demand for B to G licences can be met; and
 - b. An applicant has expressed a preference for specific frequencies as referred to in Annex I, Part B.2 (f).
15. In the cases as referred to in Subsections (9) to (14), Sections 14 to 23 apply.

Section 13

1. The Minister shall inform the applicants as soon as possible about which licences have been awarded in accordance with Section 12.
2. After the licences referred to in Subsection (1) have been awarded, the Minister shall inform the applicants as to who has been awarded which licences.

§ 5. Admission to the auction

Section 14

1. If the need to hold an auction has been established after application of Section 12, the Minister shall inform each applicant in writing whether the applicant has been admitted to the auction as a participant. The Minister shall also inform every applicant about how many licences the applicant may acquire based on the applicant's activity points during the auction based on Sections 2, Subsection (11) or (12), 3, Subsection (3), 4, Subsection (3), 5, Subsection (2), 6, Subsection (3) or 7, Subsection (4).
2. On this occasion, the Minister shall also provide each participant with the following information:
 - a. Which licences as referred to in Section 2, Subsection (1) (a) to (h), will be auctioned;
 - b. How many other participants have been admitted to the auction;
 - c. the date on which and time at which the auction commences;
 - d. The fax number for submitting a request as referred to in Section 21(2) and (5), and for submitting a written bid as referred to in Section 21(1);
 - e. The telephone number that may be used to reach the Minister should there be special circumstances as referred to in Section 17, Subsection (2);
 - f. The combination of his login code and password;
 - g. The Internet address where the participant must enter its login details in order to take part in the auction;
 - h. The software required for the auction.

Section 15

1. Each participant shall pay an amount as security that the participant's bid shall be honoured.
2. If the application of a participant is related to an A1 licence, the amount as referred to in Subsection (1) amounts to € 35,000,000 per A1 licence applied for.
3. If the application of a participant is related to an A2 licence, the amount as referred to in Subsection (1) amounts to € 28,900,000 per A2 licence applied for.
4. If the application of a participant is related to fifteen activity points at most as referred to in Section 22, Subsection (1), (b) to (e), the amount as referred to in Subsection (1) amounts to € 200,000 per eligibility point.

5. If the application of a participant is related to at least sixteen and forty five activity points at most as referred to in Section 22, Subsection (1), (b) to (e), the amount as referred to in Subsection (1) amounts to € 300,000 per eligibility point.
6. If the application of a participant is related to forty six or more activity points as referred to in Section 22, Subsection (1), (b) to (e), the amount as referred to in Subsection (1) amounts to € 400,000 per eligibility point.
7. At the time as referred to in Section 9, Subsection (1), at the latest:
 - a. The amount for the application as referred to in Annex I (B.1) that is related to the highest number of activity points shall have been received in the following bank account number 569994039, IBAN, whilst specifying Deposit for Auction of 800, 900 and 1800 MHz: NL49RBOS0569994039, SWIFT: RBOSNL2A on the name of the Dutch Ministry of Economic Affairs, Agriculture and Innovation, Radiocommunications Agency Netherlands, Finance & Control Department; or
 - b. If a bank guaranty has been received by post as security in accordance with the model that is enclosed as Annex II with this regulation and/or if it has been submitted personally at the address as referred to in Section 9, Subsection (1), for the amount for the application as referred to in Annex I (B.1) that is related to the highest number of activity points.
8. The participant who has met the obligations as referred to in Subsections (1) to (7) is entitled to issue a bid during the first primary bid round or in a procedure as referred to in Section 12, Subsections (9) to (14).
9. If the amount paid based on Subsection (7) (a) refers to more activity points than the number of activity points specified in the announcement as referred to in Section 14, Subsection (1), the Minister shall transfer that part of the amount back that is related to the difference in activity points, two weeks after the announcement has been made at the latest.
10. In the case as referred to in Subsection (9), the Minister shall repay the interest as from the day on which he has received the amount as referred to in Subsection (7) (a) to the bank account number specified in Subsection (7) up to the day preceding the day on which he transfers back the amount as referred to in Subsection (9) The Minister shall transfer the interest back on the same day on which he transfers back the part of the amount as referred to in Subsection (9).

§ 6. General provisions regarding the auction

Section 16

1. An applicant, including a party assisting an applicant for the purpose of the auction or a member of the applicant's group, shall not disperse any confidential information or cause any confidential information to be dispersed to another applicant or a third party, and shall not make public any confidential information.

2. Before and during the auction procedure, an applicant, including a party assisting an applicant for the purpose of the auction or a member of the applicant's group, shall refrain from arrangements or behaviour that are or may be detrimental to the proper running of the auction, including competition in the auction procedure.
3. Should the Minister be of the opinion that behaviours are involved that are not consistent with Subsection (1) or (2), the Minister may suspend the auction for a period of not more than one year.
4. Applicants which, in the Minister's view, act contrary to Subsections (1) or (2) may be excluded by the Minister from participating or participating any further in the auction.
5. If a participant has acted contrary to Subsection (1) or (2), the Minister may:
 - a. declare the outcome of one or more bids or bid rounds to be invalid; and
 - b. decide that one or more bid rounds must be held again.

Section 17

1. The auction shall be conducted online with the aid of an electronic auction system.
2. During the auction:
 - a. The Minister shall communicate with the participants exclusively by means of the electronic system; and
 - b. A participant shall communicate with the Minister exclusively by fax, on the understanding that the Minister may permit communication by telephone in the event of exceptional circumstances.
3. In derogation from Subsection (2) (a), the communication between the Minister and a participant can take place in writing through the fax number referred to in Section 14, Subsection (2) (d), during the auction if there is an electronic fault as referred to in Section 21, Subsection (1).
4. The auction shall be held exclusively on working days.
5. The Minister shall lead the auction and shall ensure that it runs properly.

Section 18

1. The Minister may suspend the auction for a period of at most one year if in his opinion special conditions occur that fall outside the sphere of influence of the Minister or the participants due to which the auction cannot be continued temporarily.
2. The Minister may do the following for other reasons than the ones stated in Section 16, Subsections (3) and (5) to ensure a fair and efficient auction process:
 - a. Suspend the auction for a period of at most one year;
 - b. Declare invalid one or more bids or the result of one or more bid rounds; or
 - c. Decide that one or more bid rounds must be held again.

3. The Minister may exclude an applicant who no longer meets the requirements that are set with regard to an applicant in Section 11 from participating or from further participating in the auction.
4. If two or more applicants become members of one group, the Minister shall exclude the applicants from participating or from further participating in the auction so that not more than one applicant per group participates in the auction.

Section 19

1. The Minister shall decide when the bid rounds for the auction shall take place, as well as the duration of those bid rounds.
2. A participant shall be unconditionally and irrevocably bound by its bid.

Section 20

1. An invalid bid shall not be taken into account for the purpose of:
 - a. Determining the end of the primary bid round on the basis of Section 27(1);
 - b. Determining the maximum number of bids as referred to in Section 29, Subsection (2);
 - c. Drawing up the list referred to in Section 38;
 - d. Establishing the combination of winning bids and the final combination of winning bids, and
 - e. Setting the prices pursuant to Annexes III and IV.
2. A bid shall be invalid if the following conditions are not fulfilled:
 - a. The bid has been submitted and confirmed by means of the online electronic auction system;
 - b. The bid must comply with the eligibility level stipulated in Section 22(5) or (6);
 - c. The bid in the primary bid round and the supplementary bid round by a newcomer shall only be related to licences A1, A2, B, C, D, E, F or G. In the case as referred to in Sections 3, Subsection (1), or 4, Subsection (1), the bid shall only be related to licences A1, B, C, D, E, F or G. In the case as referred to in Section 6, Subsection (1), the bid shall only be related to licences A2, B, C, D, E, F or G. In the case as referred to in Section 7, Subsection (1), the bid shall only be related to licences, B, C, D, E, F and G;
 - d. The bid in the primary bid round and the supplementary bid round by another applicant than a newcomer are only related to B, C, D, E, F or G licences;
 - e. The bid in the primary bid round and the supplementary bid round indicates the numbers of A1, A2, B, C, D, E, F and G licences to which the bid is related on the understanding that a bid on a G licence at least concerns two G licences;
 - f. In the supplementary bid round and in the assignment bid round, the bid must contain a bid amount and be made in units of € 1,000;
 - g. In a primary bid round, the bid must be a participant's first bid in that round;

- h. The amount of the bid in the supplementary bid round must satisfy the requirements laid down in Section 30;
 - i. In the assignment bid round, the bid of a participant on an A1, A2, B, C, D, E or G licence is only related to an alternative for the frequencies for the A1, A2, B, C, D, E or G licence that appears on the list drafted for this participant as referred to in Section 38;
 - j. The bid must be drawn up in Dutch; and
 - k. The bid must be submitted in time.
3. In derogation from Subsection (2)(a), a bid submitted by means of the online electronic auction system shall be invalid and a written bid shall be valid if, in respect of that bid round, the participant concerned obtained permission as referred to in Section 21 to submit a written bid, and this permission was not revoked in accordance with Section 21(5).
4. A written bid as referred to in Subsection (3) shall be invalid if the following conditions are not fulfilled:
- a. The bid must fulfil the conditions laid down in Subsection (2)(b) to (k);
 - b. the bid must be made in accordance with the model included in Annex V to this Regulation;
 - c. The bid must be submitted using the fax number specified pursuant to Section 14(2)(d); or
 - d. the bid must be legible and unambiguous.
5. If a participant fails to fulfil the conditions laid down in Subsection (2)(a) to (j), the Minister shall notify the participant accordingly and give the participant the opportunity to rectify the omission using the electronic auction system within the duration of the bid round concerned, or the extended bid round as referred to in Section 23(1) or (2)(a).
6. In derogation from Subsection (5), a participant who obtained permission to submit a written bid and who failed to fulfil the conditions laid down in Subsection (2) (b) to (j) or the conditions laid down in Subsection (4) (b) to (d):
- a. shall be notified by fax that the applicant failed to fulfil the conditions set, and
 - b. Shall be given the opportunity to rectify the omission within a period specified by the Minister, on the understanding that the Minister can give each participant the opportunity to rectify the omission no more than 10 times during the entire auction.

Section 21

1. If a participant is unable to issue a bid through the electronic auction system due to an electronic fault, the Minister may grant permission to issue a bid in writing through the fax number referred to in Section 14, Subsection (2) (d).
2. A request for permission as referred to in Subsection (1) shall be submitted in writing using the fax number referred to in Section 14(2)(d), shall state the

grounds on which the application is based and shall be received by the Minister within 10 minutes of the end of the bid round.

3. The Minister may grant permission as referred to in Subsection (1) for a single primary bid round or for several primary bid rounds, for the supplementary bid round or for the assignment bid round.

4. Permission as referred to in Subsection (1) may be subject to conditions.

5. The Minister can withdraw the permission as referred to in Subsection (1) at the request of the participant when this request is made in writing through the fax number referred to in Section 14, Subsection (2) (d), 10 minutes before the end of the preceding bid round at the latest and/or the extended bid round as referred to in Section 23, Subsection (1) or (2) (b).

Section 22

1. The number of activity points shall be:

- a. With regard to A1 or A2 licence: 15;
- b. With regard to a B or C licence: 15;
- c. With regard to a D licence: 2;
- d. With regard to an E or F licence: 1;
- e. With regard to a G licence: the number of licences to which the bid or the preference as referred to in Annex I, part B, is related minus 1.

2. The eligibility level of a bid shall be the sum of the activity points of the licences to which the bid relates.

3. A participant's eligibility level shall be:

- a. In the first primary bid round: the number of activity points that has been announced to him in accordance with Section 14, Subsection (1);
- b. In each subsequent primary bid round: the number of activity points of the participant's bid in the preceding round;
- c. In the supplementary bid round; the number of activity points of the participant's bid in the last primary bid round, or, if the participant had an eligibility level of zero, in the last primary bid round: zero.

4. If a participant does not submit a bid or submits an invalid bid in a primary bid round, the eligibility level of that participant in the next bid round shall be zero.

5. The eligibility level of the bid that a participant submits in a bid round is not higher than the eligibility level of the participant in that bid round.

6. In derogation from Subsection (5), the eligibility level of a bid in the additional bid round may be higher than the eligibility level of the participant but may not be higher than the number of activity points that have been allocated to the participant based on Section 14, Subsection (1).

Section 23

1. If a participant allows a bid round to expire without submitting a bid, that bid round shall be extended once only for that participant by operation of law by a period of 30 minutes, on the understanding that a participant shall be granted an extension in no more than two primary bid rounds.
2. In derogation from Subsection (1):
 - a. The Minister may, in exceptional circumstances, grant a participant permission on request to extend its bid round by a period to be specified by the Minister;
 - b. if a participant has been granted permission as referred to in Section 21(1), the bid round concerned shall be extended for that participant by a period to be specified by the Minister.
3. The application for permission as referred to in Subsection (2)(a) shall state the grounds on which it is based and shall be received within 10 minutes of the end of the bid round or the extended bid round as referred to in Subsection (1) or (2) (b).
4. The permission referred to in Subsection (2)(a) may be subject to conditions.
5. A bid round extended pursuant to Subsection (1) or (2) shall end as soon as:
 - a. All the participants whose bid round was extended have submitted their bids, or
 - b. the bid round or the extended bid round for a participant has expired.
6. The Minister shall announce that a bid round has been extended for one or more participants as soon as possible to all participants.

§ 7. The main phase of the auction: the primary bid rounds and the supplementary bid round

§ 7.1. Primary bid rounds

Section 24

1. The primary bid round shall comprise one or more bid rounds.
2. In a primary bid round, a participant shall submit no more than one bid per bid round.
3. A bid in a primary bid round may relate to licences other than those for which a participant expressed a preference in Annex 1 Part B of its application, as well as to licences other than those to which the participant's bid in a previous primary bid round related.
4. A bid in a primary bid round shall concern the number of licences for which a participant submits a bid, in view of the round price for those licences, as referred to in Section 26, that is applicable in that bid round.

Section 25

1. The Minister shall inform each participant before the start of the first primary bid round of the start time and duration of the bid round.

2. The Minister shall provide each participant as soon as possible after the end of a primary bid round with the following information:
 - a. The participant's activity level as referred to in Section 22(3)(b);
 - b. the participant's possibilities for extension in the next primary bid round;
 - c. His bid in the previous bid round;
 - d. The amount of the participant's highest bid in the auction to date.
 - e. The start time and duration of the next bid round;
 - f. The round prices that apply in the next bid round per licence type; and
 - g. The total demand in the previous bid round per licence type.
3. In derogation from Subsection (2) (e) and (f), no information shall be provided about the next primary bid round if the primary bid rounds end based on Section 27.

Section 26

1. The round prices in the first primary bid round shall be:
 - a. € 35,000,000.00 for an A1 and B licence;
 - b. € 28,900,000.00 for licences A2 and C;
 - c. € 4,125,000.00 for a D licence;
 - d. € 810,000.00 for an E licence;
 - e. € 590,000.00 for an F licence;
 - f. € 585,000.00 for a G licence.
2. In the second and subsequent primary bid rounds, the Minister shall increase the round prices referred to in Subsection (1) in accordance with Subsections (3) to (15).
3. The round price for an A1 licence shall be increased in a bid round if the demand for an A1 licence is greater than two in the bid round immediately before.
4. In the case as referred to in Section 4, Subsection (1), or 5, Subsection (1), and in derogation from Subsection (3), the round price for an A1 licence shall be increased in a bid round if the demand for an A1 licence is greater than one in the bid round immediately before.
5. The round price for an A2 licence shall be increased in a bid round if the demand for an A2 licence is greater than one in the bid round immediately before.
6. The round price for a B licence shall be increased in a bid round if the demand for a B licence is greater than four in the bid round immediately before.
7. In the case as referred to in Section 4, Subsection (1), or 5, Subsection (1), and in derogation from Subsection (6), the round price for a B licence shall be increased in a bid round if the demand for a B licence is greater than five in the bid round immediately before.
8. In the case as referred to in Section 6, Subsection (1), or 7, Subsection (1), and in derogation from Subsection (6), the round price for a B licence shall be

increased in a bid round if the demand for a B licence is greater than six in the bid round immediately before.

9. The round price for a C licence shall be increased in a bid round if the demand for a C licence is greater than six in the bid round immediately before.

10. In the case as referred to in Sections 3, Subsection (1), 4, Subsection (1), or 7, Subsection (1), the round price of C licence shall be increased in a bid round if in the bid round that immediately preceded it the demand for C licence is greater than seven in derogation from Subsection (9).

11. The round price for a D licence shall be increased if the demand for these licences is greater than fourteen in the bid round immediately before.

12. The round price for an E licence shall be increased if the demand for these licences is greater than two in the bid round immediately before.

13. The round price for an F licence shall be increased if the demand for these licences is greater than one in the bid round immediately before.

14. The round price for a G licence shall be increased if the demand for these licences is greater than ten in the bid round immediately before.

15. In the cases as referred to in Subsections (3) to (14), the Minister shall increase the round price in units of € 1,000 for a licence in such a way that the increase of the round price for a licence in a bid round shall be no more than 100% when compared to the round price for that licence in the preceding round.

16. The Minister may derogate from Subsection (15) if he considers it necessary to do so for a balanced development of demand or the efficient running of the auction.

Section 27

1. The primary bid rounds shall end if the demand for licences can be met with due observance of the provisions of Sections 2, Subsection (3) to (12), 3, Subsection (2) and (3), 4, Subsection (2) and (3), 5, Subsection (2), 6, Subsections (2) and (3), or 7, Subsections (2) to (4).

2. In derogation from Subsection (1), the Minister may terminate the primary bid rounds if such is required in the Minister's opinion for an efficient auction process.

§ 7.2. Supplementary bid round

Section 28

1. After the end of the primary bid rounds, the Minister shall provide each participant with the following information:

- a. The statement that the primary bid rounds have ended;
- b. When the supplementary bid round shall start and
- c. The duration of the supplementary bid round.

2. The Minister shall inform each participant before the start of the supplementary bid round of the participant's activity level as referred to in Section 22(3)(c).

Section 29

1. The supplementary bid round shall comprise one bid round in which a participant may submit several bids.
2. A participant shall issue 2000 bids at most in the supplementary bid round.
3. A bid in the supplementary bid round may relate to licences other than those for which a participant expressed a preference in the participant's application as referred to in annex I, Part B, as well as to licences other than those to which the participant's bid in any primary bid round related.
4. The supplementary bid round shall not start any earlier than at least one working day after the end of the primary bid rounds.

Section 30

1. The minimum amounts to bid in the supplementary bid round shall be:
 - a. € 35,000,000.00 for an A1 and B licence;
 - b. € 28,900,000.00 for licences A2 and C;
 - c. € 4,125,000.00 for a D licence;
 - d. € 810,000.00 for an E licence;
 - e. € 590,000.00 for an F licence;
 - f. € 585,000.00 for a G licence.
2. If a participant submits a bid in the supplementary bid round for the same package on which the participant has bid in a primary bid round, the bid amount of the bid in the additional bid round shall be higher than the price for that package at the round prices in the primary bid round in which the participant has made a bid the last time.
3. Without prejudice to Section 22, Subsection (6), it applies to the supplementary bid round for bids of a participant on other packages than the participant's final package that the bid price for package X must not be higher than the highest price for which the participant has bid for package Y in a primary bid round or in the supplementary bid round increased by the price for package X for the round prices in primary bid round n, decreased by the price for package Y for the round prices in primary bid round n, where:
 - Package X is the package regarding which the participant submits a bid in the supplementary bid round;
 - Primary bid round n is the last primary bid round in which the activity level of the participant was higher than or equal to the required number of activity points to be able to submit a bid for package X; and
 - Package Y is the package regarding which the participant submitted a bid in the primary bid round n;

4. Without prejudice to Section 22, Subsection (6), it applies to a participant who has submitted his/her final primary bid in another primary bid round than the last primary bid round that the bid amount in the supplementary bid round for a bid of this participant for his final package must not be higher than the price for this package for the round prices in the primary bid round after the bid round in which the participant has submitted his final primary bid.
5. If a participant has submitted his final primary bid in the last primary bid round, a maximum amount does not apply for a bid on his final package in the supplementary bid round for this participant.

Section 31

1. The Minister shall establish the combination of winning bids in accordance with Subsections (2) to (4).
2. The combination of winning bids shall be the combination of bids submitted in the primary bid rounds or in the supplementary bid round that fulfils the following conditions:
 - a. the combination must comprise no more than one bid per participant;
 - b. With due observance of the provisions of Sections 2, Subsection (3) to (12), 3, Subsections (2) and (3), 4, Subsections (2) and (3), 5, Subsection (2), 6, Subsections (2) and (3), or 7, Subsections (2) to (4), the combination shall refer to no more licences than are being auctioned;
 - c. of those combinations of bids that fulfil the conditions referred to under (a) and (b), the winning combination must generate the highest proceeds.
3. If several combinations of winning bids comply with Subsection (2), another supplementary bid round shall be held, on the understanding that no more than three further supplementary rounds shall be held.
4. If after holding a further supplementary bid round three times, multiple combinations of winning bids can be determined based on Subsection (2), it shall be determined by drawing lots which is the winning bid combination from all winning bid combinations.

Section 32

1. After the Minister has established the combination of winning bids in accordance with Section 31, the Minister shall determine a base price for each winning bid on the basis of Annex III.
2. The base prices shall be rounded up to units of € 1,000, on the understanding that, after rounding up, a participant shall not pay more than the amount of its winning bid.

Section 33

1. After determining the combination of winning bids and the base prices of each winning bid, the Minister shall notify each participant:
 - a. Which participants have won licences based on Section 31, Subsection (1) as well as the number of A1, A2, B, C, D, E or G licences that these participants have won; and
 - b. That the supplementary bid round has ended.
2. Furthermore, the Minister shall notify a participant of the base price of its winning bid.
3. After determining the combination of winning bids and the base prices of each winning bid, the Minister shall publish:
 - a. The names of the participants who have won A1, A2, B, C, D, E, F or G licences based on Section 31, Subsection (1); and
 - b. The number of A1, A2, B, C, D, E or G licences that a participant has won.
4. In the case as referred to in Sections 3, Subsection (1), or 4, Subsection (1):
 - a. Subsection (1), (a), and Subsection (3), (b), apply on the understanding that this is related to A1, B, C, D, E or G licences; and
 - b. Subsection (3), (a), applies on the understanding that this is related to A1, B, C, D, E, F or G licences.
5. In the case as referred to in Section 6, Subsection (1):
 - a. Subsection (1), (a), and Subsection (3), (b), apply on the understanding that this is related to A2, B, C, D, E or G licences; and
 - b. Subsection (3), (a), applies on the understanding that this is related to A2, B, C, D, E, F or G licences.
6. In the case as referred to in Section 7, Subsection (1):
 - a. Subsection (1), (a), and Subsection (3), (b), apply on the understanding that this is related to B, C, D, E or G licences; and
 - b. Subsection (3), (a), applies on the understanding that this is related to B, C, D, E, F or G licences.

Section 34

1. An F licence shall be awarded to the participant who had the winning bid for the F licence.
2. The Minister shall notify each participant as to who has been awarded the F licence.
3. The total price of the F licence shall consist of the base price for that licence, rounded off in accordance with Section 32.

Section 35

1. If the combination of winning bids is composed in such a way, with due observance of Section 2, Subsection (3) to (12), or 5, Subsection (1), that a A1, A2, B, C, D, E or G licence relates exclusively to one frequency option as referred to in Section 38, that licence shall be awarded to the participant that submitted the winning bid for that licence.
2. In the case as referred to in Sections 3, Subsection (1), or 4, Subsection (1), Subsection (1) shall apply on the understanding that this refers to a A1, B, C, D, E or G licence.
3. In the case as referred to in Section 6, Subsection (1), Subsection (1) shall apply on the understanding that this refers to a A2, B, C, D, E or G licence.
4. In the case as referred to in Section 7, Subsection (1), Subsection (1) shall apply on the understanding that this refers to a B, C, D, E or G licence.
5. The Minister shall notify each participant about who has been awarded the licences referred to in Subsection (1) and about the frequencies for which the licences have been awarded.
6. The total price of the licences referred to in Subsection (1) shall consist of the base price for those licences rounded off in accordance with Section 32.

§ 8. The second stage of the auction: the assignment bid round

Section 36

1. The Minister shall provide each participant with the following information as soon as possible after the end of the supplementary bid round:
 - a. when the assignment bid round shall start, and
 - b. the duration of the assignment bid round.
2. Furthermore, the Minister shall notify each participant before the start of the assignment bid round of the options for which that participant may bid pursuant to Section 38.

Section 37

1. The assignment bid round consists of a separate assignment bid round for the A1 and B licence types, jointly, A2 and C licence types, jointly, and D, E and G licence types that takes place simultaneously and in which it is determined for which frequency space a participant shall be awarded a licence on the understanding that the assignment bid round is not related to licences that have been awarded based on Section 35, Subsection (1).
2. In the case as referred to in Sections 3, Subsection (1), and 4, Subsection (1), Subsection (1) shall apply on the understanding that the assignment bid round consists of a separate assignment bid round for the A1 and B licence types, jointly, and C, D, E and G licence types.

3. In the case as referred to in Section 5, Subsection (1), Subsection (1) shall apply.
4. In the case as referred to in Sections 6, Subsection (1), Subsection (1) shall apply on the understanding that the assignment bid round consists of a separate assignment bid round for the A2 and C licence types, jointly, and B, C, D, E and G licence types.
5. In the case as referred to in Sections 7, Subsection (1), Subsection (1) shall apply on the understanding that the assignment bid round consists of a separate assignment bid round for each of the B, C, D, E and G licence types.
6. A participant can only bid on the licence types in the assignment bid round as they appear on the list drafted for him with alternatives as referred to in Section 38.
7. The assignment bid round shall not start any earlier than at least one working day after the end of the supplementary bid round.

Section 38

1. The Minister shall draw up for every participant a list with the alternatives for the frequency options on which he can bid in view of the number of A1, A2, B, C, D, E and G licences that he has won in the assignment bid round for each licence type based on Sections 31, Subsection (1), and 35, Subsection (1).
2. In the case as referred to in Sections 3, Subsection (1) and 4, Subsection (1), Subsection (1) applies on the understanding that this is related to A1, B, C, D, E and G licences.
3. In the case as referred to in Section 5, Subsection (1), Subsection (1) shall apply.
4. In the case as referred to in Section 6, Subsection (1), Subsection (1) applies on the understanding that this is related to A2, B, C, D, E and G licences.
5. In the case as referred to in Section 7, Subsection (1), Subsection (1) applies on the understanding that this is related to B, C, D, E and G licences.

Section 39

If no bid is received for a frequency option as referred to in Section 38, the bid amount for that option shall be assumed to be zero euros.

Section 40

1. The Minister shall determine the final combination of winning bids for the A1 and B licence types, jointly, A2 and C, jointly, and D, E and G licence types in accordance with Subsections (2) and (3).
2. The final combination of winning bids for a type of licence shall be the combination of bids submitted for that type of licence in the assignment bid round that fulfils the following conditions:

- a. the bids in the combination must concern frequency spectrum options that appear on the list referred to in Section 38 for the type of licence to which those bids relate, and
 - b. the combination must generate the highest proceeds.
3. If multiple combinations of winning bids comply with the provisions as referred to in Subsection (2) for the A1 and B licence types, jointly, A2 and C licence types, jointly, and D, E or G licence types, a further assignment bid round shall again be held for this licence type on the understanding that such further assignment bid round shall only be held again three times.
 4. If multiple final combinations of winning bids for the A1 and B licence types, jointly, A2 and C licence types, jointly, and D, E or G licence types can still be determined after holding a further assignment bid round three times based on Subsections (1) and (2), it shall be determined by drawing of lots what shall be the final combination of winning bids for that licence type from all combinations of winning bids for that licence type from the last assignment bid round that complies with the provisions as referred to in Subsection (2).
 5. In the case as referred to in Sections 3, Subsection (1), and 4, Subsection (1), Subsections (1), (3) and (4) apply on the understanding that this is related to A1 and B licences, jointly, and C, D, E and G licences.
 6. In the case as referred to in Section 6, Subsection (1), Subsections (1), (3) and (4) apply on the understanding that this is related to A2 and C licences, jointly, and B, D, E and G licences.
 7. In the case as referred to in Section 7, Subsection (1), Subsections (1), (3) and (4) apply on the understanding that this is related to B, C, D, E and G licences.

Section 41

1. After the final combination of winning bids has been established, the Minister shall determine the additional prices on the basis of Annex IV.
2. The extra prices referred to in Subsection (1) shall be rounded up to units of € 1000, on the understanding that, after rounding up, a participant shall not pay more than the amount of its winning bid.
3. The total price owed by the winning participant for the licences the participant has won shall consist of the base price for those licences, rounded off in accordance with Section 32(2), and the additional price for those licences, rounded off in accordance with Subsection (2).

Section 42

As soon as possible after determining the additional prices referred to in Section 41(1) and determining the total prices referred to in Section 41(3), the Minister shall provide the participants with the following information:

- a. the statement that the auction has ended;

- b. the identity of the winning participants and the licences they have won, and
- c. the total prices determined pursuant to Section 41, including an overview of base prices and additional prices.

§ 9. Award of licences after auction

Section 43

1. The winning participant shall be awarded a licence for the licences the participant has won. The total price for those licences equals the amount that has been determined based on Section 41, Subsection (3).
2. The Minister shall reject the other applications insofar as this has not yet taken place based on Sections 9, Subsection (2), 10, Subsections (8) or (9), or 11, Subsection (5).
3. After the auction, the Minister shall make public the information referred to in Sections 34(2), 35(5) and 42.

§ 10. Refund of security deposits and return of bank guarantees

Section 44

1. Within two weeks of the communication referred to in Section 42 having taken place:
 - a. the Minister shall refund the security deposit of each applicant:
 1. Whose bid is not part of the final combination of winning bids; and
 2. Who has not been awarded a licence pursuant to Sections 34(1) or 35(1);
 - b. The Minister shall send a written statement as referred to in section II.4 of Annex II to the bank of each applicant that submitted a bank guarantee by way of security and:
 1. Whose bid is not part of the final combination of winning bids; and
 2. Who has not been awarded a licence pursuant to Sections 34(1) or 32(1);The Minister shall send a copy of this statement to the applicant;
 - c. The participant whose bid is part of the final combination of winning bids or which has been awarded a licence pursuant to Sections 34(1) or 35(1), and which provided a bank guarantee, shall pay the total price owed by said participant by transferring that amount to the bank account number specified in Section 15(7), stating "Veiling 800, 900 en 1800 MHz". As soon as the total price owed has been received, the Minister shall send a written statement as referred to in section II.4 of Annex II to the bank of that participant. The Minister shall send a copy of this statement to the participant;
 - d. The security deposit of the participant whose bid is part of the final combination of winning bids, or which was awarded a licence pursuant to Sections 34(1) or

35(1), shall be used towards payment of the total price owed by said participant, on the understanding that:

1°. If the security deposit is less than the total price, that participant shall pay the remaining part of the total price by transferring that remaining part to the bank account number specified in Section 15(6), stating "Ministerie van Economische Zaken, Landbouw en Innovatie, Agentschap Telecom, veiling 800, 900 en 1800 MHz" within two weeks of the communication referred to in Section 42 having taken place; and

2°. If that participant's security deposit exceeds the total price, the remaining part of the security deposit shall be refunded to that participant within two weeks of the communication referred to in Section 42 having taken place.

2. The Minister shall pay interest on the security deposit from the day on which he received the security deposit in the bank account specified in Section 15(6), on the understanding that the interest shall be paid up to and including the day:

a. preceding the day on which the security deposit is refunded by the Minister: in respect of the applicant whose bid is not part of the final combination of winning bids and who has not been awarded a licence pursuant to Sections 34(1) or 35(1); or

b. On which the communication referred to in Section 42 takes place: in respect of the participant whose bid is part of the final combination of winning bids, or which was awarded a licence pursuant to Sections 34(1) or 35(1).

3. Furthermore, in the case of a participant whose security deposit exceeds the total price, the Minister shall pay the participant interest on the remaining part referred to in Subsection (1)(d)(2°) for the period from the day when the communication referred to in Section 42 took place up to and including the day preceding the day on which the security deposit is refunded by the Minister, on the understanding that interest shall only be paid on that remaining part.

4. The Minister shall pay the interest referred to in Subsections (2) and (3) on the same day on which he refunds the security deposit or the remaining part of the security deposit.

§ 11. Transitional and concluding provisions

Section 45

This Regulation shall enter into force with effect from 16 April 2012.

Section 46

These regulations shall be referred to as: Regulation on the application and auction procedure for 800, 900 and 1800 MHz licences.

[in Dutch: Regeling aanvraag- en veilingprocedure 800, 900 en 1800 MHz.]

Our reference:
WJZ/10146523

This Regulation and the explanatory notes shall be published in the Government Gazette.

The Hague,

The Dutch Minister of Economic Affairs, Agriculture and Innovation;

EXPLANATORY NOTES

1. Introduction

Through this regulation, rules are set with regard to the auction of licences in the 791 MHz - 821 MHz frequency band paired with the 832 MHz - 862 MHz frequency band (hereinafter also referred to as: 800 MHz band), 880 MHz - 915 MHz frequency band paired with the 925 MHz – 960 MHz frequency band (hereinafter also referred to as: 900 MHz band), 1710 MHz – 1780 MHz frequency band paired with the 1805 – 1875 MHz frequency band (hereinafter also referred to as: 1800 MHz band), 1900 MHz – 1904.9 MHz frequency band and 2010 – 2019.7 MHz frequency band (hereinafter also referred to as: 1900 MHz band), 1959.7 MHz – 1969.7 MHz frequency band paired with 2149.7 MHz – 2159.7 MHz frequency band (hereinafter also referred to as: 2100 MHz band), and 2565 MHz – 2620 MHz frequency bands (hereinafter also referred to as: de 2.6 GHz band). These licences are intended for offering public electronic communication services.

The government invests heavily into ICT for innovation and economic growth. In the Digitale Agenda.nl (Parliamentary Documents II 2010/11, 29 515, no. 331) the government has defined its ambitions with regard to ICT policy for the 2011 to 2015 period. The Netherlands is already in the lead with regard to the availability of broadband through fixed networks but investment into networks is permanent, be this land or mobile networks, due to growing demand. The frequency spectrum available must be sufficient for mobile (broadband) communication applications now and in the future to guarantee that competing availability levels of affordable, high-quality (broadband) mobile services are created.

More attention is being paid to the economic value of frequencies and further flexibility has been selected with the 2005 Policy Document on Frequency (Parliamentary Documents II 2005/06, 24 095, no. 188). Licence holders have been given the freedom to select which services they wish to offer and which technology they shall use for this within specific parameters through flexibility. Now the 900 MHz, 1800 MHz, 1900 MHz, 2100 MHz, 2.6 GHz and 3.5 GHz frequency bands have been made flexible through decrees of the State Secretary for Economic Affairs of 10 January 2010 (Government Gazette 2010, 668), of the Minister of Economic Affairs of 6 July 2010 (Government Gazette 2010, 10985) and of the Dutch Minister of Economic Affairs, Agriculture and Innovation of 23 May 2011 (Government Gazette 2011, 8903) . Licence holders can use these frequency bands to offer public electronic communication services and apply the technology that they choose. This flexibility also offers them the option to cater more quickly to changing economic and technological developments.

Innovation and competition are promoted through this flexibility and, at the same time, continuing the services remains possible. The consumer is given the widest possible choice in (broadband) mobile communication applications and (possibly new) service providers. It is expected that this shall have a favourable effect on the price and the supply of new, innovative services for consumers.

The GSM 900 licences that were awarded on 15 March 1995 have been extended by three years up to 26 February 2013 by a decree of the State Secretary for Economic Affairs dated 29 March 2007 (Dutch Government Gazette 2007, 64). On this date, these licences expire together with the licences in the Extended GSM band (880 MHz to 890 MHz paired with 915 MHz to 925 MHz) and in the 1800 MHz band that were awarded in 1998.

The Dutch Minister of Economic Affairs, Agriculture and Innovation sent the Strategic Mobile Communication Policy Documents (hereinafter also referred to as: "strategic policy documents") to the House of Representatives with his letter dated 10 December 2010 (Parliamentary Documents II 2010/11, 24 095, no. 264). The strategic policy documents provide clarity about the way in which the government shall deal with the issue of scarce frequency spectra for mobile communication up to 2017 and contains a number of important principles for the distribution of the frequency spectra monitored through this regulation. The results of the assessment of the 2.6 GHz auction of April 2010 have been processed in both the strategic policy documents and in this regulation (Parliamentary Documents II 2009/10, 24 095, no. 262). The remarks made by the House of Representatives during the general consultation held on 15 December 2010 about the strategic policy documents have been taken into account in the regulation.

The Dutch House of Representatives has expressed itself about the regulations in 2011 at different opportunities. The Minister responded to the remarks of the House of Representatives consecutively through a letter dated 18 May 2011 (Parliamentary Documents II 2010/11, 24 095, no. 283), through a letter dated 7 June 2011 (Parliamentary Documents II 2010/11, 24 095, no. 284), through a letter dated 23 June 2011 (Parliamentary Documents II 2010/11, 32,459, no. 43), and through a letter dated 6 October 2011 (Parliamentary Documents II 2011/12, 24,095, no. 290) . This has been taken into account in the regulation and licences. As a consequence, changes have been implemented with regard to the size of the reservation for newcomers and the conditions for the 800 MHz licences with regard to the strategic policy documents.

The 2005 Frequency Policy Documents, the strategic policy documents and the results of the consultation with the Dutch House of Representatives form the framework in which the distribution of the licences that are a subject of this regulation takes place. The recommendations that were put forward from the 2.6 GHz auction assessment of April 2010 are also taken into account.

An important precondition pertaining to European law for this distribution is decision 2008/477/EC of the Commission of 13 June 2008 related to the harmonisation of the 2 500 – 2 690 MHz frequency band for terrestrial systems that can provide electronic communication services in the Community (PbEU 2008, L 163). The objective of this Commission Decision was to bring about harmonisation of the 2.6 GHz band within the European Union. In addition, Directive 2009/114/EC of the European Parliament and the Council of 16 September 2009 to change Directive 87/372/EEC of the Council related to making frequency bands available for the coordinated introduction of terrestrial public pan-European digital cellular mobile communication in the Community (PbEU 2009, L 274) as well as decision 2009/766/EC of the Commission of 16 October 2009 related to the harmonisation of the 900 MHz and 1 800 MHz frequency bands for terrestrial systems that can provide pan-European electronic communication services in the Community (PbEU 2009, L 274) are important. This directive and this decision have the goal of making the 900 MHz and 1800 MHz bands open so that also systems other than GSM can be applied herein. To conclude, decision 2010/267/EU of the Commission of 6 May 2010 related to the harmonised technical use conditions in the 790-862 MHz frequency band for terrestrial systems that can offer electronic communication services in the European Union (PbEU 2010, L 117) is important. The aim of this decision is to harmonise the technical conditions for the availability and effective use of the 800 MHz band for terrestrial systems that can provide electronic communication services in the European Union. These harmonised conditions have been taken over in the licences.

Pursuant to Section 2(3) of the Frequency Decree (Frequentiebesluit), the frequency spectrum for business use is allocated by auction or by comparative assessment in the event of scarcity. The distribution of the bands mentioned in the regulation shall take place through the allocation through auction. In the case of these bands, it has been assumed in part because of external research that there is scarcity (PriceWaterhouseCoopers, Quick scan spectrum awards in the Netherlands, Amsterdam, 6 December 2010).

2. Licensing criteria

2.1 Policy goals and elaboration

The government's goal is to contribute towards effective competition on the market for mobile communication including in the long term through sound and predictable frequency policy. Firstly, space is offered for the continuity of the services and innovation and, secondly, the government strives to have a frequency spectrum pricing in line with the market within this context. With this objective, the details are provided for a higher goal, that is, a mobile communication market where permanent affordable access to high-quality mobile services are involved for all users in the Netherlands.

The Onafhankelijke Post en Telecommunicatie Autoriteit (Independent Post and Telecommunications Authority; hereinafter referred to as: OPTA) was asked to carry out a competition analysis (OPTA, Advies en analyse mobiele communicatiemarkten (Mobile communication market advice and analysis), The Hague, 3 November 2010) that were defined in strategic policy documents when determining these objectives. OPTA determined in this analysis that actual competition is currently involved and that, therefore, (collective) significant market power is not involved. OPTA has, however, determined that a risk exists of tacit coordination of market behaviour. In the opinion of OPTA, the threat, therefore, exists that there may be collective significant market power. It, therefore, recommends that the frequency policy is set up in such a way that admission of potential newcomers is possible. This shall ensure that the dynamics in the market increases as well as the incentive to compete. From the above it shall follow that the risk of tacit coordination shall decrease. Whether there are potential newcomers that can and wish to take on the competition was researched when realising the strategic policy documents. This research has shown that these parties are indeed present (see PriceWaterhouseCoopers, Quick scan spectrum awards in the Netherlands, Amsterdam, 6 December 2010).

It was announced in the strategic policy documents that 2 x 10 MHz in a frequency spectrum would be reserved exclusively for newcomers in the 800 MHz band to ensure that the admission threshold for these newcomers would be lowered. In consultation with the Dutch House of Representatives it was decided in the autumn of 2011 to also reserve 2x5 MHz in frequency spectrum exclusively for newcomers in the 900 MHz band. Because of the reservation of this spectrum, spectrum is being offered for newcomers with different business models to access the market for mobile communication and to actually be able to compete durably within this context with current (national) providers. In line with the strategic policy documents, an applicant shall only be considered as a newcomer when the applicant is not a licence holder at the time when the application must be

submitted at the latest (Section 9, Subsection 1) of one or more (Dutch) licences for a frequency spectrum within the 880-915 MHz and 925-960 MHz bands nor is a part of a group of which one or more members are a licence holder of one or more licenses of the aforementioned frequency spectrum.

The awarding of Licences for the use of the frequency spectrum that is the subject of this regulation shall take place through an auction. The goals of the auction are (in order of priority) low admission thresholds, efficient allocation and realistic proceeds from auction in line with the goals of the strategic policy documents. Low admission thresholds are mainly realised by reserving a frequency spectrum as described above. Efficient allocation is firstly given shape by levelling the different frequency bands in such a way that the bidding parties are able to determine themselves the total scope of the spectrum quantity to be acquired as much as possible. Secondly, the auction is set up in such a way that the frequency spectrum is awarded contiguously, which provides the most technically efficient result. Moreover, the auction shall also be set up in such a way that competition between the participants is possible. The participants are given incentives to place a bid in line with the market in this way. This shall ensure that the party that expects to generate the most value shall obtain the licence. This shall realise a pricing in line with the market and the auction shall have realistic proceeds.

2.2. Sufficiently low spectrum and spectrum for newcomers

2.2.1. Background

Research has been carried out into which business models newcomers can use and which frequency spectrum they require for these distinctive business models with the aim of limiting the threat of having a (collective) position of significant power on the market (see PA Consulting Group, Study on comparability or frequency bands in different business models, London, September 2010). Three different models have roughly been identified in this research in which all have a different need with regard to frequency spectrum:

	Model	Required frequency spectrum
I	Niche model that focuses on providing much bandwidth and an ample availability of capacity on the side of the network. Examples are: - A service that serves as an	Frequency spectrum that can be found at the higher end of the spectrum. For example, the 1800 MHz, 2100 MHz or 2.6 GHz band.

	<p>alternative for a permanent Internet connection; or</p> <ul style="list-style-type: none"> - A specialised network for PMSE (Program Making and Special Events) services (for example, live connections for media reporting). 	
II	<p>Niche model that focuses on delivering for low costs, for example:</p> <ul style="list-style-type: none"> - A telephone service; or - A network for machine-to-machine communication. 	<p>Frequency spectrum that can be found at the lower end of the spectrum. For example, the 800 MHz or 900 MHz band.</p>
III	<p>Mass market model that makes provisions for the delivery of both speech services and mobile broadband on a national scale and, as such, has an overlap with the aforementioned niche models.</p>	<p>A mix of both frequency spectrums that can be found at the higher and lower end of the spectrum. For example, a system of frequencies in the 800 MHz, 900 MHz, 1800 MHz, 2100 MHz or 2.6 GHz bands.</p>

Table 1: Required frequency spectrum for different business models

Model I Provider of large network capacity

The parties who focus on the business model described as model I require frequency spectrum that can be found at the high end of the spectrum (above 1 GHz). A provider can offer a large network capacity with these high frequencies. High frequencies only have a limited range. The cells that are created with this are relatively small due to this. The available bandwidth in a cell is shared by a limited number of users and, therefore, the bandwidth is large for each user. In times when the demand for capacity for data traffic is growing at exponential rates, for example, data traffic on mobile networks increased 13-fold between June 2008 and the end of December 2010 (OPTA, Structural monitoring of mobile telephony - Q4 2010 reports, The Hague, 11 May 2011) and the expectations are that this growth shall continue, being able to offer sufficient capacity is very important.

Model II Niche player

A party who can be clustered under model II as indicated in Table 1 requires low frequencies (below 1 GHz). Low frequencies shall have a larger reach than high frequencies and are, therefore, suitable par excellence to provide cover in areas with only a limited number of users. Covering one area with high frequencies costs many times more and, therefore, is less efficient economically. Moreover, better cover in buildings can be realised with low frequencies and, therefore, a better use experience (PA Consulting Group, Study on comparability of frequency

bands in different business models, London, September 2010, Subsections 2.2.4 and 2.2.5).

A party who focuses on business model II shall not require high frequencies. Typical of the markets that wish to serve such a provider is that there is no huge demand for broadband services there. Mainly being able to offer good internal and national coverage is important. A lower frequency spectrum and data speeds are sufficient within this context. Such considerations are also important for such a newcomer to make a choice in relation to the technology that the newcomer wishes to apply. For such services, being able to deliver high throughput speeds is, for example, not a requirement.

Model III Provider of the broadband and mobile telephony combination

A party who can be clustered under model III as indicated in Table 1 with regard to its business model requires both high and low frequencies for a national covering network. On the one hand, the party must be able to cover areas cost-efficiently with a limited number of users and must offer good internal coverage. This demands low frequencies. On the other hand, the party must be able to deliver sufficient capacity to large groups of users in busy areas. This demands high frequencies.

In view of these three business models and the frequency spectrum they require, two relevant types of frequencies can, in fact, be identified: (a) low frequencies with which the frequencies lower than 1 GHz are referred to and (b) high frequencies with which the frequencies higher than 1 GHz are referred to.

2.2.2 Reservations for newcomers

It has been determined in the strategic policy documents that there is no need to implement special measures to assist newcomers in obtaining high frequencies to retain effective competition in the long term. It is expected that an efficient allocation of the frequencies can also be attained without measures through the market mechanism. There are, for example, many more high frequencies available than low frequencies and, moreover, two newcomers already have high frequencies since the 2.6 GHz band auction in April 2010. High frequencies shall, therefore, not be reserved for newcomers for this reason.

Low frequencies are much scarcer than high frequencies. The quantity of the frequency spectrum in relation to the low spectrum is limited to such a degree and newcomers are so behind with regard to existing players that it cannot be excluded that the existing players may obtain all available low frequencies if threshold-lowering measures are not implemented. It is important that sufficient players

have access to low frequencies to also retain the effective competition goal in the long term. It has, therefore, been determined in the strategic policy documents that 2 x 10 MHz in the frequency spectrum in the 800 MHz band shall be reserved for newcomers in the auction. This reservation is explained extensively in section 2.2.2.1.

In consultation with the Dutch House of Representatives, it has, subsequently, been determined that this reservation in itself is insufficient to achieve the goals. It has, therefore, been decided to also reserve 2 x 5 MHz in the frequency spectrum in the 900 MHz band for newcomers. This reservation is explained extensively in Section 2.2.2.2.

A maximum is used for the number of licences to be acquired within this reserved spectrum (namely, 2 x 10 MHz) so that newcomers are not assisted more than is required to be able to access the market (also see Section 2.2.3 *Cap on the maximum number of reserved frequencies to be acquired*). Newcomers can, for that matter, try to acquire the frequency spectrum without limitations as the other participants can outside the reserved spectrum.

2 x 10 MHz in the 800 MHz band and 2 x 5 MHz in the 900 MHz band are being reserved for newcomers based on Section 2a of the Frequency Decree [Frequentiebesluit] (hereinafter also: "reservation" or "reserved licences"). The goal of this reservation is to create access opportunities for newcomers and hence to promote effective competition on a national level including in the long term between providers of electronic communication services.

As has been stated in Section 2.2.1, there are technical and related commercial differences between frequency bands. A newcomer who does not have low frequencies shall have to invest additionally to realise the same coverage as a party who has low frequencies as well as that the newcomer shall have to make initial investments in its network and in winning a market share. Moreover, additional investments shall be required to ensure that cover within buildings is at the same level. All these additional investments put a newcomer in such an unfavourable competitive position that the newcomer cannot compete effectively without a reservation.

To make spectrum available for newcomers, existing parties could also be limited in the quantity of the frequency spectrum that they can acquire (hereinafter also: spectrum cap or cap). This may create a spectrum that can only be claimed by newcomers (compare the deployment of this with the 2.6 GHz auction). With such a measure, parties, however, would be even more limited in their options than

with a reservation for newcomers. Because the reservation is regarded as a sufficiently strong instrument to create spectrum for newcomers in part based on research (see especially DotECon, *Advice on the features of the forthcoming multi-band radio spectrum auction in the Netherlands*, November 2010), the decision has been taken not to set a maximum with regard to the quantity of frequencies to be acquired by existing parties.

Neither is it deemed necessary to apply a cap for high frequencies other than in relation to the 2.6 GHz auction. The supply of high frequencies is large as a whole and, therefore, the scarcity is more limited. Expectations are that an efficient distribution of high frequencies shall take place through the auction mechanism. Newcomers should be deemed capable of acquiring part of these frequencies within this framework. For that matter, two potential newcomers (recent entrants to the market for mobile communication) already have high frequencies at their disposal in the 2.6 GHz band.

The difference with the 2.6 GHz auction where a cap was used in relation to high frequencies is that the objectives of this auction had a different focal point. Where the emphasis is on the promotion of newcomers in the current auction to be able to compete effectively on a national level in the long term, the emphasis for the 2.6 GHz auction was on the promotion of just 'access to the market for electronic communication for newcomers'.

2.2.2.1. Reservation of the frequency spectrum for newcomers in the 800 MHz band

The decision was taken to have a reservation of 2 x 10 MHz in the 800 MHz band for newcomers because this band has options for innovation in the short term: equipment for the use of LTE ("Long-term Evolution", the successor to UMTS) is, for example, already available in the 800 MHz band (Vodafone, for example, offers LTE services with a modem in the 800 MHz band in Germany). LTE is the next step in the technological progression of mobile network technologies. Higher data speeds can be delivered and the user experience can be improved through shorter waiting times (latency) in comparison with the current mobile network technologies (GSM and UMTS). Especially newcomers who wishes to focus on the mass supply of, for example, mobile broadband Internet on a national scale (model III from Table 1) shall benefit from being able to apply this technology. Firstly, the newcomer can meet the extensive demand for mobile data traffic as described above. Secondly, the newcomer can also guarantee the quality of his service in those areas where fewer setup points are sufficient because the number of users is lower there without having to make such investments that he no longer can compete effectively.

Based on research, 2 x 10 MHz is regarded as the minimum quantity of low frequencies that are needed in the 800 MHz band for such a newcomer to be able to compete more effectively including in the future. The reservation shall be divided into two licences of 2 x 5 MHz to offer more than one newcomer the opportunity to acquire a part of the reserved spectrum. This ensures that the government's intervention is limited as much as possible in line with the provisions made in the strategic policy documents and parties are free as possible to combine the package of frequencies that they prefer.

The possible results of the auction can be that one newcomer acquires 2 x 10 MHz in the reserved spectrum in the 800 MHz band or that there are two newcomers who both acquire 2 x 5 MHz each in the reserved spectrum in the 800 MHz band. A licence of 2 x 5 MHz is just enough of a frequency spectrum to offer services comparable to what is currently offered but sets restrictions with regard to offering (future) broadband services (PA Consulting Group, *Study on comparability of frequency bands in different business models*, London, September 2010). Newcomers may, however, also acquire the frequency spectrum that falls outside the reservation or the reserved spectrum in the 900 MHz band (insofar as this fits in within the cap for the reserved spectrum) for their future competitive position in addition to the reserved spectrum in the 800 MHz band.

2.2.2.2. Reservation of the frequency spectrum for newcomers in the 900 MHz band

In addition, the decision has been taken to have a reservation of 2 x 5 MHz in the 900 MHz band after consultation with the Dutch House of Representatives. For this band, a huge equipment 'ecosystem' is available based on GSM. Ever more equipment is also becoming available for UMTS in this band (Global Mobile Suppliers Association, *UMTS900 Global Status*, Sawbridgeworth, July 2011). Both voice and data services can be offered with both GSM and UMTS. Equipment for LTE is also expected to become available for this band in due course. The expectation, however, is that large-scale adoption of this shall only take place when LTE is rolled out in the 800 MHz band.

A party who wishes to focus on delivering inexpensive voice services, limited data services or machine-to-machine communication (referred to as model II in Table I, potentially 'a niche player') shall benefit from the possession of the frequency spectrum in the 900 MHz band. It is made possible for such a newcomer to lay a network and attract customers fast and relatively cheaply because of the availability of the equipment, the economies of scale that exist in relation to that equipment, the options of the available technologies for providing voice and data

services and the fact that use can be made of existing setup points that have already been installed by current licence holders in that band (based on Section 3.11 of the Telecommunications Act [Telecommunicatiewet]).

2 x 5 MHz is regarded as the minimum quantity of low frequencies that is required for such a newcomer in the 900 MHz band based on research. Services can be offered that are comparable to the existing supply with this frequency spectrum quantity as has been shown by research (PA Consulting Group, *Study on comparability or frequency bands in different business models*, London, September 2010). 2 x 5 MHz shall, therefore, allow such newcomers to deliver the services that they have foreseen.

The spectrum reserved in the 800 MHz band is also for this type of services but, as explained above, it is obvious that newcomers who have the ambition to start offering services for the masses on a national scale, shall focus on that spectrum primarily. It is likely that they shall value this frequency spectrum more highly and, as such, can issue a higher bid in the auction. Their market potential (mass market) is, after all, much larger than that of a niche player. With a view to offering a niche player and a party with mass market ambitions equal opportunities with minimum government's intervention, reserving the spectrum in the 900 MHz band is, therefore, an essential measure. By extension and to prevent all reserved frequency spectrum from being allocated to one newcomer, a maximum has, moreover, been set with regard to the number of reserved frequencies that a newcomer can acquire in the auction (see Section 2.2.3 *Cap on the maximum number of reserved frequencies that can be acquired*).

Previously, the strategic policy documents considered that 2 x 10 MHz would be reserved for newcomers in the 800 MHz band because a reservation for newcomers in the 900 MHz band with such a scope could put the continuity of services at risk. Reserving 2 x 5 MHz in the 900 MHz band is, in advance, however, not a threat to the continuity of services that are (for example) safeguarded through the frequencies in the 900 MHz band.

It is not obvious that the reservation of 2 x 5 MHz in the 900 MHz band would make it easy for newcomers to acquire, for example, 2 x 10 MHz in the 900 MHz band, which would affect at least one of the existing licence holders more than the other two. Research has shown that existing licence holders in the 900 MHz band have a strong position to reacquire their current quantity in frequencies in the 900 MHz band insofar as this is possible in view of the reservation. The reason for this is that they already have a network with considerable coverage and a large number of customers that makes use of this network (PA Consulting Group, *Study*

on comparability or frequency bands in different business models, London, September 2010, Section 2.5). The result is that they shall value the frequency spectrum more and may, therefore, submit a higher bid than a newcomer in the auction. Or, put differently, it continues to be possible for all three existing licence holders to each acquire 2 x 10 MHz in the 900 MHz band.

The frequency spectrum quantity that existing licence holders currently possess in the 900 MHz band is 2 x 10 MHz, 2 x 11,4 MHz and 2 x 12.4 MHz, respectively. In the situation in which the existing licence holders all acquire 2 x 10 MHz in the 900 MHz band, they shall be acquiring 2 x 1,4 MHz and 2 x 2,4 MHz, respectively, less than they currently possess. Since these licence holders also have at their disposal the frequency spectrum in the 2100 MHz and 2.6 GHz bands and can, moreover, (again) acquire the spectrum in the 1800 MHz band in the auction, this slight restriction shall not put the continuity of services at risk.

2.2.3. Cap on the maximum number of reserved frequencies to be acquired

The decision has been taken to set a cap based on Section 6a of the Frequency Decree [Frequentiebesluit] to ensure that not all the reserved frequency spectrum (2 x 15 MHz in total) is allocated to one newcomer. The maximum number of frequencies that a newcomer may acquire in the reserved frequency spectrum category has been restricted to 2 x 10 MHz or two of the three reserved licences (Section 2, Subsection (4)) based on this cap. This should ensure the best possible balance for the allocation amongst newcomers within the category of reserved low frequencies (see Sections 2.2.1 to 2.2.2.2). This cap is required due to two reasons.

Firstly, both newcomers with a mass market ambition and newcomers who are contemplating serving a niche must be given equal opportunities. As explained above, it is likely that newcomers who wish to serve the mass market shall be able to pay more for the frequency spectrum than newcomers who focus on a niche. A maximum of 2 x 10 MHz has been set with regard to the number of reserved frequencies to be acquired to still give both types of newcomers a chance in acquiring reserved frequencies.

In addition, 2 x 10 MHz is sufficient to provide for both the need for a specific frequency spectrum quantity that a newcomer with mass market ambition requires and the frequency spectrum quantity that a niche party requires. By not making available more frequency spectrum than is strictly necessary to ensure both types of newcomers can access the market, the government's intervention shall, moreover, be restricted as much as possible.

With a view to keeping this intervention as low as possible, provisions have, moreover, been included in the regulation that ensure that the number of licences to reserve shall depend on the demand for these licences as is shown in the applications of the parties (Sections 3 up to and including 7). Only if it should become apparent from the applications that there is a demand for all three of the reserved licences, shall they be kept separate for newcomers. Should, however, it become apparent that there is only a demand for two or even just one of the three licences, the licence or licences regarding which there is no or only a low demand shall be added (partly) to the "general stock" on which both newcomers and existing parties can bid (also see Chapter 3). This may even mean that licences shall not be reserved at all should no newcomer at all be interested in the reserved licences. By extension, the cap, therefore, shall also only have a material effect if it should emerge from the applications that there is a demand for all three reserved licences.

These measures realise that the market is the leading factor as much as possible when determining the number of new parties who access the market. If it is assumed that there is sufficient demand, these measures ensure that newcomers shall find it easier to acquire reserved licences. The cap is only an instrument in this context to offer equal opportunities as much as possible to several types of newcomers and to realise a balanced allocation of the reserved frequencies over them. The cap, moreover, ensures that a newcomer is no longer promoted except for what is strictly necessary by preventing that the newcomer can acquire more than 2 x 10 MHz of the reserved frequencies.

2.2.4. No cap to support existing licence holders

Using a cap on low frequencies to ensure that the three existing licence holders can again acquire low frequencies is unnecessary. It is very important to existing licence holders to again acquire these frequencies and it is likely that there are enough incentives to obtain the low spectrum (PriceWaterhouseCoopers, *Quick scan spectrum awards in the Netherlands*, Amsterdam, 2010). There is, therefore, no reason either to set a maximum with regard to the low spectrum quantity to be acquired.

2.3 Available frequency spectrum

The available frequency spectrum has been subdivided as follows.

800 MHz band: 2 x 30 MHz (paired spectrum) offered in 6 licences of 2 x 5 MHz each.

900 MHz band: 2 x 35 MHz (paired spectrum) offered in 7 licences of 2 x 5 MHz each.

1800 MHz band: 2 x 70 MHz (paired spectrum) offered in 14 licences of 2 x 5 MHz each.

1900 MHz band: 1 x 14.6 MHz (unpaired spectrum) offered in 1 licence of 1 x 14.6 MHz.

2100 MHz band: 2 x 10 MHz (paired spectrum) offered in 2 licences of 2 x 5 MHz each.

2,6 GHz band: 1 x 50 MHz (unpaired spectrum) offered in 10 licences of 1 x 5 MHz each.

For the sake of completeness, there is an eleventh 1 x 5 MHz licence in the 2.6 GHz band ("H licence") but this licence is not mentioned here in relation to the restrictions that are imposed on this licence with regard to preventing interference (for more information also see Subsection 2.4).

2.3.1 The 800 MHz band

The 800 MHz band consists of the 790 MHz - 862 MHz frequency spectrum. The Nationaal Frequentie Plan (National Frequency Plan; hereinafter also referred to as: NFP) has been changed by a decree of the Minister of Economic Affairs, Agriculture and Innovation of 26 August 2011 (Government Gazette 2011, 15033) where the end-use of the 791 MHz - 821 MHz and 832 MHz - 862 MHz bands has been changed into mobile communication. The 791 MHz - 821 MHz lower band is available for the transmission signals of the base stations and the 832 MHz - 862 MHz upper band is available for the transmission signals of the related terminals.

The broadcasting designation shall be maintained until 1 January 2013 to make the gradual migration of the existing licence holders of television broadcasting to an alternative frequency spectrum possible.

Users of wireless microphones may continue to use the frequency spectrum that is currently used for wireless audio connections in the 790 MHz - 862 MHz band until the end of 2015. This term has been included in the (amended) NFP and shall be included in the (amended) 2008 Use of Frequency Spectrum without Licence Regulation. Wireless microphones do not cause any interference to terrestrial networks but, vice versa, a wireless microphone may be subjected to interference. It shall take some time after licence award of the electronic communication goals in part of the 800 MHz band for terrestrial communication networks before networks have been rolled out. The phasing out of wireless microphones can, therefore, take place naturally.

The European Commission has taken a decision with regard to the technical use conditions in the 790 MHz - 862 MHz band. This concerns decision 2010/267/EU of

the Commission of 6 May 2010 related to harmonised technical use conditions in the 790-862 MHz-frequency band for terrestrial systems that can provide electronic communication services in the European Union (PbEU 2010, L 117).

The lower 1 MHz of the 800 MHz band is used as a guard band. There is a spectrum gap of 11 MHz between the frequency spectrum of the base stations and the terminals.

Adjacent bands

The band below 790 MHz is used for broadcasting (digital terrestrial television) and low-power audio connections such as wireless microphones. The Electronic Communications Committee (hereinafter referred to as: ECC) of the European Conference of Postal and Telecommunications Administrations (hereinafter referred to as: CEPT) has studied the compatibility between mobile networks and digital broadcasting transmitters. The report (CEPT report 30) of the ECC is the basis for the decision of the European Commission about technical use conditions. The report shows that, in particular, the areas in which digital broadcasting uses the frequency spectrum that is nearest to 790 MHz must be taken into account. An overview can be found on the website of the National Radio communications Agency Netherlands (Agentschap Telecom; www.agentschaptelecom.nl) with the site locations of digital broadcasting transmitters. The digital broadcasting network may still change because, for example, of the moving of the broadcasting transmitters that now still use the 790 MHz - 862 MHz band.

The band above 862 MHz is mainly used for exempted applications. The 832 MHz - 862 MHz band is used for the transmission signals of the terminals. Because of the low power of both systems, interference is not expected.

790 MHz	791 - 796 MHz	796 - 801 MHz	801 - 806 MHz	806 - 811 MHz	811 - 816 MHz	816 - 821 MHz	821 - 832 MHz	832 - 837 MHz	837 - 842 MHz	842 - 847 MHz	847 - 852 MHz	852 - 857 MHz	857 - 862 MHz
	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	11 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz
	Downlink							Uplink					
	Gepaard												

Table 2: 800 MHz band

It applies to this and the other tables included in Subsection 2.3 that the uplink is the receiving side of the base stations (the frequency band in which the base stations receive the terminal signals) and the downlink is the transmitting side of the base stations (the frequency band for base station transmission signals). The tables do not show the immediately adjacent use or the immediately adjacent licence holder. See for a full overview regarding this issue the National Frequency Plan and the National Frequency Register.

2.3.2 The 900 MHz band

The 900 MHz band consists of the 880 MHz - 915 MHz and 925 MHz - 960 MHz frequency spectra. The band is currently being used for GSM by three licence holders. Which frequency spectrum has been allocated to which licence holder can be found in the National Frequency Register (hereinafter referred to as: NFR). The current licences end on 26 February 2013.

The 880 MHz to 915 MHz lower band is available for the transmission signals of the terminals. The 925 MHz to 960 MHz upper band is available for the transmission signals of the base stations.

The European Commission has taken a decision about the technologies that may be used in any case (Decision 2009/766/EC of the Commission of 16 October 2009 regarding the harmonisation of the 900 MHz and 1 800 MHz frequency bands for terrestrial systems that can offer pan-European electronic communication services in the Community (PbEU 2009, L 27)). Due to studies of the ECC, this decision has been amended where the LTE and WiMAX technologies have been added in the Annex to the decision (implementing decision 2011/251/EU of the Commission of 18 April 2011 to amend Decision 2009/766/EC regarding the harmonisation of the 900 MHz and 1 800 MHz frequency band for terrestrial systems that can provide pan-European electronic communication services in the Community (PbEU 2011, L 106)).

Adjacent bands

The bands below 880 MHz and 925 MHz are used for the GSM-R network. This is a national network along the railway lines that is specific for railway operations. The most important goal of the network is the safety on and around the railways. The network is managed by ProRail. Licence holders of the 900 MHz band must take this network into account and may not cause any interference with regard to this band. The ECC has commissioned a study into the practical aspects of the 'symbiosis' between, on the one hand, a GSM-R network and, on the other hand, the public telecommunication networks (ECC Report 162, "Practical mechanism to

improve the compatibility between GSM-R and public mobile networks and guidance on practical coordination”, that can be found by visiting www.cept.org/eco).

The band above 915 MHz is used by the Dutch Ministry of Defence for analogue and digital mobile communication systems. Interference is not being expected between the use of the present frequency band and the use by Defence.

880 - 885 MHz	885 - 890 MHz	890 - 895 MHz	895 - 900 MHz	900 - 905 MHz	905 - 910 MHz	910 - 915 MHz	915 - 925 MHz	925 - 930 MHz	930 - 935 MHz	935 - 940 MHz	940 - 945 MHz	945 - 950 MHz	950 - 955 MHz	955 - 960 MHz
5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	10 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz
Uplink								Downlink						
Gepaard														

Table 3: 900 MHz band

The band above 960 MHz is used for aviation mobile flight safety and aviation radio navigation. Different systems are operational or being developed in this band. The ECC has carried out two studies (CEPT report 41 and report 42) into the compatibility between public communication networks and aviation use above 960 MHz. Interference on both sides is possible. Operators of terrestrial communication networks can limit this interference by implementing measures in the configuration of the base stations depending on the technology to be used.

2.3.3 The 1800 MHz band

The 1800 MHz band consists of the 1710 MHz - 1780 MHz and 1805 MHz - 1875 MHz frequency spectra. This band is currently used for GSM by three licence holders. The current licences end on 26 February 2013. The 1780 – 1782.1 MHz and 1875 – 1877.1 MHz bands shall be use up to 26 February 2013 for GSM but then shall be made available for mobile electronic communication networks with a low power. This involves exempted use of, for example, picocells in an office environment (Parliamentary Documents II 2010/11, 24 095, no. 264, p. 22 and 23 of the Annex).

The 1710 MHz to 1780 MHz lower band is available for the transmission signals of the terminals. The 1805 MHz to 1875 MHz upper band is available for the transmission signals of the base stations.

The European Commission has taken a decision about the technologies that may be used in any case (Decision 2009/766/EC of the Commission of 16 October 2009 regarding the harmonisation of the 900 MHz and 1 800 MHz frequency bands for terrestrial systems that can offer pan-European electronic communication services in the Community (PbEU 2009, L 27)). Due to studies of the ECC, this decision has been amended where the LTE and WiMAX technologies have been added in the Annex to the decision (implementing decision 2011/251/EU of the Commission of 18 April 2011 to amend Decision 2009/766/EC regarding the harmonisation of the 900 MHz and 1 800 MHz frequency band for terrestrial systems that can provide pan-European electronic communication services in the Community (PbEU 2011, L 106)).

Adjacent bands

The band below 1710 MHz is used for meteorological satellite observations. The communication direction is from the satellite to Earth. The band below 1805 MHz is not in use and the principles for licence award are the subject of a study.

The bands above 1780 MHz through to 1875 MHz and 1875 MHz through to 1880 MHz shall be exempted for mobile electronic communication networks with a low power. This refers to exempted use of, for example, picocells in an office environment.

1710 - 1715 MHz	1715 - 1720 MHz	1720 - 1725 MHz	1725 - 1730 MHz	1730 - 1735 MHz	1735 - 1740 MHz	1740 - 1745 MHz	1745 - 1750 MHz	1750 - 1755 MHz	1755 - 1760 MHz	1760 - 1765 MHz	1765 - 1770 MHz	1770 - 1775 MHz	1775 - 1780 MHz	1780 - 1805 MHz	1805 - 1810 MHz	1810 - 1815 MHz	1815 - 1820 MHz	1820 - 1825 MHz	1825 - 1830 MHz	1830 - 1835 MHz	1835 - 1840 MHz	1840 - 1845 MHz	1845 - 1850 MHz	1850 - 1855 MHz	1855 - 1860 MHz	1860 - 1865 MHz	1865 - 1870 MHz	1870 - 1875 MHz	
5 MHz	25 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz													
Uplink													Downlink																
Gepaard																													

Table 4: 1800MHz band

2.3.4 The 1900 MHz band

The available frequency spectrum are the 1900 MHz - 1904.9 MHz and 2010 MHz - 2019.7 MHz bands. This frequency spectrum lies in the band that is now being used for UMTS networks. The 2010 MHz - 2019.7 MHz frequency spectrum is unpaired regarding a licence which was not awarded during the auction of the 2.6 GHz band. An overview of the licence holders can be consulted in the NFR.

The available frequency spectrum shall be issued as one licence. Both base stations and terminals transmit in 1900 MHz - 1904.9 MHz and 2010 MHz - 2019.7 MHz.

Adjacent bands

The band below 1900 MHz is used by DECT systems and the band above 1904.9 MHz has been issued for UMTS but is not currently being used. The band below 2010 MHz is in use by satellite systems for mobile communication.

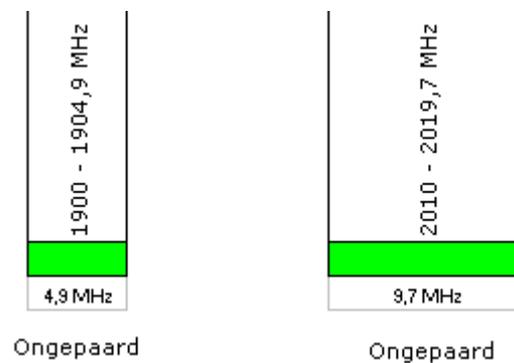


Table 5: 1900 MHz band

2.3.5 The 2100 MHz band

The available frequency spectrum concerns the 1959.7 MHz - 1969.7 MHz and 2149.7 MHz - 2159.7 MHz bands. This frequency spectrum lies in the band that is currently being used for UMTS networks and, in the long term, shall also be used for 4G applications. This frequency spectrum has become available after the licence was retracted by National Radiocommunications Agency Netherlands (Agentschap Telecom) at the request of the relevant licence holder. An overview of the current licence holders can be consulted in the NFR.

The 1959,7 MHz to 1969,7 MHz lower band is available for the transmission signals of the terminals. The 2149,7 MHz to 2159,7 MHz upper band is available for the transmission signals of the base stations.

Adjacent bands

The available frequency spectrum lies in the centre of the band in which the current licences apply up to 1 January 2017. UMTS is currently the only used technology.

1959,7 - 1964,7 MHz	1964,7 - 1969,7 MHz		2149,7 - 2154,7 MHz	2154,7 - 2159,7 MHz
5 MHz	5 MHz	190 MHz	5 MHz	5 MHz
Uplink			Downlink	
Gepaard				

Table 6: 2100 MHz band

2.3.6 The 2.6 GHz band

The available frequency spectrum is 2565 MHz - 2620 MHz. This is the unpaired frequency spectrum for which licences were not awarded after the 2.6 GHz band auction. This frequency spectrum lies between the paired frequency spectrum of the 2.6 GHz band. An overview of the licence holders can be found in the NFR. Both base stations and terminals transmit in the 2565 MHz - 2620 MHz band.

Adjacent bands

The 2565 MHz - 2620 MHz frequency spectrum lies between the already issued paired 2.6 GHz band frequency spectrum.

2565 - 2570 MHz	2570 - 2575 MHz	2575 - 2580 MHz	2580 - 2585 MHz	2585 - 2590 MHz	2590 - 2595 MHz	2595 - 2600 MHz	2600 - 2605 MHz	2605 - 2610 MHz	2610 - 2615 MHz
5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz	5 MHz

Ongepaard

Table 7: 2,6 GHz band

2.4 Guard bands in the 2.6 GHz band

A guard band is required in the following two situations in the 2.6 GHz band to prevent interference:

- a. Between adjacent blocks of paired and unpaired frequency spectrum; and
- b. Between adjacent blocks of unpaired frequency spectrum, if the use of those blocks is obtained by different licensees.

Interference is prevented in both situations by issuing one additional G licence to an applicant of a licence for unpaired frequency spectrum (G licence) that shall act as a guard band (see Section 2, Subsection (5)). The guard band always concerns a G licence that is related to the lowest positioned frequency spectrum of the applicant. In addition, another guard band is required in the first situation on the 2620 MHz frequency between the unpaired frequency spectrum and paired frequency spectrum. To prevent interference, therefore, an H licence is awarded for the frequency spectrum between 2615 MHz - 2620 MHz to the applicant to whom the G licence is awarded related to the 2610 MHz - 2615 MHz frequency spectrum (see Section 2, Subsection (6)). The frequency spectrum to which an H licence is linked cannot be used that easily as is the case for licences that are not a guard band as is the case for the other guard bands and, therefore, these H licences do not have a putting into obligation to put into use.

2.5 Lot size

In accordance with the principles of the frequency policy as formulated in the 2005 Frequency Policy Documents, the decision was taken to issue licences as technology neutral. This ensures that licence holders can themselves deploy the technology of their choice. This shall ensure that they can cater optimally to changing technology and market developments. This also ensures that the

smallest possible frequency lots are used. This shall prevent false scarcity from being created. Research was carried out by the University of Twente (University of Twente, Research into the technical conditions for the 800, 900 and 1800 MHz distribution(s), Enschede, September 2010) to determine the best size of the lots in the 800 MHz, 900 MHz and 1800 MHz bands from a technical perspective.

Since the licences are being issued as being technology neutral, the University of Twente has mapped out the different technologies that are expected to be used in the 800 MHz, 900 MHz, and 1800 MHz frequency bands. The technologies that have been determined from the study are GSM, UMTS, LTE, and WiMAX. These technologies work with different channel widths but can, in principle, all operate in a 5 MHz-wide channel. Providing the UMTS and LTE standards in channel widths of 2 x 5 MHz and the GSM standard are based on 2 x 200 kHz channels. 25 GSM channels, therefore, fit in one 2 x 5 MHz lot. To conclude, the WiMAX standard, for example, makes provisions for an unpaired frequencies in a 1 x 5 MHz-wide channel and 2 x 5 MHz channels are possible for the mobile WiMAX standard. The University of Twente, therefore, recommends to divide the 800 MHz, 900 MHz, and 1800 MHz bands in lots (that are a multiples) of 5 MHz.

The University of Twente has also determined that the 900 MHz and 1800 MHz bands were originally intended for FDD (Frequency Division Duplexing, that is to say, paired) technologies. It is not being expected that TDD (Time Division Duplexing, that is to say, unpaired) technologies shall be used in here. Using a TDD technology is less efficient because the licence holder shall have to deploy part of this holder's frequencies as a guard band in this case to prevent interference. This also applies to the 800 MHz band.

As a result of decision 2010/267/EU of the Commission of 6 May 2010 regarding the harmonised technical use conditions in the 790-862 MHz frequency band for terrestrial systems that can provide electronic communication services in the European Union (PbEU 2010, L 117), the band shall be issued in 2 x 5 MHz blocks.

In view of the above, the decision has been taken to set up the 800 MHz, 900 MHz and 1800 MHz bands for FDD systems and to use 5 MHz lots. This means that the licences in these bands are all for 2 x 5 MHz. This means that there are six licences in the 800 MHz band, seven in the 900 MHz band and fourteen in the 1800 MHz band.

Provisions were made for a 2 x 10 MHz licence initially for paired frequencies in the 2100 MHz band. Research has shown that the technologies that can be expected in all reasonableness for the foreseen licensing period are UMTS and LTE

(PA Consulting Group, Study on comparability of frequency bands in different business models, London, September 2010, tables 3 and 4). In view of the facts that both technologies can deal with a channel width of 2 x 5 MHz, the objective of keeping admission thresholds low and the principle to keep lots as small as possible, the decision was taken to cut up the original 2 x 10 MHz licence into two 2 x 5 MHz licences each.

Except for the paired frequencies in the 2100 MHz band, the aforementioned licence also included 5 MHz in the 1900 MHz band in relation to the unpaired frequencies. In addition, one 9.7 MHz licence of the unpaired frequencies in the 1900 MHz band was offered in the 2.6 GHz auction. This licence was not sold at the time because the participants gave the preference to the paired frequencies in the 2.6 GHz band within the limitations that applied to them. This frequency spectrum has now been bundled into one licence of 14.6 MHz in the unpaired frequencies due to frequency and technical reasons for the present auction.

Concerning the 2.6 GHz band frequency spectrum, there are no reasons to deviate from the policy as formulated within the context of the 2.6 GHz auction. In view of the CEPT band plan for this band and the standards for LTE and WiMAX (the technologies that are expected to be deployed in this band), it is still being expected that this frequency spectrum shall be deployed for TDD systems. Therefore, the decision was taken to divide the available frequency spectrum in this band into licences of 1 x 5 MHz each in the unpaired frequency spectrum. This means that there are eleven licences available in total in this band (also see Subsection 2.4).

2.6 Contiguous frequency spectrum

It is technically efficient when all licences awarded to an applicant in a frequency band are contiguous. This ensures that the applicant can deploy wider channels, which is required to ensure that (more) broadband services can be offered in the future. Moreover, this shall ensure that fragmentation of the different licences in a frequency band can be prevented, which would be inefficient technically (or more inefficient). To conclude, this shall prevent strategic behaviour from the applicants. If all licences awarded to an applicant in a frequency band are contiguous, it is impossible, after all, for one applicant to frustrate another applicant in obtaining the contiguous frequency spectrum.

Section 2, Subsections (7) to (10) (b), makes provisions to ensure that every applicant is awarded contiguous frequency space. In addition, Section 2, Subsection (7) to (10) (a) makes provisions that ensure that all licences of the

different applicants are awarded contiguously. Moreover, these licences are awarded in such a way that the end edges of the relevant frequency band is first started with. This ensures that any frequency spectrum that remains is also contiguous.

In the case of A1 and B licences, the licence award is started at the top side of the 800 MHz band because the bottom side of the band shall remain free in the improbable case that not all licences are sold in this auction. If, for example, four of the six licences are acquired, these shall be awarded for the 801 MHz to 821 MHz frequency spectrum paired with 842 MHz to 862 MHz. The 791 MHz to 801 MHz frequency spectrum paired with 832 to 842 MHz shall then remain free. The rationale behind this is that this shall reduce the chance of any interference of mobile communication signals in the 800 MHz band on the broadcasting signals in the adjacent, lower located frequency spectrum (see Subsection 2.9).

2.7 Deposit or bank guarantee

The present Regulation provides for a fixed amount as security for the entire duration of the auction. The security can be provided in the form of a security deposit or in the form of a bank guarantee. The choice between these two options is fully at the discretion of the applicant. The level of this amount shall depend on the number of activity points linked to the application (see Section 15, Subsections (4) to (6)) except for an A1 or A2 licence. A fixed amount of € 35 million (Section 15, Subsection (2)) applies to an A1 licence. A fixed amount of € 28.9 million (Section 15, Subsection (3)) applies to an A2 licence. The activity points that represent A1 and A2 licences do not, for that matter, also count for determining the total security. The fixed amount is used instead. The level of this amount matches the reserve prices of these licences (see Subsection 5.3.1). Newcomers must still prove themselves: the exclusive reservation for newcomers for A1 and A2 licences (in frequency bands where, moreover, the scarcity is expected to be high) justifies the requirement that they must at least be able to pay the reserve price for these licences.

In the case of a security deposit, this security deposit must have been received in full at the time when the period for the submission of an application closes as stated in Section 9, Subsection (1) (Section 8, Subsection (14)). A comparable requirement applies with regard to the bank guarantee. If an applicant fails to fulfil the obligations in respect of the security deposit or the bank guarantee, the applicant shall be given a period of seven working days in which to rectify the omission (Section 10(3) and (4)). If the omission is not rectified, in principle, the application shall not be processed. If the applicant has satisfied the applicant's

obligations in time and should the applicant be admitted to the auction, the applicant shall be entitled to make a bid in the first primary round or in the procedure as referred to in Section 36 and thereafter.

2.8 Operationalisation obligation

Points of references have been given in the strategic policy documents for the operationalisation obligation. An obligation to put into use comprises, on the one hand, the obligation of a licence holder offering a public electronic communication service and, on the other hand, the obligation to do this in an area that has a specific size. The obligation to put into use shall, thus, ensure that licence holders also really become active commercially and offer a service through their awarded frequencies. A certain investment duty is involved as well as the fact that it, therefore, serves to counteract the strategic buying of frequency spectrum. At the same time, an obligation to put into use must be light and flexible. This shall ensure that space is offered to different business cases of both the parties with ambitions on a mass market and an innovative newcomer or niche player.

The obligation to put into use is based on the fact that a licence holder can start in a relatively limited area by offering a service and to subsequently roll it out to other areas in the years that follow. The obligation applies per lot so that the burden increases as more lots are acquired. Since lower frequencies reach further than higher frequencies, the obligation to put into use for the lower frequencies is, therefore, more severe than for the higher frequencies. A more or less equal investment obligation shall apply to every band by being in line with the relative costs that are involved when rolling out a nationally covering network with different frequency bands.

At the request of the House of Representatives, the obligation to put into use in the 800 MHz band per 2 x 10 MHz shall be given such shape that a public electronic communication service must be offered in 40% of the Netherlands after five years (Parliamentary Documents II 2010/11, 24 095, no. 284). This means 20% of the Netherlands per 2 x 5 MHz licence (7471 km²).

Frequentie band	2 jaar / 5 MHz (in km²)	5 jaar / 5 MHz (in km²)
2,6 GHz	20	200
2100 MHz	28	
1900 MHz	28	
1800 MHz	37	367
900 MHz	257	2567
800 MHz	308	7471

Table 8: Operationalisation obligation

Should a party have all six licences in the 800 MHz band, this party shall have to in fact offer a public electronic communication service in 120% of the Netherlands. Because this is not possible, it shall be sufficient if the licence holder offers a public electronic communication service in 100% of the Netherlands in this case.

The obligation to put into use applies to all licences with the exception of an H and G licence if this G licence concerns the lowest frequency spectrum of a linked frequency spectrum block of a licence holder in the 2565 MHz – 2615 MHz band. An obligation to put into use does not apply to these licences because they can only be used with limitations (see Section 2.4). The 5 year obligation, however, does not apply to E and F licences (the licences in the 1900 MHz and 2100 MHz bands). This decision has been taken because these E and F licences only have a limited duration. This short term, on the one hand, limits the return on investment options to which the obligation to put into use obligates the party and, on the other hand, the earning potential in general. Applying an obligation to put into use after five years is viewed as disproportional in this light. Moreover, the commercial attraction of these licences is increased by not setting this obligation.

The supervision on the frequency use is completely covered by National Radiocommunications Agency Netherlands of the Ministry of Economic Affairs, Agriculture and Innovation. For the supervision of the frequency use, use shall be made more often than was previously the case of monitoring, that is to say, gathering data about the degree or form of spectrum use to be able to deliver current data with regard to developments in and around the spectrum. Within this context, information shall also be used about equipment that is put on the market especially for monitoring and licence-exempt use. This data is important to ensure that enforcement is possible when required.

The information from the current monitoring process shall also be used to provide market parties with reliable and current information about the state of affairs in frequency use. This shall give potential entrants insight into the options available.

2.9 Interference

Research has shown that mobile communication signals in the 800 MHz band can lead to interference on the cable and related peripherals such as set top boxes, coax cables or TVs (see National Radiocommunications Agency Netherlands (Agentschap Telecom) and University of Twente, Research into interference on cable television due to mobile use of the Digital Dividend, July 2010). The House of Representatives was informed about this in July 2010 (Parliamentary Documents II 2009/10, 21 501, no. 286).

The probability that this interference shall also actually be observed when offset against the total use is very small (far below 1%) and is linked to local conditions. Perception and intensity can vary due to this. The probability of interference can be reduced by cable operators, mobile telecommunication providers and consumers implementing suitable measures. Replacing peripherals shall also contribute towards reducing the probability of interference. This has been picked up by the European Commission and the Commission has asked the ETSI (European Telecommunications Standards Institute) and CENELEC (Comité Européen de Normalisation Electrotechnique) to carry out further research into the standards for user equipment. Research is being carried out into whether this may lead to an amendment of the harmonised standards.

Co-ordination between the involved market parties (mobile operators and the cable sector) is the best possible way to arrive at a solution for interference in relation to the strongly local nature of the interference. Setting strict generic conditions with regard to A1 and B licences to limit this probability of interference would lead to an inefficient spectrum use in view of the local nature of the interference. These strict conditions would, after all, also apply to places where they are not required in advance. Setting such strict conditions, therefore, does not fit in appropriately with the policy deployed in the 2005 Frequency Policy Documents to link as few conditions as possible to licences.

Involved parties have concluded an agreement on 27 June 2011 within the boundaries set by the Telecommunications and Competitive Trading Acts that focuses on offering a suitable solution in all cases for interference issues at customers of cable operators that can arise as a result of electronic communication services in the 800 MHz band based on joint agreements.

The aforementioned agreement between private parties does not affect the measures that the supervisory authority can implement through or by virtue of the Dutch Telecommunications Act.

Regulations and restrictions may be linked to a licence based on Section 16 of the Frequency Decision that relate to causing barriers in radio transmission or receiving equipment or in electrical or electronic devices by the required signal of a radio transmission device. Partly due to a request from the House of Representatives (Parliamentary Documents II 2010/11, 32 546, no. 27), a provision has been included in the licence for the 800 MHz band with which the Minister can make the licence holder take the required measures to remove interference. For example, when cable operators and mobile telecommunication providers do not arrive at a suitable solution based on the agreements made jointly that arise from the aforementioned agreement. This must, however, be reasonable and responsible partly with a view to protecting the consumer. In addition, the consumer can do all that is required and in his or her power to solve the interference such as using better (more immune) cables.

Apart from interference on the cable and related peripherals, applying mobile communication in the 800 MHz band may also lead to interference on the ether broadcasting distribution (Digitenne). It requires further attention to arrive at a suitable solution.

For that matter, mobile operators who are a party to an agreement within the boundaries set by the Telecommunications and Competitive Trading Acts that focuses on offering a suitable solution in all cases for interference issues at customers of cable operators that can arise as a result of electronic communication services in the 800 MHz band based on joint agreements are not acting in derogation from Section 16 for the sole reason that they are a party of such an agreement in the opinion of the Minister.

2.10 Tradability

A licence can be partially or fully transferred to another party upon the request of the relevant licence holder. The Dutch Ministry of Economic Affairs, Agriculture and Innovation must, however, give consent. The advice of OPTA and Netherlands Competition Authority may also be sought. When assessing the applications of licence holders to (partially or fully) transfer licences acquired through this auction, the Minister shall in the method as worded in the letter to the House of Representatives of 7 June 2011 (Parliamentary Documents II 2010/11, 24 095,

no. 284) and taking into account the preference of the House of Representatives not to sell on the spectrum to other licence holders (Parliamentary Documents II 2010/11, 24 095, no. 276).

In addition, it has also been indicated in the strategic policy documents for the reserved A1 licences that these may not be sold during the term of the obligation to put into use to one of the three existing parties (this also includes members of the party's group). In practical terms, this means that the Minister shall fulfil his power of assessment in such a way that he shall, in principal, decide negatively for the first five years after licence award with regard to the application to transfer the A1 licences to one of the three existing parties. The intention is that these licences are purchased by a party who wishes to be active and not by a party whose intention is to sell on the frequencies. These licences may be transferred to another party than one of the three existing parties during the duration of the obligation to put into use with the permission from the Minister. The party that acquires an A1 licence shall at least meet the related obligation to put into use after five years.

The above shall apply mutatis mutandis to the reserved A2 licence. After all, it also applies to this licence that it should be purchased by a party who wishes to become active and not by a party who wishes to sell on the frequencies.

If a newcomer is unable to have a viable business case after five years, the newcomer should be offered the opportunity to transfer the licence to another party who is able to deliver competitive services and realise innovation. A longer term than five years may, in this case, lead to a reduction of the competitive effect, innovation not being realised and to a lower effective use of the frequency spectrum. From a competition point of view, the OPTA and Netherlands Competition Authority shall be asked to provide their recommendations if a request is received to give consent for the transfer of reserved licences between five and ten years after licence award.

3. Application procedure

Pursuant to Section 3.3(1) of the Telecommunications Act [Telecommunicatiewet], the use of frequency spectrum requires a licence from the Minister of Economic Affairs, Agriculture and Innovation. In order to obtain a licence, an application must be submitted. In compliance with Section 4 of the Frequency Decree [Frequentie Besluit] , the present Regulation describes the manner in which an application for a licence for mobile communication applications must be made and what information must be submitted with the application. The Regulation also

stipulates which of the requirements referred to in Section 6 of the Frequency Decree an applicant must satisfy in order to be admitted to the allocation procedure (admission requirements). In addition, the present Regulation serves to implement Section 8 of the Frequency Decree by providing rules, in the context of the consideration of a licence application, concerning the manner in which the auction takes place.

The application procedure starts with the submission of the application in accordance with Section 8, Subsection (1). Each applicant submits one application, indicating the number of activity points to which the application relates, with due observance of the total frequencies that can be acquired. Should the applicant be admitted to the auction, the number of activity points specified by the applicant on the application is the upper limit during the auction. For the purpose of establishing the need to hold an auction (see Chapter 4), the applicants must also indicate in their applications whether they have a preference for specific frequency bands.

It emerged in the auction of frequency use rights in the 2.6 GHz band that the group concept used at that time was insufficient to prevent that strongly allied parties in either a joint venture or separate from this could participate in the auction. The broadening of the group concept in the present auction with regard to the Regulation on the Application and Auction Procedure for 2.6 GHz Licences has the aim of preventing this situation from repeating itself.

Only one application may be submitted for each group. To determine whether applicants belong to one and the same group, they are all obligated to include a legal organisational chart with their application (see part A.3 of Annex I). Applicants are advised to provide full details when providing the requested information. If the information is deemed insufficient to be able to form a good opinion about the group ratios, the provisions contained in Section 18.7 of the Act may be applied. All information can be sought based on this Section that is required for performing that which has been determined by or by virtue of the law.

Section 11 includes requirements that must be fulfilled by an applicant. Subsection 2 of this Section sets down a number of requirements that must provide some security in relation to the creditworthiness of an applicant. The intention is to prevent that an applicant is unable to honour his or her bids. Within this context, an applicant may not be bankrupt or wound up, not have been granted a moratorium or the applicant may not have applied for a moratorium and there must not be an attachment on a significant part of the applicant's equity or

corporate resources that form a significant part of the applicant's equity. In view of the aforementioned intention of this provision, a significant part of the equity forms in every case an attachment that is of such a scope that it must be doubted in all reasonableness whether this applicant can honour his or her bids.

In principle, the application and the data and documents to be enclosed with the application must be drawn up in Dutch. An exception to this rule can only be made for market parties based in a Member State of the European Union or one of the other states that are party to the European Economic Area Agreement (see Section 8, Subsections (11) to (13)). The data and documents as referred to in Annex I may have been drawn up in the language of those states. In that case, however, a Dutch translation of those documents must be enclosed.

Section 4:5 of the Dutch General Administrative Law Act [Algemene wet bestuursrecht] offers the option of rectifying an omission when the applicant has not met any legal regulation for processing the application or if the provided data should be deemed insufficient for the assessment of the application or for the preparation of the decision. A discretionary power is included for the Minister in Section 10, Subsection (7), not to process an application if an application does not meet or does not fully meet the set requirements after the option of rectifying an omission.

The following is important with regard to the method in which he shall use the power allocated to him by virtue of Section 10, Subsection (7). Significant commercial interests are at play in relation to a distribution. For future licence holders and their investors, it is important that they can make a fair estimation of the (legal and commercial) consequences of the decisions of the Minister. In the unlikely event that an applicant is admitted wrongly to an auction or has been excluded wrongly from an auction, this may have significant consequences. Therefore, it is important that as much clarity is offered as possible. Insofar as the legal framework may allow this, the policy is geared towards giving applicants one chance to rectify an omission. Should an applicant thereafter not (fully) meet the set requirements, the applicant's application shall not, in principle, be processed.

Should an application be submitted that is related to more activity points than for which the applicant is eligible, this application shall be denied (after being given the opportunity to rectify the omission) insofar as this application surpasses the allowed number of activity points (Section 10, Subsection (3c) and Subsection (9)). It is not proportional to reject such an application completely. Within the context of determining whether there is a necessity to auction (Section 12), the application shall have to be modified so that it does not refer to more activity points than for which the applicant is eligible. Without such an amendment it

cannot, after all, be determined whether scarcity is indeed involved. Furthermore, the amendment is required to be able to award licences should it become apparent that scarcity is not involved based on Section 12. Before an application related to more than the allowed activity points is rejected, the applicant shall, therefore, be asked to indicate which licences or frequency spectrum the applicant prefers.

Although very unlikely, the situation may arise that no or insufficient valid applications for the reserved spectrum are submitted (A1 and A2 licences). In this exceptional case, there are no more grounds to maintain the exclusive reservation of this spectrum for newcomers in view of the expected scarcity in the 800 MHz and 900 MHz bands:

- Section 3, Subsection (1), makes arrangements for the situation when there are no (valid) applications for the A2 licence in addition to (valid) applications for two or more A1 licences. When this is the case, this category shall no longer apply and the A2 licence shall be added to the C category as the seventh licence.
- Section 4, Subsection (1), makes arrangements for the situation that there is only demand for one A1 licence and that there is no (valid) application for an A2 licence amongst the (valid) applications. When this is the case, one A1 licence shall be added to the B category as the fifth licence and the A2 category shall no longer apply as a whole where the A2 licence shall be added to the B category.
- Section 5, Subsection (1), makes arrangements that if there is only a demand for one A1 licence in addition to the demand for one or more A2 licences amongst the (valid) applications, one A1 licence shall be added to the B category as the fifth licence.
- Section 6, Subsection (1), makes arrangements that if there is no demand for the A1 licences and there is a demand for one or more A2 licences amongst the (valid) applications, both A1 licences shall be added to the B category as the fifth and sixth licences.
- Section 7, Subsection (1), makes arrangements that if there is no (valid) applications for the A1 and A2 licences, both categories shall no longer apply as a whole where the A1 licences shall be added to the B category and the A2 licence shall be added to the C category.

This shall ensure that the original reserved spectrum shall be made available to all applicants. This shall ensure that the spectrum is not reserved unnecessarily and, therefore, that a less efficient auction takes place. Applicants must elaborate these alternatives in their application. The alternatives are shown schematically in the table below:

Section in Regulation	number of applications for licence A1	Number of applicattions for licence A2	Total number of available licences per category								
			A1	A2	B	C	D	E	F	G	H
Section 2 (2)	2 or more	1 or more	2	1	4	6	14	2	1	10	1
Section 3 (1)	2 or more	0	2	0	4	7	14	2	1	10	1
Section 4 (1)	1	0	1	0	5	7	14	2	1	10	1
Section 5 (1)	1	1 or more	1	1	5	6	14	2	1	10	1
Section 6 (1)	0	1 or more	0	1	6	6	14	2	1	10	1
Section 7 (1)	0	0	0	0	6	7	14	2	1	10	1

Table 9: Overview of available licences

4. Establishing the need to hold an auction

Although it is expected that the demand for licences A1 to G shall exceed the available licences, Section 12 of the Regulation makes provisions for the situation in which there is no need to hold the auction (or no need to hold the entire auction). The determination of scarcity within this context takes place for all licences and not for each licence type because all licences are regard as substitutable. The following example can be given with regard to this issue. Imagine that the applications show that there is a scarcity for licences A1, A2, B and C but not for D, E, F, G and H licences. These applications, however, do not show that party X wishes to convert his or her application for B licences into an application for D licences when the demanded price is too high. If the scarcity determination takes place for each licence type, the D, E, F, G and H licences shall, however, be distributed without an auction taking place and it shall be made

impossible for party X to make this switch during the auction should there be reason to do so for him.

Firstly, a situation may occur in which an auction is not required at all, This is the case when the demand can be fully met with regard to the available licences and none of the applicants has a preference for specific frequency spectrum (Section 12, Subsection 2(a) or Subsection 3, 4, 5, 6 or 7) or when only one application has been submitted (Section 12, Subsection 2(b)). An auction shall not take place in this case (Section 12, Subsection (2)). In that case, the licences shall be free of charge. However, the licensee shall be charged award and supervision costs based on the annually updated Regulation on Radiocommunications Agency Netherlands fees [Regeling vergoedingen Agentschap Telecom].

In addition to the above situation in which an auction shall not take place at all, the situation may arise that an auction shall be required but that it serves no purpose to go through all the stages of an auction. It may be, for example, that the demand for the available licences can be met, but that applicants have expressed a preference for specific frequency bands. In this situation, the auction can go straight to the assignment bid round (Section 12, Subsections (9), (10), (11), (12), (13) and (14)) because the only aspect that is not known yet is the applicants' preference (if any) for specific frequency bands. In that case, only the so-called extra price shall be paid for the licences, pursuant to Section 41(3).

Finally, it may appear at the end of the supplementary bid round that there is no point in holding an assignment bid round. Two situations are possible in this regard. Firstly, the situation may present itself that only one alternative for frequency spectrum exists for all licences A1, A2, B, C, D, E or G or any alternative that may present itself under Sections 3 to 7 (and, thus, for all participants whose bid is a part of the combination of winning bids). Secondly, a situation may occur in which the combination of winning bids shows that for one particular type of licence (for instance the E licence) there is only one winner (the combination of winning bids contains only one bid that relates to E licences). In both cases, it can already be determined for which frequency spectrum those licences must be awarded based on Section 2, Subsections (5) to (12), or Sections 3, Subsection (2) or (3), 4, Subsection (2) or (3), 5, Subsection (2), 6, Subsection (2) or (3), or 7, Subsection (2), (3) or (4). Therefore, Section 35, Subsection (1), provides that in such a situation the licences concerned may be awarded without holding an assignment bid round. In that case, only the base price shall be paid based on Section 32.

It should be noted that if the combination of winning bids only has one bid that is related to the A1 and/or A2 licences, it can still not be determined for which frequency spectrum these licences must be awarded with regard to these licences. This is because A1 and A2 licences are located in the same frequency band as B and C licences, respectively. Only when the combination of winning bids points to one winner for both A1 and B licences and/or one winner for both the A2 and C licences, shall the situation arise that an assignment bid round shall no longer be required for these licences.

5. Auction model: combinatorial clock auction

The model that is used for this auction as also used with regard to the 2.6 GHz auction; what is commonly referred to as the combinatorial clock auction. The auction shall be held online. Any party in possession of a computer with an Internet connection can technically take part in the auction.

5.1 Considerations for this model

The aim of the auction model is to guarantee the feasibility of the auction objectives. These are the following for the auction in order of priority: low admission thresholds (opportunities for newcomers), efficient allocation (licences must be awarded to the parties that know how to create the most value and the spectrum to be acquired must be contiguous as much as possible) and realistic proceeds from auction (pricing in line with the market and preventing the "winner's curse" by, for example, using the "second price rule"). The auction model must also guarantee that the auction can be executed efficiently and practically, that as much collusion door parties or strategic purchasing behaviour is avoided as possible as well as there being as much transparency and freedom of choice as possible during the bidding process for and to the participants.

The auction model that does justice as much as possible to the above principles is the combinatorial clock auction. The auction model selected is based on two external studies (SEOR, Advice about the distribution of TDAB, 2.6 GHz and FM/AM frequencies, June 2007 and DotECon, Auction model and electronic system for the Dutch 2.6 GHz auction, November 2007). The research performed by DotEcon forms the basis for the auction model but it deviates with regard to a number of points (partly) including with regard to the security deposits, sanctions, number of activity points, deposit instalments to be applied, an "emergency brake procedure" (Sections 3 to 7 of the regulation) to be used and announcing information to the participants of the auction. This auction model is an efficient approach to auction multiple licences that are both substitutable and

supplementary to each other. The auction shall take place through an electronic auctioning system where the Internet is used. The 2.6 GHz frequency auction also took place in spring 2010 through the Internet and frequency auctions have also taken place through the Internet in other countries (such as Norway, Sweden and the United Kingdom). A similar auction to the auction that is subject of this regulation is expected to take place in Switzerland in 2012. Electronic auctioning over the Internet has the great advantage that lower costs are incurred by industry. Because as well as saving on travel and accommodation expenses, the costs of communication and coordination between on-site bidders and decision makers at the head office shall also be significantly lower than if the auction were held on site.

The basic premise of the auction is, moreover, to provide participants with the greatest possible transparency. Transparency must, however, not lead to collusion being abetted and that newcomers are deprived. The decision was taken for this reason that the number of participants shall be announced when the auction starts but not who these participants are.

5.2 The way in which the model works

The combinatorial clock auction consists of two stages:

1. The principal stage of the auction, comprising the primary bid rounds and the supplementary bid round. Participants only bid on the number of licences A1, A2, B, C, D, E, F and G during this phase. The specific frequency spectrum to which a licence may relate remains undetermined at this stage. The principal phase has primary bid rounds in which demand, supply and price are synchronised with each other. The price of the licences (A1, A2, B, C, D, E, F or G) goes up during each round and participants can indicate how many licences they wish to acquire for that price. The round price shall be increased until demand is no longer greater than supply. The principal phase is concluded with in principle one supplementary bid round in which participants can bid on different combinations of licences (A1, A2, B, C, D, E, F or G) that they indicate. Participants can then also switch between licences. Which participants have won A1, A2, B, C, D, E, F or G licences and how many licences they have won are determined at the end of the supplementary bid round.

2. The Assignment stage that in principle consists of one assignment bid round. During this assignment bid round, it is determined to which specific place in the frequency band the licences relate that the participant 'won' during the principal

stage. This bid round is open only to those participants that won licences during the principal stage.

The following paragraphs describe the principal and the award stage in more detail.

5.3 The principal auction stage (primary bid rounds and supplementary bid round)

5.3.1 Primary bid rounds

Purpose of the primary bid rounds

The aim of the primary bid rounds is determining what the approximate valuations are for the A1, A2, B, C, D, E, F and G licences. The primary bid rounds are based on the clock auction principle. Bidders bid once for A1, A2, B, C, D, E, F or G licences in every round (for example, 2 B licences, 2 C licences and 4 D licences) for the applicable round price per licence. Bids are made for A1, A2, B, C, D, E, F or G licences without it having been determined to which specific frequency spectrum the A, B, C, D, E or G licences are linked. The primary bid rounds continue until the total demand is smaller than or equal to the total supply of licences.

Although the purpose of the primary bid rounds is to determine the approximate valuation of the various licences, any valid bid in a primary bid round may eventually be part of the combination of winning bids (Section 31(2)). Participants shall be unconditionally and irrevocably bound by their bids (see Section 19(2)) and are therefore advised only to submit serious bids in the primary bid rounds.

Round prices in the primary bid rounds

When the first primary bid round is started, the bidders start with a minimum amount of € 35,000,000 for an A1 or B licence, € 28,900,000 for an A2 or C licence, € 4,125,000 for a D licence, € 810,000 for an E licence, € 590,000 for an F licence and € 585,000 for a G licence (Section 26, Subsection (1)).

This minimum amount is also referred to as the reserve. The aim of having a reserve price is to stop non-serious bidders but also to ensure that the auction proceeds more smoothly. The reserve price must not be too low (because this shall not sufficiently stop non-serious bidders) but it must not be so high that (smaller) parties are frightened away. Serious bidders not being able to recover the reserve price during the duration of the license and the obligation to put into use must be prevented.

Firstly, an estimation that is as realistic as possible must be made of the value of an 800 MHz licence, which is the most valuable part of the spectrum to be awarded, to determine the reserves. For this purpose, the proceeds of the 800 MHz band in Germany where this band was auctioned in April/May 2010 has been taken as the reference point. The market differences between Germany and the Netherlands have been taken into account within this context. The reserve price for the 800 MHz licences has been set at approximately 30% of this estimated value. The reserve price of the 800 MHz licences was taken as the point of departure when determining the reserves for the other licences. Subsequently, correction factors were applied. The expected roll-out costs, the difference in durations between licences, the difference in lot sizes and the difference between the paired and unpaired spectrum were, for example, taken into account (also see Creed, Advice: Auction of 800, 900 and 1800 MHz licences, Amsterdam, 31 January 2011).

During the primary bid rounds, the Minister shall increase the price for each individual licence category per bid round as long as there is scarcity. Participants indicate in their bids how many licences of which type they want to obtain for the round price specified by the Minister. It applies to the A1 and A2 licences that only newcomers are eligible to being awarded these licences.

The basic premise is that the round price of a licence shall be increased if the bids show that that this licence is scarce (see Section 26(2) to (14)). This increase may differ for each licence category. It may, for example, be the case that the price for the C licences increases by 5% while the D licence price increases by 12%. It applies as a principle with regard to the degree in which the round prices are increased that the round price for a licence shall not, in principle, be increased by more than 100% in relation to the round price for that licence in the prior round. The Minister may deviate from this premise if he considers it necessary to do so for a balanced development of demand or for the efficient running of the auction (Section 26, Subsections (15) and (16)).

Activity level and activity points in the primary bid round

In order for a participant's bid to be valid, the activity level of its bid in a particular round must be lower than or equal to that participant's activity level in that round (see Section 22(5)). This condition must be imposed in order to make the total demand for licences clear from the start of the auction (in other words, in order to prevent participants from withholding their demand for strategic reasons).

Each licence is equivalent to a number of activity points (see Section 22(1)). An A1, A2, B or C licence, for example, equates to fifteen activity points. A bid for two B licences is therefore equivalent to a bid with an eligibility level of 30 activity points (2 x 15). The D licence equals two activity points. The other licences are each equal to one eligibility point with the exception of the G licences regarding which a deviating rule applies (Section 22, Subsection (1e)). This exception is related to the requirement of implementing guard bands between different licence holders in the unpaired section of the 2.6 GHz band (see paragraph 2.4 of these explanatory notes).

The number of licences to which a bid relates is capped by:

- On the one hand, the maximum frequency spectrum for which licences are granted to an applicant (Sections 2, Subsections (11) and (12), or 3, Subsections (3), 4, Subsections (3), 5, Subsections (2), 6, Subsections (3), 7, Subsections (4), respectively) or the maximum of activity points; and
- On the other hand, a participant's eligibility level in the round in which the participant wants to submit a bid (Section 22, Subsections (3) and (5)).

The cap of 220 and 190 activity points (Section 2, Subsections (11) and (12)), respectively, is a constant cap in the sense that this cap always applies (in every primary bid round and in the supplementary bid round). This maximum for other participants is higher when the situation as referred to in Sections 3 to 7 of the regulation occurs. A participant's eligibility level depends on the round in which the participant is bidding (see the next two paragraphs and Section 22, Subsection (3)).

In the first primary bid round, that which a participant may bid in accordance with the provisions arising from Section 22, Subsection (3a) and Subsection (5), has been capped by the eligibility level of that participant. Should, for example, the participant have submitted a valid application for 30 activity points and this participant has been informed in accordance with the provisions arising from Section 14, Subsection (1), that he may acquire licences for 30 activity points during the auction, the participant may bid for 30 activity points during the first primary bid round (for example, a B licence, that is, fifteen activity points, plus a C licence, that is, fifteen activity points). Alternatively, the participant may opt to bid for a lower number of activity points in the primary bid round than the number to which the participant's application relates. Choosing this possibility shall, however, affect the participant's bidding options in the subsequent rounds (see next bullet point).

A participant may make a bid for the same number of activity points as in the preceding round or a lower number of activity points in every round that follows

from the primary bid rounds (second, third, etc.) in accordance with the provisions arising from Section 22, Subsections (3b) and (5). For instance, if the participant submitted a bid equivalent to 30 activity points in the first primary bid round, the participant can bid for the same number or for a lower number of activity points (say, 15) in the subsequent round (in this example: the second primary bid round). It is expected that, as a result, the total demand of each participant shall gradually decline as the price increases. Furthermore, this approach shall preclude an increase in the total demand for licences, which creates clarity in the auction process.

The auction system software checks whether a participant's bid complies with the cap of maximum activity points (Sections 2, Subsections (11) and (12)) or 3, Subsection (3), 4, Subsection (3), 5, Subsection (2), 6, Subsection (3) and 7, Subsection (4), respectively) and with the cap applicable to that participant in the round in question (Section 22, Subsection (3) and (5)). If a participant submits a bid in excess of these caps, that bid shall be invalid (Section 20(2)(b)).

A participant is not obliged to continue bidding in each primary bid round and may cease bidding at any time. If the participant decides not to bid in a primary bid round (e.g. round 7), its eligibility level for the subsequent rounds (for example, 8, 9, etc.) shall be zero and the participant can submit no more bids.

Other requirements in the primary bid rounds

In each primary bid round, participants can submit no more than one bid per round (Section 24, Subsection (2)). In addition, only valid bids shall be accepted (see Section 20 and paragraph 5.7).

Duration of the primary bid round

If a participant allows a bid round to expire without submitting a bid, that bid round shall be extended once only for that participant by operation of law by a period of 30 minutes, on the understanding that a participant shall be granted an extension in no more than two primary bid rounds (Section 23, Subsection (2)). An extension period shall last no more than 30 minutes, but may end earlier if all participants exercising their extension rights have submitted their bids. The extension period only applies to participants who have not made a bid during the normal round period, have permission to extend from the Minister and still have activity points. Participants that have already submitted a bid can take no further action during the extension period. Participants shall be informed that the round has been extended and that they must wait for the announcement that the extension period has ended. Participants that did not submit a bid during the primary bid round and have no remaining extension rights shall not be able to

submit a bid during the extension. These participants can no longer make a bid in later primary bid rounds.

The primary bid rounds terminate in accordance with the provisions made in Section 27, Subsection (1), when the demand for licences can be satisfied. As an exception, the Minister may terminate the primary bid rounds without the demand for licences being smaller or equal to the supply when this is deemed necessary for an efficient auction process (Section 27, Subsection (2)).

5.3.2 Supplementary bid round

Purpose of the supplementary bid round

The primary bid rounds are followed by the supplementary bid round, This is one bid round (that can be held again for no more than three times based on Section 31, Subsection (3)) in which all bidders are given the opportunity to make different bids for (combinations of) licences. The bid options in the supplementary round are determined by the bid behaviour in the primary bid rounds.

A very large number of bids can be submitted in the additional bid round because of the number of licence categories that are auctioned. This has consequences with regard to the time that is required to submit the bids, for the operation of the electronic auctioning system and for the time that is required to process the submitted bids and to determine the base prices. Therefore, a maximum has been set with regard to the quantity of (package) bids to be made in the supplementary bid round (Section 29, Subsection (2)). This shall also ensure that non-serious participants are unable to disrupt the auction process. A maximum of 2000 bids has been selected so that participants have sufficient options to make bids but cannot make such many bids that the auction process can be frustrated.

Eligibility level and activity points in the supplementary bid round.

The eligibility rule also entails restrictions for the supplementary bid round This is required to ensure that participants also make serious bids during the primary bid rounds. For example, if a participant reduced its eligibility level in a particular primary bid round (its total demand for licences declined when the price increased), it would not, in principle, be reasonable if this participant were subsequently permitted to submit a bid with a higher eligibility level for an unexpected high amount in the supplementary bid round because this participant could then withhold its demand in the primary bid rounds, which would frustrate the proper, transparent and efficient running of the auction.

The number of activity points to which a bid is related in the supplementary round has, in principle, been capped by:

- On the one hand, the maximum frequency spectrum for which licences are granted to an applicant (Sections 2, Subsections (11) and (12), or 3, Subsections (3), 4, Subsections (3), 5, Subsections (2), 6, Subsections (3), 7, Subsections (4), respectively) or the maximum of activity points; and
- On the other hand, a participant's eligibility level, that is, the activity level of the participant's bid in the last primary bid round (Section 22, Subsection (3c) and (5)).

Pursuant to Section 22, Subsection (6), the eligibility level of a bid in the supplementary bid round may still be higher than the eligibility level of the participant (namely, the eligibility level of the participant's bid in the last primary bid round), provided that the eligibility level of the bid in the supplementary bid round is not higher than the number of activity points that have been announced to the participant based on Section 14, Subsection (1).

Minimum prices in the supplementary bid round

Section 30, Subsection (1) specifies the minimum bid to be made by a participant in the supplementary bid round for each (type of) licence. These minimum bid amounts agree with the prices for the licences in the first primary bid round. If participants were able to submit bids for lower amounts in the supplementary bid round, the supplementary bid round would lose its effect and use, which would be inefficient for the purpose of the auction.

Furthermore, Section 30, Subsection (2), sets a minimum as regards the amount that a participant can bid in the supplementary round where the participant also bid (for the same numbers and type) in a primary bid round. If a participant has, for example, made a bid (for example, one B licence, two C licences and one D licence) in a primary round for € 127,495,000 and the participant wishes to submit a bid for the same package in the supplementary bid round (therefore, one B licence, two C licences and one D licence), then the participant's bid in the supplementary bid round must be higher than € 127,495,000.

Maximum prices in the supplementary bid round

Maximum prices per participant also apply in the supplementary bid round. These are based on the bids of a participant in the primary bid rounds. An overview of the different bid restrictions that apply in the supplementary bid round based on Section 30, Subsection (3) and (4) are provided in the table below. Within this context, a distinction is made between, on the one hand, a bidder who has stopped bidding before the last primary bid round and, on the other hand, a bidder who has bid up to and including in the last primary bid round. Moreover, in

the supplementary bid round restrictions apply for bids on (a) the package for which a participant bid in the last primary bid rounds, (b) packages representing the same activity level but composed of different licences and (c) packages with a smaller or higher activity level than the package for which the bidder bid in the primary bid rounds.

	Participant quit bidding before the final primary bid round	Participant has bid up to and including the final primary bid round
The same package as his final package	bid is limited to the amount that the package would have cost in the round in which the bidder stopped bidding(=RPn(Y))	unlimited
Packages with a similar activity level as his final package, only with a different composition	maximum bidding amount is calculated by means of the relative cap rule	maximum bidding amount is calculated by means of the relative cap rule
Packages with a higher activity level than his final package	maximum bidding amount is calculated by means of the relative cap rule	maximum bidding amount is calculated by means of the relative cap rule
Packages with a smaller activity level than his final package	maximum bidding amount is calculated by means of the relative cap rule	maximum bidding amount is calculated by means of the relative cap rule

Table 10: Overview of bidding restrictions in the supplementary bid round

Bid on the final package in the supplementary bid round

If a participant still participated in the last primary bid round (issued a bid with an eligibility level higher than zero), a maximum amount does not apply to this participant for bids on the participant's final package (the specific combination of licences on which the bidder made a bid in the last primary bid round) in the supplementary bid round (Section 30, Subsection (5)). If a participant dropped out in a primary bid round (the participant issues his last bid with an eligibility level higher than zero in another primary bid round than the last primary bid round), a maximum amount shall apply to this participant for bids on the participant's final package in the supplementary round (Section 30, Subsection (4)). The participant may not bid a higher amount for the participant's final package (the last package of more than zero activity points on which the

participant has made a bid in the primary bid round) than the amount that this package would have cost in the primary bid round after the bid round in which the participant issued his final primary bid (the round in which the participant 'withdrew').

Bid on another package than the final package in the supplementary bid round

A maximum amount applies to bids on another package than the final package (with a higher or lower total number of activity points or the same eligibility level but another combination of licences) based on Section 30, Subsection (4). The amount of that maximum amount is calculated based on the following formula (Section 30, Subsection (4)) that is also referred to as the 'relative cap':

$$SB(X) \leq B_{\max}(Y) + (RP_n(X) - P_n(Y))$$

The following steps are followed to determine the different terms in the formula for the relative cap rule and, therefore, to determine the maximum bidding amount for a specific package in the supplementary bid round (package 'X') – or, what is the maximum supplementary bid that may be issued for package X (' $SB(X)$ '):

- Firstly, a check is made to determine in which bid round the participant had a sufficiently high eligibility level for the last time in order to issue a bid on a combination of licences ('package') regarding which the participant wishes to issue a bid in the supplementary bid round. This package, the package regarding which the participant wishes to issue a bid in the supplementary bid round, is referred to as package 'X' and the relevant primary bid round is referred to as round 'n'.
- Secondly, a check is performed to determine the package regarding which the participant has actually issued a bid in round n. The price of this 'package Y' forms the term ' $P_n(Y)$ '. Or, the price in round n of package Y.
- Thirdly, the price is calculated that package X could fetch in round n based on the round prices. The price of package X in round n forms the term ' $RP_n(X)$ '. Or, the price in round n for package X.
- Fourthly, a check is performed to determine the maximum bid that the participant has issued for package Y. This amount is referred to as ' $B_{\max}(Y)$ '. Or, what is the maximum bid that the participant has issued for package Y. This maximum bid does not necessarily have to have been issued in round n but may have been made in a later primary bid round or even in the supplementary bid round. It may, for example, be the case that the participant issues a bid in round n for a specific package ('package Y') and that the participant, subsequently, continues to bid on this package up to the

last primary bid round. When, subsequently, the participant issues another bid on this package in the supplementary bid round, ' $B_{\max(Y)}$ ' shall, therefore, be the price of package Y in the supplementary bid round.

The following example should be viewed as illustration of the aforementioned and is purely fictitious.

Imagine that 14 licences are auctioned. The process of the auction for participant A in the primary bid rounds is shown below. The primary bid rounds end after round 7:

Round	Price per licence	Package bid	Price to this package
1	€ 1.000.000,00	10	€ 10.000.000,00
2	€ 1.500.000,00	10	€ 15.000.000,00
3	€ 1.630.000,00	8	€ 13.040.000,00
4	€ 1.760.000,00	8	€ 14.080.000,00
5	€ 1.890.000,00	6	€ 11.340.000,00
6	€ 2.100.000,00	4	€ 8.400.000,00
7	€ 2.200.000,00	4	€ 8.800.000,00

A bid on the package of 4 licences is unlimited (Section 30, Subsection (5) but also see Table 10). Participant A bids an amount of € 9,000,000 for this package in the supplementary bid round. Subsequently, the participant wishes to issue a bid on a package of 6 licences ('package X'). The maximum amount that the participant may pay for this is determined by the formula of the relative cap ($SB(X) \leq B_{\max(Y)} + (RP_{n(X)} - P_{n(Y)})$). The result is calculated as follows:

Firstly, a check is performed to determine in which primary bid round participant A was allowed to bid on 6 licences lastly ('round n'). This is primary bid round 6. The participant, however, bid on a package with 4 licences ('package Y') for a total amount of € 8,400,000 in that primary bid round. This last amount is the term $P_{n(Y)}$ in the formula (the price in round n of package Y).

Subsequently, the price of a package of 6 licences in round 6 would have cost must be calculated. This would have cost € 12,600,000 (6 x € 2,100,000). This amount is the term $RP_n(X)$ in the formula (the price in round n of package X).

To conclude, the maximum bid that participant A has issued for the package of 4 licences must be determined. This is the bid of € 9,000,000 that the participant issued in the supplementary bid round and, therefore, not the bid of € 8,800,000 that the participant issued on this package in round 7. This amount of € 9,000,000 is the term $B_{\max}(Y)$ in the formula (the maximum bid that participant A has issued for package Y in the primary or supplementary bid round (n)).

The maximum amount that participant A, therefore, may bid for a package of 6 licences is: € 9.000.000,- + (€ 12.600.000,- - € 8.400.000,-) = € 13.200.000,-.

Duration of the supplementary bid round

The participants shall be told before the start of the auction how much time has been set aside for the supplementary bid round. If a participant fails to submit a bid within the specified duration of the supplementary bid round, then that participant shall automatically be granted an additional period of 30 minutes in which to submit a bid based on Section 23, Subsection (1). The Minister may also grant a further extension in the event of exceptional circumstances or in the event of an electronic fault (Section 23(2)).

5.3.3 End of the principal stage: Establishing the combination of winning bids

Establishing the combination of winning bids

After the supplementary bid round, all the bids from the primary bid rounds as well as the supplementary bid round are considered together in order to determine the winners of the principal stage of the auction (Section 31). The main preconditions are the principles for licence granting set out in Sections 2, Subsection (3) to (12), or 3, Subsections (2) and (3), 4, Subsections (2) and (3), 5, Subsection (2), 6, Subsections (2) and (3), and 7, Subsections (2), (3) and (4), respectively. These criteria are meant to ensure amongst other things an efficient allocation of the frequency spectrum (see Chapter 2 for further details). In addition, it is an absolute requirement that the combination of winning bids must contain no more than one bid per participant.

The combination of bids that satisfies the above requirements and generates the highest proceeds shall be the combination of winning bids. As soon as the combination of winning bids has been established, a participant whose bid is part of that combination shall know how many A1, A2, B, C, D, E, F or G licences the participant shall obtain. At this stage, the participants do not know the specific frequency range for which they shall receive a licence because the ranges only become clear at the end of the assignment bid round.

If there is no unique combination of winning bids, the supplementary bid round can be repeated three times at most. If there is still no unique combination of winning bids, lots shall be drawn (Section 31, Subsections (3) and (4)). This drawing of lots shall take place through the software of the auction model under the supervision of a civil-law notary.

Determining the base price

A base price is determined for each winning bid based on Annex III (Section 32). This base price is based on the 'second-price rule', in which the point of departure is not the amount bid by the winning participants, but the so-called opportunity costs. In the present context, this term refers to the amount which the alternative combination of winners would have had to pay if the combination of winning bids had not existed. The winning participants do not pay the amount they bid (in their winning bid), but the amount which the alternative combination of winners – in the above fictitious situation – would have paid.

5.4 The assignment bid round

Purpose of the assignment bid round

This round determines how the available spectrum in the different frequency bands shall be allocated among the winning bidders. After the principal phase, the winners shall be known but they shall only know how many A1, A2, B, C, D, E or G licences they have won. Only the winner of the F licence shall know for sure what place he or she has in the spectrum once the primary rounds have been completed. During the assignment round, the specific place in the spectrum shall be determined, i.e. the specific frequencies for which the winners shall obtain a licence. If the combination of winning bids shows that there is only one winner for the A1 and B, A2 and C, D, E or G licences, an assignment bid round shall not be held for that licence type.

Course of the assignment bid round

In derogation from the primary bid round and the supplementary bid round, the awarding bid round comprises at most five separate bid rounds that take place

simultaneously. These simultaneous bid rounds lead to five final combinations of winning bids: an assignment bid round and one final combination of winning bids for A1 and B licences, one final combination of winning bids for A2 and C licences and, for each of the D, E and G licences, also an assignment bid round and one final combination of winning bids. Holding five separate awarding bid rounds for the A1 and B (jointly), A2 and C (jointly), D, E and G licences has, for example, the advantage that the awarding bid round does not have to be repeated for all licence types when there is a non-decisive outcome (for example, several final combinations of winning bids for the D licence; see Section 40, Subsection (3)).

Before the awarding bid round starts, the Minister shall draw up a list of the bid options that he has in the awarding bid round per licence type (A1 and B jointly, A2 and C jointly, D, E or G) for every participant (Section 38). Based on this list, each participant can see the specific frequency range for which the participant might receive licences. A participant in the assignment bid round can only submit a bid for a bid option appearing on this list (Sections 37(6) and 38). Should the participant issue a bid on an option that is not included on this list, the participant's bid shall be deemed invalid (Section 20, Subsection (2i)).

The participants in the assignment bid round are free not to take part in this round if they have no preference for a specific place in the spectrum; in that case, they shall be awarded a 'leftover' place after places have been allocated to other winning bidders based on the bids in the assignment bid round. Under Section 39, they are not required in that case to take action in this bid round (for example, there shall be no need to submit a zero euro bid).

Determining the additional price and the total price

After the assignment round, the price that participants with a winning bid must pay shall be determined based on Annex IV (Section 41). This price consists of the final base price plus a final additional price that the winning participant must pay for his or her winning bid from the assignment bid round as determined based on Section 32, Subsection (2). This additional price shall also be based on the so-called 'second-price rule'. Should there be no scarcity and should only an awarding bid round take place, only the additional price needs to be paid.

5.5 End of the auction

Once the additional prices and the total prices have been determined, the Minister shall inform the participants as soon as possible that the auction has concluded, who are the winning participants, which licences they have won and the total prices that have been determined based on Section 41 when also an overview of

the base prices and additional prices shall be issued (Section 42). Within two weeks after this announcement, the payment of the total prices shall take place based on Section 44.

After completion of the auction, the Minister shall award the licences based on Section 43.

5.6 Electronic fault

If a participant is prevented by an electronic fault from submitting a bid in a primary bid round by means of the electronic auction system, the participant must ask the Minister within 10 minutes after the end of that bid round for permission to submit a bid by fax (Section 21, Subsection (1)). A force majeure situation is, in particular, an example of this such as the situation when a computer or the Internet connection of a participant does not work or does not work properly. The Minister may grant permission for a single primary bid round or for several primary bid rounds, for the supplementary bid round or for the assignment round. This also applies when an extended bid round is involved. In case of special conditions, the Minister may allow communication by telephone (Section 17, Subsection 2), for example, if communication through the electronic auctioning system and by fax is not possible.

5.7 Bid requirements

Pursuant to Section 20(1), an invalid bid cannot be part of the (final) combination of winning bids, which ensures that invalid bids are in fact kept 'out of the auction'. The point of departure is that a bid should be submitted in all rounds via the electronic auction system (Section 20(2)). In the event of an electronic fault, a bid can be submitted in writing (if permission to do so has been obtained) by means of a bid card (see Annex 5). The additional requirements in respect of a written bid have been laid down in Section 20(4).

Section 20, Subsection (2a) determines that a bid must be confirmed through the electronic auctioning system. This refers to the use of the digital signature that bidders place when they make a bid. The aim of this resource is that it shall then also be verifiable in legal terms and that it can be determined irrefutably that this specific bidder has made the bid.

If a participant erroneously submits an 'invalid bid', the electronic auction system shall issue an alert. A message shall appear on that participant's screen which states what is wrong with the bid the participant drew up. Furthermore, that participant shall be given the opportunity to rectify its bid and subsequently to

submit a valid bid (Section 20(5)). A comparable rectification option is in place for written bids (Section 20(6)).

5.8 Orderly auction process

It is very important for an orderly auction that participants can determine for themselves without being disturbed what the value is that they allocate to that which is being auctioned. The pricing determination may not be disrupted by participants who consult each other during the auction (collusion) or influence each other in some other way. Influencing the course of the auction in general or the decisions of another party within the auction in particular can, for example, take place by announcing confidential information. Confidential information is deemed to mean all information about an applicant that is not public and that influences another party's decisions related to the auction when made known to this other party within the context of the auction procedure (Section 1q). An exhaustive list of information that falls under this concept cannot be provided in advance. Ultimately, this refers to the fact that applicants in the auction must take the utmost care in ensuring that they do not make information known to another applicant or third party that influences or may influence the decisions of other applicants related to the auction including prior to the auction itself (Section 16, Subsection 1). The "applicant" status, for that matter, only applies when an application is submitted. Prior to this, parties are not bound by the auction procedure. General competition law, however, does apply to them.

Because the identity of the winning participants only becomes public knowledge after the supplementary bid round has ended (Section 42), applicants are advised that they should realise that (nearly) all third parties are a potential participant in the auction. To conclude, spreading or making confidential information public also includes, in any case, the actions of a third party if the applicant shares confidential information with this third party and knowingly and wilfully takes the considerable chance that this third party shall spread or make public the relevant information.

Subsection (2) of Section 16 prohibits applicants including those who support them for the auction and members of the group to which they belong to behave or to make agreements in such a way prior or during the auction that breach or may breach the good auction process including competition in the auction procedure.

Subsection (2) of Section 16 also, therefore, compels applicants to observe the utmost care in their behaviour prior and during the auction. An applicant shall, for example, have to refrain from making announcements about submitting an

application, the contents of the applicant's application and other issues that may offer other applicants reference points for amending their own behaviour prior or during the auction. Communication about the auction prior and during the auction by applicants amongst each other, through the media or in some other way is, therefore, absolutely forbidden. There can only be reason to communicate about the auction in extremely exceptional cases. An example could be a case when an applicant is of the opinion that the applicant must bring proceedings in relation to this procedure pending the application or auction procedure.

If an applicant acts contrary to the provisions as referred to in Section 16, Subsection (1) or (2), the Minister may decide to exclude the relevant applicant from (further) participation based on Subsection (4) of that Section. The Minister may stop the auction temporarily in such a situation based on Section 16, Subsection (3). The Minister may also decide to declare the result of one or more bids or bid rounds invalid or decide that one or more bid rounds must be held again based on Section 16, Subsection (5). This may, for example, be necessary because the development of the prices for the different licence categories would have been different if the participant who has acted contrary to the provisions as set down in Section 16 would not have participated in the relevant bid rounds.

The auction shall, in principle, take place without interruption. The Minister may only suspend the action for a period of no more than a year in the situations as referred to in Sections 16 and 18. The Minister may apply this authority should he be of the opinion that behavioural patterns are involved that are contrary to Subsections (1) and (2) of Section 16 based on this Section. The Minister may also suspend the auction based on Section 18 when the auction cannot be continued temporarily in the opinion of the Minister because special circumstances have presented themselves that fall outside the sphere of influence of the Minister or the participants. The Minister may also decide to suspend the auction and, if required, hold one or more bid rounds again when this is required for a fair or efficient auction process based on Subsection (2). An example within this context may be the situation as referred to in Subsection (3) in which an applicant is in a situation in which the applicant no longer meets the requirements set as laid down in Section 11 after completion of the entry decision (Section 14). This may, for example, be the case if an applicant applies for a moratorium, is declared bankrupt or is winding up his business after having been admitted to the auction. This applicant may be excluded from (further) participation in the auction in this case.

One member at most may participate in the auction from each group. The applicants who are a part of a group after submitting their application may,

themselves, withdraw one or more applications but the Minister also has the authority to exclude applicants from (further) participation in the auction to ensure that no more than one group member participates in the auction.

It may be required, in this situation, that the auction be suspended temporarily to ensure an efficient auction process. For example, until there is more clarity regarding the financial position of an applicant or the announced takeover. The unimpaired continuation of the auction may lead to an applicant acquiring licences while the applicant cannot pay for them (in case of bankruptcy or a moratorium) or that they cannot be assigned to the applicant based on the regulation (because the applicant no longer qualifies as a newcomer due to a takeover). This may lead to licences not being allocated.

The Minister may decide not only to suspend the auction but also to again hold one or more bid rounds if required. The Minister may decide to exclude a participant from further participation in situations as referred to in Sections 16, Subsection (4), and 18, Subsections (3) and (4). This authority can, for example, be used if two applicants become a member of one group after having been admitted to participate in the auction or during the auction. It may then be necessary to hold one or more bid rounds again to ensure a fair and efficient auction process. The development of the price of the different licence categories may, after all, run differently when a participant drops out.

6. Market consultation

A draft of the Regulation and the licences could be examined by everyone for consultation purposes from 11 February 2011 to 25 March 2011. Sixteen responses were received in total. These responses except for five confidential responses were published on the website of central government (www.rijksoverheid.nl/onderwerpen/frequentiebeleid). Below a concise summary of the responses is given in anonymous form.

6.1 Auction model

A few parties have a preference for the Simultaneous Multi Round Ascending (hereinafter also referred to as: SMRA) auction model rather than the Combinatorial Clock Auction (hereinafter also referred to as: CCA). They are of the opinion that the CCA offers less security in the primary bid rounds than the SMRA, that the SMRA is more appropriate for complex auctions and that a CCA would

promote strategic bid behaviour. If the choice is still CCA, three parties make the suggestion to apply a "relative cap" in the supplementary bid round. In addition, the preference has been expressed that an announcement be made at the end of each primary bid round regarding which licences the different participants have made a bid on. For that matter, these parties also have different opinions with regard to this part about whether this information should be provided in anonymous form or that the names of the participants should also be mentioned. The suggestion to apply the relative cap has been adopted; see Section 30 of the regulation and Section 5.3.2 of the explanatory note. The other suggestions have not been adopted.

6.2 800 MHz interference and availability

The request to provide clarity in the short term about the term in which the 800 MHz licences shall become available and under which conditions was made several times. The responses differ in relation to the required conditions. On the one hand, the request has been made to set as few restrictions as possible that licence holders must meet. On the other hand, stricter conditions are being requested that shall minimise the chance of interference on (coax) cables by mobile signals as much as possible. More information has been provided about the conditions under which the 800 MHz licences shall become available in Section 2.9 of this explanatory note to meet these requests.

6.3 Operationalisation obligation(s)

A number of responses has put forward the opinion that the operationalisation obligations are not strict enough. This applies, in particular, to the 800 MHz and 900 MHz licences. It is being noted that the Netherlands is taking up an exception position within the European Union with this. The responses point out that many Member States link strict obligations to mainly the 800 MHz frequencies to, thus, contribute towards the availability of broadband Internet in rural areas. It is also being pointed out that the limited obligations do not counteract speculation sufficiently and, moreover, may lead to some areas remaining deprived from mobile broadband. In addition, stricter enforcement of non-compliance with the obligation to put into use is required. Licence holders could now still strategically decide not to comply with this and to accept the costs of an enforcement process. These costs would be set off against the advantage that parties achieve from keeping competitors from the market. To conclude, the request has been made of imposing the obligation to put into use not based on each licence but on each operator. As an operator acquires more frequency spectrum, the operator's total obligation to put into use should become more significant but the operator should

be free to choose how the operator shall deploy the frequencies available to this operator.

The decision has been taken to make the obligation to put into use of the 800 MHz licences stricter after consultation with the Dutch House of Representatives (Parliamentary Documents II, 2010/11, no. 284). The supervisory method shall be elaborated at a later time. The other suggestion has not been adopted.

6.4 Space for newcomers

The opinions about the frequency spectrum made available to newcomers vary. On the one hand, more space for newcomers is being asked. Not 2 x 10 MHz, but 2 x 20 MHz should be reserved. This could be achieved totally in the 800 MHz band or also partially in the 900 MHz band. One party has the preference of one reservation in only the 900 MHz band. In accordance with this party, specific parties whom this party is expecting shall participate in the auction may frustrate the undisruptive use of the reserved space in the 800 MHz band in relation to services that they provide in the adjacent frequency spectrum and this band, therefore, is less suitable for newcomers. On the other hand, it is being argued that the need for a reservation for newcomers has been substantiated insufficiently. A party states that the reservation would be a form of prohibited state support. The expectation has also been expressed that the newcomer who ultimately acquires the A1 licences shall lay a network together with an existing player. Within this context, question marks are being placed with regard to the issue whether there really shall be more competition in this situation.

The decision has been taken to have a 2 x 5 MHz reservation in the 900 MHz band in addition to the 2 x 10 MHz reservation in the 800 MHz band after consultation with the Dutch House of Representatives (Parliamentary Documents 2011/12, no. 290). Also see Section 2 of this regulation. Cognizance has been taken of the other suggestions and this has, for example, led to changes being implemented in Section 2.2 of the explanatory note and the related Subsections.

6.5 Reserve prices

Opinions also differ about the level and determination method for the reserve prices. On the one hand, some parties state that these are too high while, on the other hand, other parties believe these are too low. It should be noted that the responses mainly focus on the level of the reserve prices for the 800 MHz. It is being proposed that the reserve price of the A1 licence should be determined by

linking the sum of this to the amount that is paid in the auction for the B licences. A discount can also be applied to this in favour of newcomers. One party, moreover, believes that the reserve prices for the 900 MHz, 1800 MHz, 1900 MHz, 2100 MHz and 2.6 GHz networks should have been determined in the same way as that of the 800 MHz. These suggestions have not been adopted.

6.6 Spectrum caps

Some believe that spectrum caps should be applied to prevent a 'winner takes all' scenario and/or to achieve a more balanced distribution of the spectrum. For example, a cap could be used that sets an absolute maximum with regard to the total spectrum ownership or two caps: one cap for the low (800 and 900 MHz) spectrum and one cap for the high (1800, 1900, 2100 MHz and 2.6 GHz) spectrum, respectively, or by applying both measures next to each other. The opinions differ about the level of these caps (from 2 x 20 MHz to 2 x 5 MHz for the low spectrum per party). These suggestions have not been adopted. A cap has, however, been implemented in relation to the maximum number of reserved frequencies that can be acquired after extending the reservation; see Section 2, Subsection (4) and Section 2.2.3 of this explanatory note.

6.7 Expansion of the DECT guard band

Remarks have also been made about the expansion of the DECT guard band and the opinions are again opposite ones. The advocates would like to see that also one of the E licences is made available up to the end of 2016 based on a licence-free regime. This would ensure that 3G applications can already be supplied in the short term while consumers shall have to wait a little longer for 3G and 4G applications in the expanded DECT guard band. Making one E licence available would contribute towards increasing effective competition on the mobile communication market in their opinion. These suggestion has not been adopted. The decision to expand the DECT guard band has now been taken (Government Gazette 2011, no. 15033).

7 Administrative burden

An applicant must submit the necessary details with its application. The purpose of this data is to test whether the applicant meets the requirements set in the Regulation. The provision of this data involves administrative charges for the applicant. A general point of departure in drawing up regulations is that the administrative burden entailed by the regulations for the business sector must be kept to a minimum. When considered against this background, the provision of

the requested data is in line as much as possible with the information at the applicants that is already available.

A party that decides that it wants to compete for a licence shall have to prepare and submit an application. The procedure starts with the submission of the application and meeting the security. The following is required for the application:

- Issuing information about the applicant including the applicant's name and registration number in and an extract from the Commercial Register or a comparable register;
- A list of those persons who are authorised to represent the applicant legally (possibly including a copy of a power of attorney);
- A description of the group relationships in the form of a legal organisational chart;
- A certificate from a civil-law notary about the correctness of the above details that shall also, for example, indicate that the applicant is not in a state of bankruptcy, has not been granted a moratorium and that the applicant has not been dissolved.

The latter statement is necessary in order to obtain sufficient certainty about the truthfulness and fairness of the statements made by the applicant. The civil-law notary's statement may be based on a relatively simple review.

An applicant must also provide security when submitting an application. This security can be provided in the form of a security deposit or a bank guarantee. If the applicant decides to use a security deposit, this shall not lead to heavier administrative charges. The costs of a bank guarantee, however, can be regarded as administrative charges. Insofar as an applicant, therefore, decides to meet the security in the form of a bank guarantee, this shall lead to an aggravation of the administrative charges. The choice is the applicant's. The applicant may influence the administrative charges that the applicant incurs.

Overall administrative charges are also limited by obliging applicants to pay the related security at the same time as the applications are submitted. This shall prevent that applicants who cannot (or shall not) pay the security (after further consideration) shall not incur administrative charges when submitting the application while they shall, subsequently, not participate in the auction. The chances that only parties who shall be participating in the auction shall incur administrative charges are being maximised through this.

On the assumption that there shall be a total of ten interested parties for this distribution, the joint administrative charges for this distribution are expected to be € 1,690,000 (one-off). More than 97% of these costs originate from the

Our reference:
WJZ/10146523

estimated administrative charges as a result of parties who are expected to select to pay the security through a bank guarantee.

8. Date of coming into force

This Regulation shall enter into force with effect from 16 April 2012. When the Regulation comes into force, the term in which applications can be submitted shall also start. On this derogation from policy in relation to the fixed change moments, the ground for exemption of (high and/or excessive) private or public advantages or disadvantages of introduction delays or introduction being early apply.

The Dutch Minister of Economic Affairs, Agriculture and Innovation;

Annex I as referred to in Section 8 (10) of the Regulation on the Application and Auction Procedure for 800, 900 and 1800 MHz Licences

- Model application form -

Subsection (A)

A.1 General information

Registered name of the applicant:.....

Registration number in the Commercial Register or comparable register:

Country of registration in the Commercial Register or comparable register:

Managing authority of the Commercial Register or comparable register:

Fax number:

The telephone number at which the authorised representative can be contacted during the auction in the event of 'exceptional circumstances' as referred to in Section 17(2):

Recent extract from the Commercial Register

A recent extract from the Commercial Register or comparable register (not older than one month from the date when the application is submitted) is enclosed.

A.2 Authority to represent

A specification of the person(s) who are authorised to represent the applicant legally in relation to this application and all actions during the auction procedure

including a specification of any restrictions with regard to this representation authorisation:

A.2.1 Official 1

Name:

.....
.....

Full first names:

.....
.....

Position held at the applicant:

.....
.....

Type of identity document:

.....
.....

Identity document number:

.....
.....

Authority to represent:

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.....

Specification of authorisation restrictions:

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.....

Authorisations and limitations are shown by the following:

.....
.....

Signature:

.....
.....

A.2.2 Official 2

Name:

.....
.....

Full first names:

.....
.....

Position held at the applicant:

.....
.....

Type of identity document:

.....
.....

Identity document number:

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.....

Authority to represent:

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.....

Specification of authorisation restrictions:

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.....

Authorisations and limitations are shown by the following:

.....
.....

Signature

.....
.....

A.2.3 Official 3

Name:

.....
.....

Full first names:

.....
.....

Position held at the applicant:

.....
.....

Type of identity document:

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.....

Identity document number:

.....
.....

Authority to represent:

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.....

Specification of authorisation restrictions:

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Authorisations and limitations are shown by the following:

.....
.....

Signature

.....
.....

A.2.4 Official 4

Name:

.....
.....

Full first names:

.....
.....

Position held at the applicant:

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.....

Type of identity document:

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.....

Identity document number:

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.....

Authority to represent:

.....
.....

Specification of authorisation restrictions:

.....
.....

Authorisations and limitations are shown by the following:

.....
.....

Signature

.....
.....

If the authority to represent is not apparent from the Commercial Register or a comparable Register but is proven by a power of attorney, a copy of the power of attorney must be enclosed.

A.3 Group relationships

- If the applicant is a member of a group, a legal organisational chart of the group must be enclosed whilst stating the following in the legal organisational chart:
 - a. Every group company belonging to the group;
 - b. The underlying relationship between these group companies that arise from shares and/or membership rights or comparable control rights;
 - c. Every member of the board and, if applicable, supervisory organ of every group company;
 - d. The registration number in the Commercial Register or comparable register of every group company.

Use an enclosure.

A.4 Written statement regarding the correctness of data

- A.4.1 The applicant is a legal entity, incorporated under the law of one of the Member States of the European Union or one of the other states that are party to the European Economic Area Agreement, and has its registered office, the place of business of its management board or its headquarters within the European Economic Area.
- A.4.2 The applicant is/is not* dissolved.
- A.4.3 The applicant has/has not* been declared bankrupt.
- A.4.4 The applicant has/has not* filed for bankruptcy.

A.4.5 An application for bankruptcy of the applicant has/has not* been filed .

A.4.6 The applicant has/has not* been granted a moratorium.

A.4.7 The applicant has/has not* filed an application for a moratorium.

A.4.8 Means or assets as referred to in Section 1 of Book 3 of the Dutch Civil Code of the applicant have/have not* been attached.

If the equity and/or one or more company assets of the applicant have been attached, the attachment comprises:

.....
.....
.....
.....

* Delete as appropriate.

Statement by civil-law notary

The undersigned, civil-law notary practising in
.....(town/city)

Declares without reservation that:

(i) The information provided in this application under A.1, A.2, A.3, A.4.1, A.4.2, A.4.3 and A.4.6 has been verified by him and has been found to be correct and complete;

(ii) That the information that has been provided in this application under A.3, A.4.4, A.4.5, A.4.7 and A.4.8 has been verified by him to the best of his ability and has been found to be correct and complete in his judgement;

(iii) The persons specified at A.2 have been identified by the notary in person in accordance with the rules of the Money Laundering and Terrorist Financing (Prevention) Act

[Wet ter voorkoming van witwassen en financieren van terrorisme Stb. 2008, 303]

for the Minister in proof of which a copy of the identification document used for the verification of the identity is enclosed and that these persons have signed at A.2 in his presence.

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Name:

.....

.....

Place:

.....

.....

Date:

.....

.....

Signature

.....

.....

If desired, the statement by the civil-law notary may be submitted on a separate sheet.

Subparagraph b

B.1 Licences to which the application relates

Subparagraph a

I apply for the following licences for activity points.

Licences	Number licences	Convert the number of licences into activity points by using the factor below	Number activity points using the factor below
A1 *	..... (maximum of 2)	Multiplied by 15	
A2 *	..... (maximum of 1)	Multiplied by 15	
B	..... (maximum of 4)	Multiplied by 15	
C	..... (maximum of 6)	Multiplied by 15	
D	..... (maximum of 14)	Multiplied by 2	
E	..... (maximum of 2)	Multiplied by 1	
F	..... (maximum of 1)	Multiplied by 1	

G	..... (maximum of 10)	Minus 1	
Total number of activity points			

* Only for a newcomer as referred to in Section 1 (b) and in total no more than two A1 or A2 licences per newcomer.

Subparagraph b

In the case as referred to in Section 3, Subsection (1), I apply for the following licences for activity points.

Licences	Number licences	Convert the number of licences into activity points by using the factor below	Number activity points using the factor below
A1 *	..... (maximum of 2)	Multiplied by 15	
B	..... (maximum of 4)	Multiplied by 15	
C	..... (maximum of 7)	Multiplied by 15	
D	..... (maximum of 14)	Multiplied by 2	
E	..... (maximum of 2)	Multiplied by 1	

F	..... (maximum of 1)	Multiplied by 1	
G	..... (maximum of 10)	Minus 1	
Total number of activity points			

* Only for a newcomer as referred to in Section 1, (b)

Subparagraph c

In the case as referred to in Section 4, Subsection (1), I apply for the following licences for activity points.

Licences	Number licences	Convert the number of licences into activity points by using the factor below	Number activity points using the factor below
A1 *	..... (maximum of 1)	Multiplied by 15	
B (maximum of 5)	Multiplied by 15	
C (maximum of 7)	Multiplied by 15	
D (maximum of 14)	Multiplied by 2	

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E (maximum of 2)	Multiplied by 1	
F (maximum of 1)	Multiplied by 1	
G (maximum of 10)	Minus 1	
Total number of activity points			

Subparagraph d

In the case as referred to in Section 5, Subsection (1), I apply for the following licences for activity points.

Licences	Number licences	Convert the number of licences into activity points by using the factor below	Number activity points using the factor below
A1 *	..... (maximum of 1)	Multiplied by 15	
A2 *	..... (maximum of 1)	Multiplied by 15	
B	..... (maximum of 5)	Multiplied by 15	
C	..... (maximum of 6)	Multiplied by 15	

D	..... (maximum of 14)	Multiplied by 2	
E	..... (maximum of 2)	Multiplied by 1	
F	..... (maximum of 1)	Multiplied by 1	
G	..... (maximum of 10)	Minus 1	
Total number of activity points			

* Only for a newcomer as referred to in Section 1, (b)

Subsection (e)

In the case as referred to in Section 6, Subsection (1), I apply for the following licences for activity points.

Licences	Number licences	Convert the number of licences into activity points by using the factor below	Number activity points using the factor below
A2 *	..... (maximum of 1)	Multiplied by 15	
B	..... (maximum of 6)	Multiplied by 15	
C	.....	Multiplied by 15	

	(maximum of 6)		
D	..... (maximum of 14)	Multiplied by 2	
E	..... (maximum of 2)	Multiplied by 1	
F	..... (maximum of 1)	Multiplied by 1	
G	..... (maximum of 10)	Minus 1	
Total number of activity points			

* Only for a newcomer as referred to in Section 1, (b)

Subsection (f)

In the case as referred to in Section 7, Subsection (1), I apply for the following licences for activity points.

Licences	Number licences	Convert the number of licences into activity points by using the factor below	Number activity points using the factor below
B	..... (maximum of 6)	Multiplied by 15	
C	..... (maximum of 7)	Multiplied by 15	

D	..... (maximum of 14)	Multiplied by 2	
E	..... (maximum of 2)	Multiplied by 1	
F	..... (maximum of 1)	Multiplied by 1	
G	..... (maximum of 10)	Minus 1	
Total number of activity points			

B.2 Specific frequency spectrum preference

Subparagraph a

I specify below for each licence type whether I have a preference for a specific frequency spectrum if the A1 to G licences are awarded without an auction taking place based on Section 12, Subsection (2).

Licences	Specific frequency preference *
A1 **	Yes/No
A2 **	Yes/No
B	Yes/No

C	Yes/No
D	Yes/No
E	Yes/No
F	n/a
G	Yes/No

* Delete what does not apply.

** Only for a newcomer as referred to in Section 1, (b)

Subparagraph b

I specify below for each licence whether I have a preference for a specific frequency if the A1 and B to G licences are awarded without holding an auction based on Section 12, Subsection (3).

Licences	Specific frequency preference *
A1 **	Yes/No
B	Yes/No
C	Yes/No
D	Yes/No

E	Yes/No
F	n/a
G	Yes/No

* Delete what does not apply.

** Only for a newcomer as referred to in Section 1, (b)

Subparagraph c

I specify below for each licence whether I have a preference for a specific frequency if the A1 and B to G licences are awarded without holding an auction based on Section 12, Subsection (4).

Licences	Specific frequency preference *
A1 **	Yes/No
B	Yes/No
C	Yes/No
D	Yes/No
E	Yes/No
F	n/a

G	Yes/No

* Delete what does not apply.

** Only for a newcomer as referred to in Section 1, (b).

Subparagraph d

I specify below for each licence type whether I have a preference for a specific frequency if the A1 to G licences are awarded without an auction taking place based on Section 12, Subsection (5).

Licences	Specific frequency preference *
A1 **	Yes/No
A2 **	Yes/No
B	Yes/No
C	Yes/No
D	Yes/No
E	Yes/No
F	n/a
G	Yes/No

--	--

* Delete what does not apply.

** Only for a newcomer as referred to in Section 1, (b).

Subsection (e)

I specify below for each licence type whether I have a preference for a specific frequency if the A2 to G licences are awarded without an auction taking place based on Section 12, Subsection (6).

Licences	Specific frequency preference *
A2 **	Yes/No
B	Yes/No
C	Yes/No
D	Yes/No
E	Yes/No
F	n/a
G	Yes/No

* Delete what does not apply.

** Only for a newcomer as referred to in Section 1, (b).

Subsection (f)

I specify below for each licence whether I have a preference for a specific frequency if the B to G licences are awarded without holding an auction based on Section 12, Subsection (7).

Licences	Specific frequency preference *
B	Yes/No
C	Yes/No
D	Yes/No
E	Yes/No
F	n/a
G	Yes/No

* *Delete what does not apply.*

Board/management statement

The undersigned declares that

- (i) The information that is provided in this application is correct and complete;
- (ii) This application has not been realised under the influence of an agreement with another party and/or a decision or conduct that breaches or may breach the correct course of the auction, including competition;

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(iii) The applicant shall refrain from making or concluding agreements during the auction procedure with another party and that the applicant shall refrain from making any decision or conduct that breaches or may breach the correct course of the auction including competition.

Name :

.....
.....

Town/city :

.....
.....

Date: :

.....
.....

Signature:

.....
...

Annex II as referred to in Section 15 (7b) of the Regulation on the Application and Auction Procedure for 800, 900 and 1800 MHz Licences

- Model bank guarantee -

I. The undersigned (*name of a bank based in one of the Member States of the European Union or in one of the other states that is a party to the European Economic Area Agreement*)*, having its registered office in, also having offices in, hereinafter to be referred to as; 'the Bank';

Whereas:

A. Section 3.3(1) of the Telecommunications Act [Telecommunicatiewet] provides that the use of

frequency spectrum requires a licence from the Minister of Economic Affairs (hereinafter to be referred to as: 'the Minister');

B. that (*name of participant*), a legal entity incorporated under (*the law of one of the Member States of the European Union or one of the other states that is a party to the European Economic Area Agreement*), having its registered office in, also having offices in, hereinafter to be referred to as: 'the Participant', intends to submit a bid in the auction in order to obtain a licence as referred to in Section 3.3(1) of the Telecommunications Act;

C. the Minister has established rules concerning the award of a licence. These rules are defined in the Regulation on the application and auction procedure for 800, 900 and 1800 MHz licences;

D. pursuant to these rules, the Minister requires the Participant to provide a bank guarantee to secure any amounts owed by the Participant, hereinafter to be referred to as: 'the Claim', to the State of the Netherlands, a legal entity under Dutch law, having its registered office in The Hague, hereinafter to be referred to as: 'the State';

E. the Participant has requested the Bank to provide an irrevocable and independent bank guarantee in favour of the State, which will be payable should the State so demand;

II. Agrees to undertake the following:

1. The Bank, by way of independent obligation up to an amount of

.....(in words:

.....), will irrevocably act as guarantor towards the State for the payment of any amounts owed to the State in respect of the Claim against the Participant as evidenced by a written statement

from the State, in such a way that the Bank undertakes to pay the amount claimed as its own obligation.

2. The Bank undertakes to pay to the State as its own debt, on demand and on the sole written communication from the State without requiring the submission of any other document or provision of reasons, the amount which the State declares it is owed in respect of the Claim against the Participant, on the understanding that the Bank will never be obliged to pay to the State anything in excess of the aforementioned maximum amount.

3. Partial reliance is possible under this bank guarantee. The maximum amount of this bank guarantee will be reduced by an amount equalling the amount of every partial reliance.

4. This bank guarantee will lapse after the Bank has received a written statement from the State, by registered post, confirming the lapse of the bank guarantee and in any case one year after the date on which this guarantee was signed, unless the Bank has received a written statement, by registered post, at least one month before the end date of the guarantee, from or on behalf of the Minister to the effect that this bank guarantee will not lapse, in which case the guarantee will each time remain valid for a new period of one year.

5. This bank guarantee will be governed by Dutch law. Any disputes arising from this bank guarantee will be resolved exclusively by the competent Dutch court in The Hague.

6. After the lapse of this bank guarantee, the State will be unable to make any further claim against the Bank under this bank guarantee, unless the Bank, before the moment when this bank guarantee would lapse, received a notification as referred to under 2 with which the Bank has not yet complied. At the request of the Bank, the State will return this bank guarantee to the Bank after it has lapsed.

Place:

.....
.....

Date:

.....
.....

Name of Bank and signature

.....
.....

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* details indicated by the use of italics in the above must be filled in by the Bank.

Annex III as referred to in Section 32 (1) of the Regulation on the Application and Auction Procedure for 800, 900 and 1800 MHz Licences

- Base prices -

The application of Section 31 has resulted in the establishment of n winning bids $wb_1, wb_2, wb_3, \dots, wb_n$ which were submitted by participants $w_1, w_2, w_3, \dots, w_n$. The price bid in winning bid wb_i is p_i . The total proceeds of winning bids $wb_1, wb_2, wb_3, \dots, wb_n$ amount to T , or $T = \sum_{i=1}^n p_i$.

The base price will be determined in accordance with the provisions of (1) and (2):

1. For every winning bid wb_i a basic price b_i is determined that meets the following conditions:

- a. b_i is greater than or equal to the sum of the prices of licences as determined in Section 30, Subsection (1), to which bid wb_i refers;
- b. b_i is smaller or equal to p_i ; and
- c. The set $\{b_1, b_2, b_3, \dots, b_n\}$ meets the following condition: If all bids of a winning bid w_i are reduced by $(p_i - b_i)$ for $i = 1, 2, \dots, n$, in relation to unchanged bids of the participants who have not issued a winning bid, the application of Section 31, Subsection (2) (a) and (b), will not lead to another bid or another combination of bids that have higher proceeds than $wb_1, wb_2, wb_3, \dots, wb_n$;
- d. The set $\{b_1, b_2, b_3, \dots, b_n\}$ has the lowest possible proceeds, in other words the

sum of the additional prices $\sum_{i=1}^n b_i$ is minimal.

2. If several sets $\{b_1, b_2, b_3, \dots, b_n\}$ meet the conditions set out under (1), the set of basic prices chosen from these sets will be the set with the lowest opportunity cost variance OV . The opportunity cost variance OV is the sum of the quadratic differences between the base prices and the corresponding opportunity costs, or

$OV = \sum_{i=1}^n (b_i - o_i)^2$, on the understanding that:

- a. O_i represents the opportunity costs of the winning bid wb_i , determined by:
 $O_i = p_i - T + Z_i$; and
- b. Z_i represents the total proceeds of the winning bid or combination of winning bids established in accordance with Section 31, if participant w_i had not taken part in the auction.

Annex IV as referred to in Section 41 (1) of the Regulation on the Application and Auction Procedure for 800, 900 and 1800 MHz Licences

- Additional prices -

The application of Section 40 has resulted in the establishment of n winning bids $wb_1, wb_2, wb_3, \dots, wb_n$ which were submitted by participants $w_1, w_2, w_3, \dots, w_n$. The price bid in winning bid wb_i is p_i . The total proceeds of winning bids $wb_1, wb_2, wb_3, \dots, wb_n$ amount to T, or $T = \sum_{i=1}^n p_i$.

The additional price will be determined in accordance with the provisions of (1) and (2):

1. An additional price eb_i will be determined for each winning bid wb_i on the understanding that the following conditions are fulfilled:
 - a. eb_i equals or is larger than 0;
 - b. eb_i is smaller or equal to p_i ; and
 - c. The set $\{eb_1, eb_2, eb_3, \dots, eb_n\}$ meets the following condition: if all the bids by a winning participant in the assignment bidding round
 - are reduced by $(p_i - eb_i)$, for $i = 1, 2, \dots, n$; and
 - are not reduced below zero,
 the application of Section 40(2)(a) will not result in a different bid or a different combination of bids that generates higher proceeds than $wb_1, wb_2, wb_3, \dots, wb_n$;
 - d. The set $\{eb_1, eb_2, eb_3, \dots, eb_n\}$ has the lowest possible proceeds, in other words

the sum of the additional prices $\sum_{i=1}^n eb_i$ is minimal.

2. If several sets $\{eb_1, eb_2, eb_3, \dots, eb_n\}$ meet the conditions set out under (1), the set of additional prices chosen from these sets will be the set with the lowest opportunity cost variance OV. The opportunity cost variance OV is the sum of the quadratic differences between the base prices and the corresponding opportunity

costs, or $OV = \sum_{i=1}^n (eb_i - o_i)^2$, on the understanding that:

- a. O_i represents the opportunity costs of the winning bid wb_i , determined by: $O_i = p_i - T + Z_i$; and

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b. Z_i represents the total proceeds of the final combination of winning bids established in accordance with Section 40, if participant w_i had bid 0.00 for all possible combinations of bids.

Annex V as referred to in Section 20 (4b) of the Regulation on the Application and Auction Procedure for 800, 900 and 1800 MHz Licences

- Bid card -

Instructions

- A bid must be made in units of one thousand euros.
- A bid must be submitted by means of this bid card.
- The number and/or amount of each bid must be written in figures and in words.
- If no bid is submitted for a licence, a cross must be entered in the "No Bid" box.
- The bid card must be completed in Dutch.
- The bid card must be signed by an authorised representative.

Not to be completed by the participant:

Information round: Primary bid round / Supplementary bid round / Assignment bid round

Bid round no.:

Date:

Time: fromhours tohours

Activity level of the participant in this bid round:

Extension pursuant to Section 23(2)(b) for the period:

.....dayhours todayhours

Primary bid round

Licences	Amount in € per licence	Number	The total Number written in full and in block letters in Dutch	No Bid
A1 *	To be completed by the Minister			<input type="checkbox"/>
A2 *	To be completed by			

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	the Minister			<input type="checkbox"/>
B	To be completed by the Minister			<input type="checkbox"/>
C	To be completed by the Minister			<input type="checkbox"/>
D	To be completed by the Minister			<input type="checkbox"/>
E	To be completed by the Minister			<input type="checkbox"/>
F	To be completed by the Minister			<input type="checkbox"/>
G	To be completed by the Minister			<input type="checkbox"/>

** Only for a newcomer as referred to in Section 1, (b).*

Signature(s) and name(s) of the authorised representative(s):

Supplementary bid round

Bid	Total amount in €	The total amount in full and in block letters in Dutch
..... x A1 licence *		

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..... x A2 licence * x B licence x C licence x D licence x E licence x F licence x G licence		
..... x A1 licence * x A2 licence * x B licence x C licence x D licence x E licence x F licence x G licence		

* Only for a newcomer as referred to in Section 1, (b).

Signature(s) and name(s) of the authorised representative(s):

Assignment bid round

Alternative for the frequency spectrum as referred to in Section 38	Amount in €	The amount in full and in block letters in Dutch

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Signature(s) and name(s) of the authorised representative(s):