

Procedure for the granting of rights of use for the 700 MHz, 900 MHz, 1400 MHz, 1800 MHz, 2100 MHz and 3600 MHz frequency bands

Information memorandum

Version 1 - 14 January 2022

INTRODUCTORY COMMENTS

This memorandum has been drafted by the BIPT within the framework of three procedures for the granting of rights of use:

- for the 700 MHz, 900 MHz, 1800 MHz and 2100 MHz bands;
- for the 3600 MHz band; and
- for the 1400 MHz band.

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

This memorandum is meant for information purposes only. It is made available to the market for the sole purpose of informing those considering a possible participation in the allocation procedure. This memorandum has no binding legal effect.

This memorandum summarises the applicable regulation concerning the allocation procedures of the different frequency bands. It describes how these procedures will take place. It also reminds the rights holders of the obligations imposed on them. However, it should be clear that the ECA, the Royal Decree 2G/3G, the Royal Decree 700 MHz, the Royal Decree 3600 MHz, the Royal Decree 1400 MHz (see definitions in the annex) and any other Belgian or European law or regulation relevant in this matter prevail over the content of this memorandum.

Each recipient must make his own independent assessment of the potential value of an allocation of spectrum in the various frequency bands. The candidates decide themselves what amounts they are prepared to propose, based on their own calculations. The BIPT will not provide any help or assistance in this matter.

The memorandum has no contractual or pre-contractual value and does not commit the BIPT in any way. It cannot be used as a legal foundation for any appeals that could be lodged concerning the auctions or the granting of rights of use, nor as a support for any claims for damages or any other proceedings instituted against the BIPT.

Corrected versions of the memorandum will be published if appropriate.

All the information in this memorandum may be updated, modified or corrected during the procedures for the granting of rights of use for the various frequency bands, depending on the evolution of the existing normative and factual background. Any amendments will be published under the same terms as the publication of this memorandum.

The BIPT accepts no responsibility with regard to the accuracy or completeness of the information contained in the memorandum or any other information made available to the market. In particular, but without prejudice to the general scope of the foregoing, no representation or warranty is given as to any future projections, estimates, prospects or returns resulting from the rights of use.

Via this memorandum, the BIPT does not provide any financial, legal, fiscal, accounting or other advice.

The BIPT disclaims all responsibility for any prejudice that might result from the use of the memorandum by its recipients.

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Chapter 1. Introduction

1. This memorandum concerns three autonomous procedures which will be organised by the BIPT for granting rights of use.
2. The first procedure (hereinafter "procedure A")¹ concerns the allocation of:
 - the existing 2G and 3G spectrum, i.e. 35 MHz duplex in the 900 MHz band, 75 MHz duplex in the 1800 MHz band and 60 MHz duplex in the 2100 MHz band, for a period of 20 years starting from the end of the validity period of the existing 2G and 3G licences; and
 - 30 MHz duplex in the 700 MHz band for a period of 20 years.
3. The second procedure (hereinafter "procedure B") concerns the allocation of 390 MHz in the 3600 MHz band for the period until 6 May 2040.
4. The third procedure (hereinafter "procedure C") concerns the allocation of 90 MHz in the 1400 MHz band for a period of 20 years.
5. Procedures A and B will be organised at the same time, but it is important to point out that the procedures will remain autonomous.
6. This memorandum does on no account exempt candidates from reading the regulation concerning the allocation procedures.
7. Candidates wishing to submit their applications to take part in one or several allocation procedures are presumed to have read and understood the auction rules. These will be published on the website <https://auction2022.be/en>.
8. In particular, the memorandum:
 - summarises the steps which recipients are to take in order to submit their applications and take part in one or several future allocation procedures;
 - summarises the principles of some of the rules and the expected timetable of the allocation procedures; and
 - provides an outline of the regulatory framework.
9. The three allocation procedures are governed by the ECA, among other legislation.
10. Procedure A will be conducted in compliance with the provisions of:
 - the Royal Decree 2G/3G; and
 - the Royal Decree 700 MHz.
11. Procedure B will be conducted in compliance with the provisions of the Royal Decree 3600 MHz.
12. Procedure C will be conducted in compliance with the provisions of the Royal Decree 1400 MHz.
13. Consolidated versions of the ECA and the aforementioned Royal Decrees are available on the website <https://auction2022.be/en>.

¹ As authorised by Article 12 of the Royal Decree of 28 November 2021 on radio access in the 900 MHz, 1800 MHz and 2 GHz bands and Article 15 of the Royal Decree of 28 November 2021 on radio access in the 700 MHz band, the BIPT intends to regroup the procedure for granting the rights of use as laid down in the Royal Decree of 28 November 2021 on radio access in the 900 MHz, 1800 MHz and 2 GHz bands, and the procedure for granting the rights of use laid down in the Royal Decree of 28 November 2021 on radio access in the 700 MHz band into one granting procedure. The BIPT will adopt a decision which will be published on its website and on the website <https://auction2022.be/en>.

14. Information on the currently allocated spectrum and the spectrum to be allocated is provided in Chapter 2 and Chapter 3.
15. Chapter 4 provides information on the spectrum which is reserved for one or several new entrants (see definition in the annex).
16. Information on the availability of the spectrum to be allocated is provided in Chapter 5.
17. Chapter 6 provides information on the conditions for the exercise of the rights of use.
18. Information on the organisation of the allocation procedures is provided in Chapter 7. Particularly, information about the application files is given in section 7.3.
19. Chapter 8 provides information on regulatory issues.
20. Chapter 9 provides an indicative timetable of the intended process.
21. Contact information for making enquiries or obtaining further information is provided in Chapter 10.

Chapter 2. Existing rights of use

22. The rights of use mentioned in this chapter are valid throughout the national territory. However, these rights of use are not valid within national airspace, the territorial waters or Belgium's exclusive economic zone in the North Sea.

2.1. 800 MHz band

23. Proximus, Orange Belgium and Telenet Group each have 10 MHz duplex in the 800 MHz band.

24. The allocated frequencies are distributed as follows:

	Terminal station transmission (MHz)	Base station transmission (MHz)
Telenet Group	832-842	791-801
Proximus	842-852	801-811
Orange Belgium	852-862	811-821

Table 1 Existing rights in the 800 MHz band

25. The rights of use for the 800 MHz band are valid until 29 November 2033. The rights of use may be extended by the BIPT for supplementary five-year periods from 30 November 2033.

2.2. 900 MHz band

26. Proximus, Orange Belgium and Telenet Group respectively have 62, 58 and 51 GSM channels² in the 900 MHz band.

27. The allocated frequencies are distributed as follows³:

	Terminal station transmission (MHz)	Base station transmission (MHz)
Telenet Group	882,7-890,3	927,7-935,3
Proximus	890,3-896,1 902,1-908,7	935,3-941,1 947,1-953,7
Orange Belgium	896,3-901,9 908,9-914,9	941,3-946,9 953,9-959,9

Table 2 Existing rights in the 900 MHz band

28. The existing rights of use for the 900 MHz band will be extended by the BIPT until the start of the validity period of the rights of use granted during procedure A.

2.3. 1800 MHz band

29. Proximus, Orange Belgium and Telenet Group each have 25 MHz duplex in the 1800 MHz band.

30. The allocated frequencies are distributed as follows⁴:

² A GSM channel has a bandwidth of 200 kHz duplex.

³ Decision of the BIPT Council of 13 May 2015 *on the division of spectrum in the 900 MHz band*.

⁴ Decision of the BIPT Council of 15 December 2014 *on the granting of rights of use and on the division of spectrum in the 900 MHz and 1800 MHz frequency bands*.

	Terminal station transmission (MHz)	Base station transmission (MHz)
Proximus	1710-1735	1805-1830
Orange Belgium	1735-1760	1830-1855
Telenet Group	1760-1785	1855-1880

Table 3 Existing rights in the 1800 MHz band

31. The existing rights of use for the 1800 MHz band will be extended by the BIPT until the start of the validity period of the rights of use granted during procedure A.

2.4. 2100 MHz band

32. Proximus has 15 MHz duplex in the paired (or FDD) bands and 5.4 MHz duplex in the unpaired (or TDD) band, while Orange Belgium and Telenet Group each have 14.8 MHz duplex in the paired bands and 5 MHz duplex in the unpaired band.
33. The allocated frequencies are distributed as follows:

	Terminal station transmission (MHz)	Base station transmission (MHz)	Unpaired frequencies (MHz)
Proximus	1920.3-1935.3	2110.3-2125.3	1914.9-1920.3
Telenet Group	1935.3-1950.1	2125.3-2140.1	1899.9-1904.9
Orange Belgium	1964.9-1979.7	2154.9-2169.7	1909.9-1914.9

Table 4 Existing rights in the 2100 MHz band

34. The existing rights of use for the 2100 MHz band will be extended by the BIPT until the start of the validity period of the rights of use granted during procedure A.

2.5. 2600 MHz band

35. Proximus and Orange Belgium each have 20 MHz duplex in the paired bands whereas Citymesh and Telenet Group each have 15 MHz duplex in the paired bands. Dense Air Belgium has 45 MHz in the unpaired band.
36. The allocated frequencies are distributed as follows:

	Terminal station transmission (MHz)	Base station transmission (MHz)	Unpaired frequencies (MHz)
Proximus	2500-2520	2620-2640	
Citymesh	2520-2535	2640-2655	
Telenet Group	2535-2550	2655-2670	
Orange Belgium	2550-2570	2670-2690	
Dense Air Belgium			2575-2620

Table 5 Existing rights in the 2600 MHz band

37. The existing rights of use for the 2600 MHz band of Proximus, Telenet Group, Orange Belgium and Dense Air Belgium are valid until 30 June 2027. The rights of use of Citymesh are valid until 30 September 2035. The rights of use may be extended by the BIPT for supplementary five-year periods.

2.6. 3600 MHz band

38. The 3410-3450 MHz frequency block has been allocated to Citymesh⁵ and Gridmax⁶. Together, the rights of use of Citymesh and Gridmax cover the whole national terrestrial territory.
39. The existing rights of use of Citymesh and Gridmax for the 3600 MHz band are valid until 6 May 2025 and will not be extended⁷.
40. Proximus, Orange Belgium and Telenet Group each have a temporary licence in the 3600-3800 MHz sub-band. These temporary licences are valid until the start of the validity period of the rights of use granted during procedure B.

⁵ On the whole national terrestrial territory, except for the municipalities of Bièvre, Bouillon, Gedinne and Vresse-sur-Semois.

⁶ In the municipalities of Bièvre, Bouillon, Gedinne and Vresse-sur-Semois.

⁷ The Royal Decree of 24 March 2009 on radio access in the 3410-3500/3510-3600 MHz and 10150-10300/10500-10650 MHz frequency bands expires on 7 May 2025 (Article 47 of the Royal Decree 3600 MHz).

Chapter 3. Spectrum to be allocated

41. When considering the three procedures, a total of 87 or 91 lots, of 10 or 11 different types, are auctioned (see Table 6).

Procedure	Lot type	Description	Number of available lots	Identifiers
A	A1 ⁸	Generic block of 5 MHz duplex in the 900 MHz band	6 or 7	1 to 6 or 0 to 6
	A2 ⁹	Generic block of 1 MHz duplex in the 900 MHz band	5 or none	7 to 11
	A3 ⁸	Generic block of 5 MHz duplex in the 1800 MHz band	15	12-26
	A4 ⁸	Generic block of 5 MHz duplex in the 2100 MHz band	12	27 to 38
	A5	Generic block of 5 MHz duplex in the 700 MHz band	6	1' to 6'
B	B1 ¹⁰	Specific 3410-3430 MHz block	1	3410-3430 MHz
	B2	Specific 3430-3450 MHz block	1	3430-3450 MHz
	B3	Generic block of 10 MHz in the 3450-3800 MHz sub-band	35	1 to 35

⁸ Only full candidates (see definition in the annex) may be awarded the lots of type A1, A3 and A4 (see section 7.4).

⁹ Article 4, § 1, of the Royal Decree 2G/3G provides that if the number of eligible full candidates is higher than three and if there are no eligible restricted candidates (see definitions in the annex), the five A2 lots will be auctioned as a single A1 lot.

¹⁰ Only Gridmax or Citymesh may be awarded the B1 lot (see article 28, § 8 of the Royal Decree 3600 MHz).

Procedure	Lot type	Description	Number of available lots	Identifiers
C	C1	Generic block of 5 MHz in the 1452-1492 MHz band	8	1 to 8
	C2	Specific 1427-1452 MHz block	1	1427-1452 MHz
	C3	Specific 1492-1517 MHz block	1	1492-1517 MHz

Table 6 Lots put up for auction

42. As regards the specific blocks, the position of the frequency block in the frequency band is defined. As for the generic blocks, only the size of the block is defined. The position of the frequency block in the frequency band is determined in a second phase. In case of the generic blocks, the only purpose of the identifier is to identify the lot for which a bid is made, but it does not say anything about its position.

Chapter 4. Reserved spectrum for new entrants

43. Procedure A starts with a preliminary auction reserved to new entrants in order to allocate spectrum in the 700 MHz, 900 MHz, 1800 MHz and 2100 MHz bands to one or several new entrants.
44. The following spectrum is reserved to new entrants:
 - 5 MHz duplex in the 900 MHz band (1 A1 lot);
 - 15 MHz duplex in the 1800 MHz band (3 A3 lots);
 - 5 MHz duplex in the 2100 MHz band (1 A4 lot);
 - 5 MHz duplex in the 700 MHz band (1 A5 lot).
45. Only full candidates (see definition in the annex) having submitted an A_α application file (see section 7.3) may participate in this preliminary auction. It is not necessary to submit an A_β application file to take part in the preliminary auction.
46. The new entrants must mention in their A_α application files if they want to obtain the whole reserved spectrum.
47. If several candidates are interested in the whole reserved spectrum, a single lot composed of the 6 frequency blocks mentioned in § 44 (N lot) will be auctioned. Only the candidates having notified their interest in the whole reserved spectrum may in that case participate in this preliminary auction (see section 7.8.6).
48. If only one candidate is interested in the whole reserved spectrum, even if there are other new entrants, the whole or part of the reserved spectrum (between 1 and 6 frequency blocks mentioned in § 44) can be automatically allocated to that candidate, at his request. For these automatically awarded lots, the new entrant must pay a one-time fee pursuant to Article 30 of the ECA (see section 6.4).
49. If no candidate is interested in the whole reserved spectrum, the 6 frequency blocks mentioned in § 44 will be auctioned as 6 different lots. In that case, every new entrant can participate in this preliminary auction (see 7.8.6). Compliance with the *spectrum caps* (see section 7.2) does not limit the number of lots for which a new entrant can bid during this preliminary auction.
50. The frequency blocks which have not been allocated to one or several new entrants will be auctioned during the main auction in which also the existing operators (see definition in the annex) may take part.
51. The frequency blocks allocated during the preliminary auction are generic lots and the position of the frequency blocks in the different frequency bands is determined later on (see section 7.8.8).

Chapter 5. Availability of the auctioned bands

5.1. 900 MHz, 1800 MHz and 2100 MHz bands

52. At the end of procedure A, the future distribution of spectrum among operators in the existing 2G and 3G bands (900 MHz, 1800 MHz and 2100 MHz) should be different from the current distribution. It will thus be necessary to reorganise these three bands. To date, there is no information on the complexity of the reorganisation, but the mini-reorganisation of 2015 (spectrum which was reserved for Telenet Tecteo BidCo) showed that this could be a complex matter.
53. During a transition phase, several steps will probably be necessary to achieve the transition from the current distribution (see sections 2.2, 2.3 and 2.4) to the future distribution (result of the allocation procedures).
54. In its contribution to the public consultation of 16 July 2021¹¹, Agoria Telecom Industries requested a transition period of at least 18 months to move from the current distribution to the future distribution. Agoria Telecom Industries asked for this minimal period of 18 months to be laid down in the Royal Decree.
55. In 2016, the BIPT recommended to hold the allocation procedure for the 900 MHz, 1800 MHz and 2100 MHz frequency bands at least 2 years before the end of the 2G and 3G licences¹², to enable the existing operators to complete the reorganisation of these three bands. Due to circumstances beyond the control of the BIPT, the allocation procedure for the three above-mentioned bands will not be held before 2022. It is clear that this delay of at least 3 years may make the reorganisation of these three bands a lot more critical.
56. The Royal Decree 2G/3G lays down¹³ that the BIPT shall set the starting date of the validity period of the new rights of use. The BIPT will set this date with a view to giving enough time to the existing operators to carry out the reorganisation and so as not to abusively delay a possible new entrant's access to the 900 MHz, 1800 MHz and 2100 MHz bands.
57. In the absence of any new entrant who would acquire spectrum in the three aforementioned bands, the BIPT has no reason to oppose an 18 month-period between the end of the allocation procedure and the start of the validity period of the new rights of use.
58. The Royal Decree 2G/3G lays down¹⁴ that the BIPT may modify the distribution of the allocated frequencies, without modifying the quantity of spectrum allocated to each operator, in objectively justified cases, within a reasonable time and in a proportionate manner. The BIPT may use this provision to facilitate the reorganisation of the 900 MHz, 1800 MHz and 2100 MHz bands.
59. It is therefore not imperative that the reorganisation of the aforementioned bands should be completed as from the start of the validity period of the new rights of use. According to the BIPT, two conditions must be met at the beginning of the validity period of the new rights of use:
 - The quality of the spectrum used by each operator must correspond to the quantity granted during the allocation procedure¹⁵;
 - A possible new entrant must be able to use contiguous frequency blocks.

¹¹ Consultation organised by the BIPT Council at the request of the Minister of Telecommunications regarding the regulatory framework for the organisation of a multiband auction, published on 16 July 2021.

¹² The 2G and 3G licences were due to expire on 15 March 2021.

¹³ Article 60, § 2, of the Royal Decree 2G/3G.

¹⁴ Article 4, § 4, of the Royal Decree 2G/3G.

¹⁵ The transfer or lease of spectrum among operators for a limited period is possible. However, the BIPT may not impose it.

60. As there is no information yet on the complexity of the reorganisation, it is very difficult to provide specific indications on the timeframe the BIPT will set between the end of the allocation procedure and the start of the validity period of the new rights of use. Except in case of agreement by all the operators concerned, this period may extend from 6 to 12 months.

5.2. 700 MHz band

61. The UHF broadcasting band (470-790 MHz) is currently being used by the digital terrestrial television (DVB-T).
62. A limited number of digital terrestrial television transmitters use channels of the 700 MHz band (694-790 MHz, channels 49 to 60). Those transmitters must change channels to allow the roll-out of wireless broadband networks in the 700 MHz band.
63. Article 8 of the Royal Decree 700 MHz lays down the mechanism to compensate the broadcasting bodies concerned.
64. For the French Community, the RTBF programmes are transmitted via digital terrestrial television by using the channels mentioned in point 1.1 of Annex 1 to the management contract of the RTBF¹⁶, as well as channel 45, which has temporarily been made available to the RTBF by the German-speaking Community. The coverage of the French Community is ensured by 12 transmitters¹⁷, 9 of which use channels in the 700 MHz band.
65. Pursuant to Article 46.2 of the management contract of the RTBF, once the 694-790 MHz band is reallocated for the benefit of mobile operators, and provided that fair compensation is provided for in favour of the RTBF, the latter will from then on only be able to use channel 42 in the whole French Community.
66. The coverage of the French Community should thus be ensured by only one SFN¹⁸ using channel 42. To that end, the RTBF must replace 4 antennas and 12 transmitters. Two of the four antennas have already been replaced. At this stage, the RTBF cannot confirm when all the replacements will be completed. It is likely that all replacements will be completed during the summer of 2022, but there are no guarantees. The BIPT will publish updated information on the replacements as soon as possible.
67. Even if it is possible for the mobile networks in the 700 MHz band and the RTBF's networks using channels 55 and 56 to coexist, interference cannot be excluded.
68. Concerning the Flemish Community, Norkring België's licence allows it to use two channels in the 700 MHz band. Mobile networks in the 700 MHz band and a network of Norkring België using channels 53 and/or 59 cannot coexist.
69. As far as we know, channels 53 and 59 are not used. It is thus not very likely that Norkring België can request compensation.
70. Article 201, § 2, subparagraph 2 of the Flemish Decree¹⁹ allows to remove, replace or modify channels 53 and 59 in the licence of Norkring België. As far as we know, this possibility has not yet been put in practice. The BIPT will publish updated information on the licence of Norkring België as soon as possible.

¹⁶ Decree of the Government of the French Community of 12 December 2018 *approving the fifth management contract of the radio-télévision belge de la communauté française for the years 2019 up to and including 2022*.

¹⁷ An SFN (*Single Frequency Network*) using channel 56, made out of 6 transmitters (Brussels, Wavre, Tournai, Anderlues, Profondeville and Namur), an SFN using channel 55, made out of 3 transmitters (Léglise, La Roche and Marche), a transmitter using channel 42 in Malmedy, a transmitter using channel 45 in Liège and a transmitter using channel 49 in Couvin.

¹⁸ *Single frequency network*.

¹⁹ *Flemish Decree of 27 March 2009 on radio broadcasting and television*.

5.3. 3600 MHz band

71. With the exception of the existing rights of use of Citymesh and Gridmax in the 3410-3450 MHz sub-band (see section 2.6), the 3600 MHz band is directly available.
72. The 3410-3450 MHz sub-band must not be used by any other operator than Citymesh and Gridmax until 6 May 2025 (end of the validity of the existing rights of use of Citymesh and Gridmax). In any case, the 3410-3430 MHz frequency block can only be allocated to Gridmax or Citymesh.

5.4. 1400 MHz band

73. A few dozens of radio relay links are currently active in the 1427-1439.5 MHz and 1492-1504.5 MHz sub-bands. The BIPT plans to finalise the reorganisation of these 2 sub-bands before the end of September 2022.
74. The rest of the 1400 MHz band is directly available.

Chapter 6. Conditions for the exercise of the rights of use

6.1. Notion of rights of use

75. The ECA distinguishes two types of licences for the use of radio spectrum:
- The "rights of use of radio spectrum" which are individual rights to use radio spectrum which are used wholly or partly for the provision of public electronic communications networks or publicly available electronic communications services;
 - The "private radio communications licences" which are licences to be able to use a radio communications station or network for purposes other than the provision of public electronic communications networks or publicly available electronic communications services.
76. The procedures described in this memorandum only concern the rights of use of radio spectrum.
77. The BIPT deems that a network can be considered as "public" or an electronic communications services can be considered as "publicly available" if it is openly offered on the market and not only to a predefined group of users. The predefined group of users corresponds to the concept of "closed user group".
78. On the contrary, a service is not openly offered on the market when access to this service is subject to conditions which are not related to the electronic communications service itself (e.g. the requirement to have a commercial relationship with the provider or the owner of the site other than the commercial relationship resulting from the provision of the electronic communications service).
79. Another element allowing to assess the notion of "closed user group" is to examine if this concerns a community of interest which is characterised by its stability, its permanence and its anteriority to the real use of the electronic communications service.
80. Regarding private networks, it is possible to apply for private radio communications licences with the BIPT. These private radio communications licences are not the subject of the three procedures for the granting of the rights of use referred to in this memorandum.

6.2. Validity period of the rights of use

81. The starting date of the validity period of the rights of use is, for each procedure, defined by the BIPT. This date may thus differ from one procedure to the other. For procedure A, this date may differ for the 900 MHz, 1800 MHz and 2100 MHz bands on the one hand, and the 700 MHz band on the other hand.
82. Concerning the granted rights for the 900 MHz, 1800 MHz and 2100 MHz frequency bands (part of procedure A), the BIPT will give the operators the time needed to reorganise the bands (see section 5.1). It is only once this reorganisation is completed that the validity period of the rights of use will start. Until then, the existing rights of use will be extended pursuant to the provisions of the Royal Decree of 3 December 2020²⁰ allowing the BIPT to extend the 2G and 3G licences beyond 15 March 2021, by periods of maximum six months.

²⁰ Royal Decree of 3 December 2020 amending the Royal Decree of 7 March 1995 on the establishment and operation of GSM mobile telephone networks, the Royal Decree of 24 October 1997 on the establishment and operation of DCS-1800 mobile telephone networks, and the Royal Decree of 18 January 2001 fixing the specifications and the procedure for granting licences for third-generation mobile telecommunications systems

83. Concerning the rights granted for the 700 MHz (part of procedure A), 1400 MHz (procedure C), and 3600 MHz²¹ (procedure B) frequency bands, the validity period should start within the weeks following the end of the allocation procedure. A priori the start of the validity period for these three frequency bands should be aligned.
84. Concerning the 3410-3430 MHz and 3430-3450 MHz blocks, the BIPT will set 7 May 2025 as the starting date, unless Citymesh notifies the BIPT that it wants to put an end to its existing rights (see section 2.6)²². Time will be given to Citymesh at the end of the allocation procedure to inform the BIPT. If Citymesh ends its existing rights, the rights for both blocks will start at the same time as the rights for the other blocks of the 3600 MHz band.
85. The duration of the initial validity period of the rights of use is 20 years for the rights of use corresponding to procedures A and C. Concerning procedure B, the end date of the initial validity period of the rights of use is 6 May 2040.
86. The rights of use may be extended by the BIPT for supplementary periods of maximum five years. It is important to note that the BIPT has no obligation whatsoever to extend the rights of use. To this end, the BIPT must take a decision no later than two years before the period expires.
87. The criteria the BIPT must consider for extension decisions concern the following (see Article 18, § 2/1, subparagraph 3, of the ECA):
 - the need to ensure the effective and efficient use of the radio spectrum concerned;
 - the objective of reaching wireless broadband coverage of the territory and population at high quality and speed, as well as coverage of major transport paths;
 - the objective of facilitating the rapid development of new wireless communication technologies and applications;
 - the need to fulfil general interest objectives related to ensuring safety of life, public order, public security or defence; and
 - the need to ensure undistorted competition.
88. Taking enforcement action for non-compliance with the conditions of the rights of use of radio spectrum pursuant to Article 21 of the Act of 17 January 2003 *on the status of the regulator of the Belgian postal and telecommunications sectors* (hereafter the "BIPT Act") may lead to a non-extension of the rights of use.

6.3. Technologies allowed

89. Generally speaking, all types of technologies may be used in the radio frequency bands reserved entirely or partially for publicly available electronic communications services. There are still limitations to the technological neutrality for the 900 MHz and 1800 MHz bands, but they should be removed during the year 2022²³.
90. Applicants must indicate in their applications which technology they plan to use if they obtain a right of use during the allocation procedure.

²¹ Except for the 3410-3430 MHz and 3430-3450 MHz blocks.

²² See section 4 of the BIPT Council Decision of 4 May 2021 regarding the extension of Citymesh's user rights in the 3.5 GHz frequency band for the provision of electronic communications services on the Belgian territory.

²³ The BIPT will adopt a decision which will be based on the future Commission Implementing Decision on the harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing electronic communications services in the Union and repealing Decision 2009/766/EC.

91. The operator is solely responsible for the operation of his network. He is responsible for any radio frequency interference caused by the base stations in his network to other users of the radio spectrum.
92. All radio equipment in base stations must comply with the applicable rules. In practice, this means that the equipment must comply with the requirements of the RED Directive²⁴, as transposed in Articles 32 ff. of the ECA and the Royal Decree of 25 March 2016 on the making available on the market of radio equipment.
93. The BIPT retains the right to change, if need be, the technical parameters that are applicable to the radio equipment.
94. The technical and operational conditions that are necessary to prevent harmful interference are laid down by the BIPT.
95. For the 900 MHz and 1800 MHz bands, these conditions are currently (see § 89) laid down by:
 - the BIPT Council Decision of 16 November 2011 on the use of UMTS and LTE technologies in the 900 MHz, 1800 MHz and 2 GHz bands, which imposes the technical parameters enabling to ensure the coexistence between the GSM, UMTS, LTE and WiMax networks in the 900 MHz and 1800 MHz frequency bands;
 - the BIPT Council Decision of 3 December 2018 on the use of Internet of Things technologies in the frequency bands allocated to public mobile operators, which lays down the conditions of use of the NB-IoT technology in the 900 MHz and 1800 MHz frequency bands, and complements the above-mentioned Decision of 16 November 2011.
96. Regarding the 2100 MHz band, these conditions are laid down by the BIPT Council Decision of 15 June 2021 on the technical and operational terms required for the avoidance of harmful interference in the 1920-1980 MHz and 2110-2170 MHz frequency bands.
97. Regarding the 700 MHz band, these conditions are laid down by the BIPT Council Decision of 28 May 2018 on the technical and operational terms required to avoid harmful interference imposed upon the 700 MHz operators.
98. Regarding the 3600 MHz band, these conditions are laid down by the BIPT Council Decision of 03 November 2021 on the technical and operational conditions for the avoidance of harmful interference in the 3400-3800 MHz frequency band.
99. The BIPT must still lay down these conditions for the 1400 MHz band²⁵.

6.4. International frequency coordination

100. The BIPT has concluded several agreements on border coordination for the various frequency bands (see Table 7). Those agreements are available on the website <https://auction2022.be>.

Frequency band	Agreement
700 MHz	Agreement between the Administrations of Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland on frequency usage and frequency coordination in border areas for terrestrial systems capable of providing wireless broadband electronic communications services in the frequency bands 703-733/758-788 MHz, Maisons-Alfort, 23 May 2017

²⁴ Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 *on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC*.

²⁵ The BIPT will adopt a decision by the end of January 2022, which will be published on its website and on the website <https://auction2022.be/en>.

Frequency band	Agreement
900 MHz (E-GSM ²⁶)	Agreement between the Administrations of Belgium, France, Germany, Luxembourg and the Netherlands concerning the co-ordination in the frequency bands 880-890 and 925-935 MHz (E-GSM), Brussels, 10 May 2006
900 MHz (P-GSM ²⁷)	Agreement concluded between the Administrations of Germany, Belgium, France and Luxembourg concerning the co-ordination in the frequency bands 890-915 and 935-960 MHz, Maisons-Alfort, 9 March 2005
900 MHz (P-GSM)	Agreement between the Administrations of Belgium, Germany and the Netherlands concerning a revision of the preferential division for GSM in the bands 890-915 MHz/935-960 MHz, Brussels, 11 October 2011
1800 MHz	Agreement between the telecommunications administrations of Austria, Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland on the frequency coordination of systems using DCS1800 standards, Mainz, 26 January 1994
900 MHz and 1800 MHz	Agreement between the Administrations of Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland on frequency planning and frequency coordination at border areas for terrestrial systems capable of providing electronic communications services in the frequency bands 880-915 MHz paired with 925-960 MHz and 1710-1785 MHz paired with 1805-1880 MHz, Brussels, 11 October 2011
1400 MHz	Agreement between the Administrations of Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland on frequency usage and frequency coordination in border areas for terrestrial systems capable of providing wireless broadband electronic communications services in the frequency band 1437-1518 MHz, Maisons-Alfort, 23 May 2017
2100 MHz	Agreement between the Administrations of Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland on frequency usage and frequency coordination in border areas for terrestrial systems capable of providing electronic communications services in the frequency bands 1920-1980/2110-2170 MHz, Brussels, 22 November 2017
3600 MHz	Agreement between the Administrations of Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland on frequency usage and frequency coordination in border areas for terrestrial systems capable of providing electronic communications services in the frequency band 3400-3800 MHz, Brussels, 22 November 2017

Table 7 List of the border coordination agreements

²⁶ 880-890 MHz and 925-935 MHz frequency sub-bands

²⁷ 890-915 MHz and 935-960 MHz frequency sub-bands

101. The entry into force of the agreement regarding the 3600 MHz band requires confirmation from the different signatory countries. To this day, only Switzerland has given its confirmation. Therefore there is no certainty for the BIPT regarding the entry into force of this agreement.
102. This agreement lays down different coordination rules depending on whether or not the cross-border networks are synchronised. The field limits are much more restrictive in case of non-synchronisation. The DDSU frame structure²⁸ ("Frame A" of ECC Recommendation (20)03²⁹) should also be used in Germany, the Grand Duchy of Luxembourg, and the Netherlands³⁰. However, France has chosen the DDSUJDDDD frame structure ("Frame B" of ECC Recommendation (20)03). Discussions are still ongoing with the other signatory countries to facilitate the synchronisation of the cross-border networks.
103. This agreement also provides for the possibility of entering additional agreements to ensure the protection of other radio communications systems (e.g. earth stations) in neighbouring countries.
104. It is to be noted that in the absence of a specific agreement on the band, the sole limit of 41 dB μ V/m/5 MHz at a height of 10 m above ground level at the border is applicable³¹, regardless of the synchronisation parameters.
105. Table 8 shows the field limits imposed on operators in the border areas resulting from the border coordination agreements mentioned in Table 7.

Frequency band	Technology	Limit ³²
700 MHz	Neutral	59@0 & 41@6
900 MHz	GSM	Preferential channels: 19@15 Non-preferential channels: 19@0
900 MHz	UMTS, LTE and WiMax ³³	59@0 & 41@6
1400 MHz	Neutral	65@0 & 47@6
1800 MHz	GSM	Preferential channels: 25@15 Non-preferential channels: 25@0
1800 MHz	UMTS, LTE and WiMax ³³	65@0 & 47@6
2100 MHz	Neutral	65@0 & 37@6

Table 8 Field limits at borders

106. The operator has to observe the obligations resulting from the cross-border coordination.

²⁸ Subcarrier spacing of 30 kHz, 1 frame of 10 ms (20 slots): DDSU DDSU DDSU DDSU with S = slot NR format #32 (10:2:2).

²⁹ *Frame structures to facilitate cross-border coordination of TDD MFCN in the frequency band 3400-3800 MHz, 23 October 2020.*

³⁰ Also see Recommendation M(2021)18 of the Benelux Committee of Ministers of 15 December 2021 on the mutual coordination within the framework of the cross-border coverage and uninterrupted transfer of the 5G signal.

³¹ Section 4.1 of the agreement between the administrations of Austria, Belgium, Croatia, the Czech Republic, France, Germany, Hungary, Italy, Liechtenstein, Lithuania, Luxembourg, the Netherlands, Poland, Romania, Slovakia, Slovenia and Switzerland on the coordination of frequencies between 29.7 MHz and 43.5 GHz for fixed services and land mobile services (HCM Agreement).

³² X@Y: field limited to X dB μ V/m at Y km in the neighbouring country.

³³ Even if the NR technology is not mentioned in the agreement, the limit also applies to this technology.

107. The BIPT encourages agreements between operators to improve coordination in border areas and the coverage of these areas, in compliance with the agreement³⁴ regarding the approval of arrangements between operators.

6.5. Belgium’s exclusive economic zone in the North Sea

108. Several operators have rights of use that are subject to temporary conditions in several frequency bands for base stations located in the Belgian exclusive economic zone in the North Sea: Telenet³⁵, e-BO Enterprises³⁶ and Citymesh³⁷.

109. Citymesh, Isea, eBO-Enterprises and Tampnet have rights of use subject to temporary conditions in the 700 MHz and 800 MHz bands for the entire Belgian exclusive economic zone in the North Sea³⁸.

110. The field limits of Table 8 concern base stations located in the Belgian exclusive economic zone in the North Sea, the coastline being the border to consider, to protect the terrestrial networks of the Belgian public mobile operators.

6.6. Unique fee

111. The minimum bid in the first round of the auction for the different lots (or reserve price) is set by Article 30 of the ECA. Article 30 of the ECA sets an amount per allocated MHz and per month of validity of the rights of use.

112. For procedures A and C, the rights of use are valid for a period of 20 years. The reserve price of the lots for procedures A and C must therefore be calculated for a period of 240 months.

113. For procedure B, the rights of use are valid until 6 May 2040, irrespective of the starting date of the validity period. However, for the 3600 MHz band, the unique fee does not have to be paid for the period until 6 May 2025 (Article 30, § 1/1, subparagraph 3, 9° and 10°). The reserve price for lots C1, C2 and C3 must therefore be calculated based on the number of months between 7 May 2025 and 6 May 2040.

Procedure	Lot type	Description	Reserve price
A	N	See Chapter 4.	€83,340,000

³⁴ Agreement between the Administrations of Belgium, France, Germany, Luxembourg, the Netherlands and Switzerland concerning the approval of arrangements between operators of terrestrial systems capable of providing electronic communication services, Brussels, 11 October 2011.

³⁵ BIPT Council Decision of 5 October 2010 *on the granting to KPN Group Belgium of temporary rights for the establishment and operation of a transmitting installation in the Bligh Bank wind farm in the Belgian exclusive economic zone in the North Sea* and the BIPT Council Decision of 21 October 2013 *regarding the granting to BASE Company of temporary rights for certain wind farms in the North Sea*.

³⁶ BIPT Council Decision of 8 April 2019 *on the granting to e-BO Enterprises of temporary rights for the establishment and operation of a transmitting installations at the wind farms situated in the Belgian economic zone in the North Sea and on the modification of the financing conditions in the BIPT Council Decision of 21 October 2013 on the granting to Base Company of temporary user rights and in the BIPT Council Decision of 4 January 2018 on the granting to Citymesh of temporary user rights*.

³⁷ BIPT Council Decision of 27 October 2020 *on the granting to Citymesh of temporary user rights for the band 3410-3510 MHz for the establishment and operation of a transmission installation in the Belgian exclusive economic zone in the North Sea*.

³⁸ BIPT Council Decision of 16 November 2021 *on the granting of spectrum at 700 MHz and 800 MHz for the establishment and operation of a transmission installation in the Belgian exclusive economic zone in the North Sea*.

Procedure	Lot type	Description	Reserve price
	A1	Generic block of 5 MHz duplex in the 900 MHz band	€28,010,000 ³⁹
	A2	Generic block of 1 MHz duplex in the 900 MHz band	€5,610,000 ⁴⁰
	A3	Generic block of 5 MHz duplex in the 1800 MHz band	€9,000,000
	A4	Generic block of 5 MHz duplex in the 2100 MHz band	€9,000,000
	A5	Generic block of 5 MHz duplex in the 700 MHz band	€19,340,000 ⁴¹
B	B1	Specific 3410-3430 MHz block	€8,060,000 ⁴²
	B2	Specific 3430-3450 MHz block	€9,210,000 ⁴³
	B3	Generic block of 10 MHz in the 3450-3800 MHz sub-band	€4,610,000 ⁴⁴
C	C1	Generic block of 5 MHz in the 1452-1492 MHz band	€3,000,000
	C2	Specific 1427-1452 MHz block	€12,000,000
	C3	Specific 1492-1517 MHz block	€10,500,000

Table 9 Reserve price of the different lots

114. Mobile operators are required, at the beginning of the validity period of the rights of use, to pay a unique fee in accordance with the conditions of Article 30, §§ 1/1 to 1/4 of the ECA. Each eligible candidate's (see definition in the annex) deposit - including accrued interest - will be offset against the fee to be paid by that candidate at the beginning of the validity period of the rights of use.

³⁹ Based on Article 30 of the ECA, the reserve price would amount to €28,000,800. The minimum bid in the first round of the auction must however be a multiple of €10,000 (Article 46, § 4, of the Royal Decree 2G/3G).

⁴⁰ Based on Article 30 of the ECA, the reserve price would amount to €5,600,160. The minimum bid in the first round of the auction must however be a multiple of €10,000 (Article 46, § 4, of the Royal Decree 2G/3G).

⁴¹ Based on Article 30 of the ECA, the reserve price would amount to €19,334,400. The minimum bid in the first round of the auction must however be a multiple of €10,000 (Article 46, § 4, of the Royal Decree 2G/3G).

⁴² Based on Article 30 of the ECA, the reserve price would amount to €8,051,400. The minimum bid in the first round of the auction must however be a multiple of €10,000 (Article 28, § 4, of the Royal Decree 3600 MHz).

⁴³ Based on Article 30 of the ECA, the reserve price would amount to €9,201,600. The minimum bid in the first round of the auction must however be a multiple of €10,000 (Article 28, § 4, of the Royal Decree 3600 MHz).

⁴⁴ Based on Article 30 of the ECA, the reserve price would amount to €4,600,800. The minimum bid in the first round of the auction must however be a multiple of €10,000 (Article 28, § 4, of the Royal Decree 3600 MHz).

115. The revision of the ECA by the Act of 21 December 2021 clarified that the unique fee cannot be considered as capital income within the meaning of Article 17 of the Income Tax Code 1992, so that no withholding tax is due (Article 30, § 1/5, of the ECA).
116. Pursuant to Article 30, § 1/1, subparagraph 3, 9° and 10°, of the ECA, the unique fee for the 3400-3800 MHz frequency bands is nil for the part of the validity period before 7 May 2025. The nil value is only applicable to the calculation of the reserve price. During procedure B, the candidates will bid to obtain frequency blocks for the whole validity period of the rights of use.
117. Operators may choose between two methods of payment: either they pay the unique fee as a lump sum, or they pay by annual instalments.
118. In case of a lump sum the operator settles the whole unique fee within 15 days following the start of the period of validity of the rights of use (see section 6.2). It should be noted for the 3600 MHz band that the validity period of the rights of use should start before 7 May 2025⁴⁵.
119. If the operator pays by instalments, he settles the unique fee as follows:
- the operator pays proportionally to the number of months remaining until the next year, within 15 days starting from the validity period of the rights of use (see section 6.2);
 - the operator pays the whole unique fee for the year to come on 15 December at the latest. If the rights of use expire in the course of the year to come, the operator pays proportionally to the number of months remaining until the rights of use expire;
 - The amount per month is calculated by dividing the total unique fee by the validity period of the rights of use expressed in months;
 - the legal interest rate is applicable as from the 16th day following the start of the validity period of the rights of use;
 - the operator pays the interest on the outstanding amount, simultaneously with the unique fee.
120. An operator who chooses to pay by annual instalments can, on each 15 November at the latest, notify the BIPT of its will to free itself with a one-time payment of the balance of the unique fee. In that case, the operator will pay the balance, on 15 December of that year at the latest, based on a settlement drawn up by the BIPT.

6.7. Annual fees

121. The operators will also be required to pay the following annual fees to the BIPT:
- Fee related to the notification as an operator (see section 8.1);
 - Annual frequency availability fees;
 - Annual fees for the use of numbers (see section 8.1).
122. The revision of the ECA by the Act of 21 December 2021 clarified that the annual fees for the availability of frequencies and the use of numbers cannot be considered as capital income within the meaning of Article 17 of the Income Tax Code 1992, so that no withholding tax is due (Article 30, § 1/5, of the ECA).
123. The amounts of the annual frequency availability fees for the different bands that are valid for the year 2022, are indicated in Table 10. These amounts are adapted each year to the consumer price index.

⁴⁵ Except as the case may be for the 3410-3430 MHz and 3430-3450 MHz blocks (see § 84).

Frequency band	Amount per MHz ⁴⁶ and per year
700 MHz	€102,000
900 MHz	€102,000
1400 MHz	€55,900
1800 MHz	€55,900
2100 MHz	€55,900
3600 MHz	€11,200

Table 10 Amount of the annual frequency availability fees

124. The annual fees must be paid for all the allocated frequencies, whether they are used or not. When calculating the annual fees, one MHz duplex corresponds to 2 MHz.

125. For the 700 MHz, 1400 MHz and 3600 MHz frequency bands, the annual fees are reduced by 50% during the first three years of the validity period of the rights of use.

6.8. Coverage obligations

6.8.1. General

126. Only operators holding rights of use for frequencies in the 900 MHz band⁴⁷ or in the 700 MHz band are subject to coverage obligations.

127. The customers of an operator who has been granted rights of use in the 900 MHz band or in the 700 MHz band have to be able to do the following things in the coverage zone from and to a standard terminal device outside buildings:

- Establish communications with all end-users of a public fixed or mobile telephony network in Belgium or abroad;
- Access services and applications provided over the public data transport networks, in particular, over the worldwide web.

128. The coverage obligations mentioned above can be met with all the frequencies for which the operator holds rights of use.

129. The above-mentioned coverage obligations depend on the type of operator. Two types of operators can be distinguished:

- the existing operators (Proximus, Orange Belgium and Telenet Group);
- the other operators.

130. Compliance with the coverage obligations is examined by the BIPT.

131. No coverage obligation is related to the rights of use for the 1400 MHz, 1800 MHz, 2100 MHz and 3600 MHz bands.

6.8.2. 900 MHz band

132. Operators holding rights of use for at least 5 MHz duplex in the 900 MHz band are subject to the coverage obligations mentioned in Table 11 (existing operators) and Table 12 (other operators).

⁴⁶ The frequency availability fee must be paid for all the allocated frequencies.

⁴⁷ The coverage obligations related to the 900 MHz band do not apply to an operator who owns less than 5 MHz duplex in the 900 MHz band.

133. No speed limit is imposed concerning rights of use related to the 900 MHz band.

Date	Population coverage
As of the start of the validity period of the rights	99.5%

Table 11 Coverage obligations for the existing operators in the 900 MHz band

Date	Population coverage
3 years after the starting date of the validity period of the rights of use	30%
6 years after the starting date of the validity period of the rights of use	70%
8 years after the starting date of the validity period of the rights of use	99.5%

Table 12 Coverage obligations for the other operators in the 900 MHz band

6.8.3. 700 MHz band

134. The operators holding rights of use for frequencies in the 700 MHz band are subject to the coverage obligations mentioned in Table 13 (existing operators) and Table 14 (other operators).

Date	Population coverage
1 year after the starting date of the validity period of the rights of use	70%
2 years after the starting date of the validity period of the rights of use	99.5%
6 years after the starting date of the validity period of the rights of use	99.8%

Table 13 Coverage obligations for the existing operators in the 700 MHz band

Date	Population coverage
3 years after the starting date of the validity period of the rights of use	30%
6 years after the starting date of the validity period of the rights of use	70%
8 years after the starting date of the validity period of the rights of use	99.8%

Table 14 Coverage obligations for the other operators in the 700 MHz band

135. The downstream speed limit imposed depends on the quantity of spectrum held by the operator in the 700 MHz and the 800 MHz bands⁴⁸:

- 6 Mbps for an existing operator getting 10 MHz duplex in the 700 MHz band;
- 5 Mbps for an existing operator getting 5 MHz duplex in the 700 MHz band;
- 3 Mbps for an operator who is not an existing operator.

⁴⁸ Only the existing operators hold spectrum in the 800 MHz band.

6.9. Railways coverage

136. In addition to the population coverage obligations (see section 6.8.3), operators holding rights of use for frequencies in the 700 MHz band are also subject to an obligation to cover the following railway lines:

- Brussels-Ghent;
- Brussels-Antwerp;
- Brussels-Liège (fast and slow track);
- Brussels-Namur;
- Brussels-Halle;
- Halle-Mons;
- Antwerp-Ghent;
- Ghent-Courtrai;
- Halle-Tournai;
- Brussels-Charleroi;
- Ghent-Bruges;
- Charleroi-Namur;
- Leuven-Hasselt;
- Namur-Arlon;
- Liège-Welkenraedt.

137. The purpose is to reach a minimum speed of 10 Mbps for 98% of the locations on the aforementioned railway lines:

- two years after the starting date of the validity period of the rights of use for the existing operators;
- nine years after the starting date of the validity period of the rights of use for the other operators.

138. The coverage obligations mentioned above can be met with all the frequencies for which the operator holds rights of use.

6.10. National roaming

6.10.1. General

139. This section only concerns the existing operators holding rights of use in the 700 MHz, 900 MHz, 1800 MHz or 2100 MHz bands, and the new entrants holding rights of use in the 700 MHz or 900 MHz bands.

140. The BIPT may require the existing operators to offer new entrants getting spectrum in the 900 MHz⁴⁹ band or in the 700 MHz band national roaming on their networks, for a limited period.

141. The provisions related to national roaming are almost identical for the operators holding rights of use in the 900 MHz band (Article 11 of the Royal Decree 2G/3G) and for the operators holding rights of use in the 700 MHz band (Article 13 of the Royal Decree 700 MHz).

⁴⁹ An operator holding less than 5 MHz duplex in the 900 MHz band is not entitled to national roaming.

142. Concretely, the BIPT may impose:

- on an existing operator who has spectrum in the 700 MHz band to offer national roaming to a new entrant who also has spectrum in the 700 MHz band;
- on an existing operator who has spectrum in the 900 MHz band, in the 1800 MHz band or in the 2100 MHz band to offer national roaming to a new entrant who has at least 5 MHz duplex in the 900 MHz band.

143. A new entrant who gets spectrum in the 700 MHz band and in the 900 MHz band may thus request the BIPT's intervention pursuant to the Royal Decree 2G/3G and/or the Royal Decree 700 MHz.

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

145. The provisions of the European regulatory framework and of Article 51 of the ECA, amended by Article 192 of the Act of 29 December 2010 pertaining to various provisions are applicable.

6.10.2. Deadline for the BIPT to impose national roaming

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

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

147. Unless otherwise agreed, the national roaming agreement will only take effect from the date on which the operator entitled to national roaming has achieved coverage of at least 20% of the Belgian population. However, an operator can make a request before having reached 20% coverage (see section 6.8).

6.10.4. Geographical scope of the national roaming agreement

148. An operator entitled to national roaming is not entitled to roaming services on networks of the existing operator in areas where he has rolled out his own network, unless otherwise agreed by the parties to the roaming agreement.

6.10.5. Services covered by the national roaming agreement

149. The services covered by a national roaming agreement concluded between an operator entitled to national roaming and an operator obliged to offer national roaming, include all electronic communications services provided with all frequencies under 3 GHz for which the existing operator holds rights of use.

150. In practice this covers all services provided in the 700 MHz, 800 MHz, 900 MHz, 1400 MHz, 1800 MHz, 2100 MHz and 2600 MHz bands.

6.10.6. Duration of the national roaming agreement

151. None of the measures related to national roaming imposed by the BIPT will be applicable 8 years after the start of the validity period of the rights of use.

6.10.7. Circumstances that may put an end to the national roaming agreement

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

- if the operator who is entitled to national roaming, negotiates and concludes another national roaming agreement with another operator who is obliged to offer national roaming;
- if the BIPT finds that the operator who is entitled to national roaming does not meet his coverage obligations.

6.10.8. Retail minus pricing

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

6.11. ASTRID

6.11.1. General

154. This section only concerns the operators holding rights of use in the 700 MHz band.

155. Concerning the obligations of operators regarding the PPDR⁵⁰ network of ASTRID⁵¹, one must distinguish:

- PPDR national roaming; and
- the specific PPDR measures⁵².

156. All operators must provide PPDR national roaming to ASTRID within two years as from the reception of the request of ASTRID. The Minister of Telecommunications and the Minister of the Interior may require one or several 700 MHz operators to provide ASTRID with the minimum specific PPDR measures required to support the rescue and security services.

6.11.2. PPDR national roaming

157. All operators have an obligation to offer PPDR national roaming to ASTRID and must support the necessary functionalities to that end. These functionalities are specified in Article 14, § 1, of the Royal Decree 700 MHz:

- establishing communications with all end-users of a public fixed or mobile telephony network in Belgium or abroad;
- accessing services and applications provided over the public data transport networks, in particular, over the worldwide web;
- supporting the MCPTT (Mission Critical Push to Talk), MCVideo (Mission Critical Video) and MCData (Mission Critical Data) functionalities as developed by the 3GPP;
- supporting the priority and preemption mechanisms for ASTRID users, such as:
 - QCIs (QoS Class Identifiers);
 - reserving at least 3 ARP (Allocation and Retention Priority) values;
 - Access Class Barring and the corresponding reservation of a number of specific Access Class values (at least, classes 12 and 14).

⁵⁰ Public protection and disaster relief

⁵¹ The company A.S.T.R.I.D. S.A. established by the Act of 8 June 1998 on the radiocommunications of the rescue and security services.

⁵² Definition in Article 1, 13° of the Royal Decree 700 MHz.

158. The above-mentioned functionalities may, on a joint proposal by ASTRID and the operators, and after consulting the BIPT, be further specified in a Ministerial Order taken by the Ministers of Telecommunications and the Interior laying down the technical specifications and the frequency bands to be supported.
159. Operators can charge ASTRID for the costs related to the consumption of its users (voice calls, text messages or data), but can by no means charge costs related to the implementation of these functionalities. The BIPT determines the calculation method for the price an operator may charge ASTRID regarding the consumption of voice, text messages and data for the PPDR radio communications of the rescue and security services.

6.11.3. Specific PPDR measures

160. In order to meet the specific conditions in terms of radio coverage, reliability, security, availability and other elements necessary to PPDR communications, the Ministers of Telecommunications and the Interior may, after consulting the BIPT regarding the technical feasibility and the operational necessity, require one or several 700 MHz operators to provide ASTRID with the minimum specific PPDR measures required to support the rescue and security services.
161. The implementation of specific PPDR measures may concern all the (existing and future) frequencies and technologies used by the operator for its network or service.
162. The BIPT determines the method to calculate the price a 700 MHz operator may charge ASTRID for the provision of specific PPDR measures by taking into account the actual and proven costs of the 700 MHz operator as well as a reasonable profit margin.

Chapter 7. Organisation of the allocation procedure

7.1. General

163. The BIPT will manage the day-to-day running of the auctions. Questions in relation to the auction should be addressed to the BIPT.
164. The BIPT has the power to take all necessary measures for the smooth course and practical organisation of the procedure to grant rights of use.
165. Specifically, the BIPT can establish any infringement that may lead to the nullity of the bid or the exclusion from the procedure.
166. The rules that apply from the submission of the applications until the grant of the rights of use are described in the Royal Decrees and the candidates should refer to it. To make the rules easier to understand, the BIPT gives the following summary. However, only the rules mentioned in the Royal Decrees are valid and obligatory. In the event of any discrepancy, the Royal Decrees take precedence over this memorandum.

7.2. Spectrum cap

167. The spectrum cap represents the maximum quantity of spectrum that may be held by a relevant group⁵³.
168. The spectrum cap is indicated in Table 15 for the different frequency bands.

Procedure	Frequency band	Spectrum cap
A	900 MHz	15 MHz duplex
	1800 MHz	30 MHz duplex
	2100 MHz	25 MHz duplex
	700 MHz	10 MHz duplex
B	3400-3800 MHz	100 MHz
C	1400 MHz	<i>2 spectrum caps:</i> - 45 MHz for the whole band - 20 MHz for the 1452-1492 MHz sub-band

Table 15 Spectrum caps

7.3. Application files

169. The BIPT will publish all calls for candidates at the same time and set a deadline for the submission of the applications, common for all procedures.

⁵³ See section 7.5.

170. The BIPT will notify all decisions regarding the admissibility of the applications at the same time.

171. A candidate must thus submit:

- An A_{α} application file to be able to get spectrum in the 900 MHz, 1800 MHz and 2100 MHz bands and, for new entrants, to obtain all or part of the spectrum reserved to a new entrant;
- An A_{β} application file to be able to get spectrum in the 700 MHz band;
- A B application file to be able to get spectrum in the 3600 MHz band;
- A C application file to be able to get spectrum in the 1400 MHz band.

172. During the calls for candidates, the following elements will be published in the Belgian Official Gazette, on the BIPT website and on the website <https://auction2022.be/en>:

- the deadline for the submission of the applications;
- the bank account number into which the deposit is to be paid before the deadline for the submission of the applications;
- four application submission forms giving guidelines regarding the content and the submission of the applications.

173. A candidate who has already made a notification, according to Article 9 of the ECA, must include the proof of it in the application.

174. A candidate who has not yet made such a notification must include the completed notification form in his application file and pay the unique fee in connection with the notification. Such a candidate will not have to pay the annual fee covering the file management and follow-up costs unless he has obtained user rights.

7.4. Candidates for procedure A

175. For procedure A, there are several types of candidates depending on the types of lots for which the candidate wishes to bid.

176. For the existing operators, there are 5 possible types of candidates:

- A full candidate having submitted an A_{α} application file and an A_{β} application file who can bid for all types of lots (A1, A2, A3, A4 and A5);
- A restricted candidate having submitted an A_{α} application file and an A_{β} application file who can bid for the A2 and A5 lots;
- A full candidate having only submitted an A_{α} application file who can bid for the A1, A2, A3 and A4 lots;
- A restricted candidate having only submitted an A_{α} application file who can bid for the A2 lots;
- A candidate having only submitted an A_{α} application file who can bid for the A5 lots;

177. In case of new entrants, there are 5 possible types of candidates:

- A full candidate having submitted an A_{α} application file and an A_{β} application file who can bid for all types of lots (A1, A2, A3, A4 and A5) as well as for all or part of the spectrum reserved to a new entrant;
- A restricted candidate (see definition in the annex) having submitted an A_{α} application file and an A_{β} application file who can bid for the A2 and A5 lots;
- A full candidate having only submitted an A_{α} application file who can bid for the type A1, A2, A3 and A4 lots, as well as for all or part of the spectrum reserved to a new entrant;
- A restricted candidate having only submitted an A_{α} application file who can bid for the A2 lots;

- A candidate having only submitted an A_{β} application file who can bid for the A_5 lots;

178. The candidate must mention in his A_{α} application if he is a full or restricted candidate.

7.5. Relevant groups

179. The Royal Decrees define the notions of "control with regard to a person"⁵⁴ and "relevant group"⁵⁵.

180. If several candidates for the same procedure are part of the same relevant group in relation to a candidate, then only one is allowed to participate in the procedure. At the BIPT's request, the candidates involved will have to choose from their midst the person who will participate in the procedure. When no choice is made, all candidates involved will be excluded from the procedure.

181. The candidates are required to notify the BIPT of any change or any proposed change to their relevant group of which they are or will be part or of which they become aware following the submission of their applications. If a change occurs, causing various candidates to belong to the same relevant group, a selection will have to be made among the candidates who are members of the same relevant group, in order to keep only one candidate. If not, all candidates concerned will be excluded from the rest of the procedure.

7.6. Deposits

182. The candidates must deposit a guarantee for each application for one of the allocation procedures (see Table 16). Failure to provide this deposit will automatically lead to the inadmissibility of the application.

183. The deposit is to be paid into the account of the Belgian State at the National Bank of Belgium no later than on the date and time set by the BIPT for submitting the application and published in the Belgian Official Gazette.

184. Transfer commissions and all other costs or taxes incurred in transferring funds into the account must be borne by the party making the transfer. The candidates should make sure that funds are received net of any commission.

Procedure	Minimum amount ⁵⁶
A^{57}	€10 million for a full candidate who has submitted an A_{α} and an A_{β} application file
	€6 million for a restricted candidate who has submitted an A_{α} and an A_{β} application file

⁵⁴ The legal or factual power to decisively influence the appointment of a majority of directors or general managers of this person, or the orientation of its management. The control can be exercised exclusively or jointly, directly or through an intermediary, and will be interpreted in accordance with Articles 1:14 to 1:18 of the Code of Companies and Associations, Part 1, Book 1, Title 4, Chapter 1, it being understood that where a majority is referred to, this majority will consist of 50% or more.

⁵⁵ With regard to a person (the "first person"):

- a) the first person, and;
- b) any person who is controlled by the first person, and;
- c) any person (the "second person") who controls the first person, and;
- d) any person who is controlled by the second person, and;
- e) any person with whom the persons referred to under a) to c) form a consortium as defined in Article 1:19 of the Code of Companies and Associations, Part 1, Book I, Title 4, Chapter 1.

⁵⁶ The amounts mentioned for procedure A are the sum of the initial deposits for procedures A_{α} and A_{β} .

⁵⁷ A new entrant who wishes to only bid for all or part of the reserved spectrum must pay the deposit for procedure A_{α} (initial deposit of 5 million euros). If that new entrant also wishes to bid for the part of the 700 MHz band which is not part of the reserved spectrum, then he must also pay the deposit for procedure A_{β} .

Procedure	Minimum amount ⁵⁶
	€5 million for a full candidate who has only submitted an A _α application file
	€5 million for a candidate who has only submitted an A _β application file
	€1 million for a restricted candidate who has only submitted an A _α application file
B	€1 million
C	€1 million

Table 16 Minimal amount of the initial deposits (to pay before submitting the application)

7.6.1. Deposit interest

185. The deposit will yield an interest at the interest rate of the deposit facility of the European Central Bank. This interest rate can be negative. This interest will be calculated on a daily basis, and will be compounded on the last working day of the TARGET payment system of each month.
186. The funds will earn interest from the day of transfer, provided they have been paid into the account of the National Bank before the TARGET cut-off-time for clearing. The funds will earn interest up to the day prior to their refund.

7.6.2. Ratcheting the deposit

187. During the submission of bids for the different allocation procedures, the corresponding deposit will have to be increased each time the total amount of the bids exceeds certain thresholds (see Table 17). The deposits for each procedure are independent of one another.

Procedure	Threshold of the total amount of the bids ⁵⁸	Minimum deposit ⁵⁹
A	> €100 million	€5 million
	> €150 million	€7.5 million
	> €200 million	€10 million
	> €250 million	€12.5 million
	> €(Nx50) million ⁶⁰	€(Nx2,5) million
B	> €30 million	€1.5 million
	> €40 million	€2 million
	> €50 million	€2.5 million
	> €(Nx10) million	Nx€0.5 million ⁶⁰
C	> €30 million	€1.5 million
	> €40 million	€2 million
	> €50 million	€2.5 million
	> €(Nx10) million	Nx€ 0.5 million ⁶⁰

Table 17 Amount of the deposits depending on the bids

⁵⁸ The amounts of the unique fee for the reserved spectrum is taken into account.

⁵⁹ The amount of the initial deposit (see Table 16) is taken into account.

⁶⁰ Valid for N>1.

188. Bids made without ratcheting the deposit are null and void.
189. Candidates are allowed to pay the amounts of extra deposit well in advance before they reach the corresponding threshold of the bid.
190. The candidates must send the BIPT proof of the higher deposit before making the bid that gives rise to the higher deposit.
191. Table 18 shows the amount of the unique fee at the reserve price corresponding to the maximum number of lots for which a candidate can bid.

Procedure		Minimum bids
A	Full candidate who has submitted an A_α and an A_β application file	€221,710,000
	Restricted candidate who has submitted an A_α and an A_β application file	€66,730,000
	Full candidate who has only submitted an A_α application file	€183,030,000
	Candidate who has only submitted an A_β application file	€38,680,000
	Restricted candidate who has only submitted an A_α application file	€28,050,000
B		€46,100,000
C		€24,000,000

Table 18 Total amount of the bids for the spectrum cap

192. By comparing Table 16, Table 17 and Table 18, one can notice for instance that to be able to bid for 100 MHz (*spectrum cap*) in the 3600 MHz band (procedure B), a candidate must have a deposit of at least € 2 million, which is double the initial deposit (€1 million). Such a candidate is therefore forced to increase his deposit even before the start of the procedure.
193. All information relating to the deposits will be kept strictly confidential. Information on the balance of the deposit, including the interest accrued, will be provided upon request. Bidders can only request information about their own deposits. As set out above, all deposit amounts will attract interest at the rate of the deposit facility of the European Central Bank.

7.6.3. Possible repayment of the deposit

194. Deposits, including interests, will be repaid to candidates who have not been granted rights of use.
195. The deposit related to the A_α application file is not paid back to:
- eligible restricted candidates who have not made any regular bid during procedure A;
 - eligible full candidates who have not made any regular bid⁶¹ for other lots than A2 lots during procedure A (during the preliminary auction for new entrants or during the main auction).
196. The deposit linked to the A_β application file is not paid back to the eligible candidates who have not made any regular bid during procedure A (during the preliminary auction for new entrants or during the main auction).
197. The deposit linked to the B application file is not paid back to eligible candidates who have not made any regular bid during procedure B.
198. The deposit linked to the C application file is not paid back to eligible candidates who have not made any regular bid during procedure C.

⁶¹ The spectrum which can be automatically allocated to each existing operator is considered as a regular bid.

7.7. Admissibility

199. If the following requirements are not met, the application may be declared inadmissible:

- the application must be submitted at the latest on the last day of the term for submitting applications, at the time set by the BIPT and published in the Belgian official journal;
- the application must be submitted to the BIPT against delivery of a receipt, in two copies, with indication of an original copy signed by the candidate's competent representative(s);
- the deposit must be paid unconditionally and irrevocably in cleared funds in euros ultimately at the moment of submitting the application. It is paid for the benefit of the Belgian State at the National Bank of Belgium into an account, the number of which has been communicated (see § 172);
- the application must be complete, providing all requested information in the correct form;
- the application must be submitted by a corporate body, which must not be in a state of liquidation or bankruptcy or a similar situation, has not filed for bankruptcy and is not involved in a liquidation procedure or judicial concordat, or a similar situation or process.

200. The application cannot be submitted electronically⁶². Therefore, the original cannot be signed electronically by the candidate's competent representative(s).

201. The application must be in French, Dutch or German.

202. After being submitted the applications cannot be modified.

203. If several candidates are part of the same relevant group, the BIPT will ask the candidates concerned to make a choice within the relevant group. If no choice is made, all candidates involved will be excluded from the procedure.

204. Once the admissibility of the applications has been decided upon, the candidates will be informed of this fact. The information provided to eligible candidates varies according to the procedure (see Table 19).

Procedure	Information provided to eligible candidates
A	The fictitious identity: <ul style="list-style-type: none"> - of the eligible full candidates (A_{α} application file); - of the eligible restricted candidates (A_{α} application file); - of the eligible candidates (A_{β} application file).
B	Number of eligible candidates
C	Number of eligible candidates

Table 19 Information provided to eligible candidates about the other eligible candidates

7.8. Course of the procedure

7.8.1. General

205. This section offers an overview of the format of the auction. The detailed auction rules will be provided to the eligible candidates.

206. Procedure A is composed of maximum four parts:

- the automatic allocation of spectrum to the existing operators (see section 7.8.5);

⁶² The various Royal Decrees do not provide for an electronic submission of applications.

- a preliminary auction reserved to new entrants (see section 7.8.6);
- an SMRA auction for generic lots (see section 7.8.7);
- an additional round in order to determine the positioning of the blocks within the band (see section 7.8.8).

207. Procedures B and C are composed of maximum two parts:

- an SMRA auction for generic and specific lots (see section 7.8.7);
- an additional round in order to determine the positioning of the blocks corresponding to the generic lots within the band (see section 7.8.8).

7.8.2. Electronic tendering system

208. The auctions will be ensured via an electronic tendering system, enabling candidates to bid safely over the public Internet.

209. Eligible candidates will be able to connect to the system via the public Internet by using a standard web browser. To that end, eligible candidates must have a high quality and reliable Internet connection and use a computer with a compatible web browser. It should not be necessary to install another specialised piece of hardware or software to participate in the auction. The appropriate security measures will be applied to ensure the system integrity and to maintain the confidentiality of the bids.

210. The bidding interface of the electronic tendering system will provide real-time information on the status and progress of the auction, including a timetable of the rounds, the bidding forms and the reports about the results of the rounds.

211. Eligible candidates will be provided with a guide before the start of the auction. This guide will contain all the relevant information about the electronic tendering system, including the hardware and software requirements, the login instructions and the terms of use of the bidding interface. A training session as well as a test auction will also be organised for eligible candidates shortly before the start of the actual auction.

7.8.3. Disruption to the auction

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

7.8.4. Collusion

213. The candidates must not exchange any confidential information with other candidates, on penalty of being excluded. Neither are they allowed to make any form of agreement with other candidates or perform any act which could impact the result of the procedure or affect competition during the auction.

214. When such a breach is established the BIPT will submit a complaint to the competition authorities and begin a procedure in civil law submitting the complaint to the examining magistrate. The BIPT will exclude these candidates from the procedure in any case.

7.8.5. Spectrum reserved to existing operators

215. This section solely concerns procedure A.

216. Spectrum can be automatically allocated to each existing operator, upon request, provided that the operator is a full candidate eligible for procedure A.

217. The maximum number of lots which can be awarded to each existing operator depends on the number of full candidates that are eligible for procedure A (see Table 20). An existing operator may ask fewer lots than the maximum number indicated in Table 20.

Lot type	Maximum number (for each existing operator)	
	If the number of eligible full candidates ≤ 3	If the number of eligible full candidates > 3
A1	2	1
A3	4	3
A4	2	2

Table 20 Lots reserved to the existing operators

218. For these automatically awarded lots, the existing operator must pay a unique fee pursuant to Article 30 of the ECA (see section 6.6).

219. The automatically awarded lots are generic lots and the position of the frequency blocks in the different frequency bands is determined later on (see section 7.8.8). If applicable, the bids of the existing operator during the additional round aiming at determining the position of the blocks are added to the amounts set by Article 30 of the ECA.

220. All the candidates that are eligible for procedure A are informed of the number of lots that are automatically awarded to the existing operators before the start of the main auction.

7.8.6. Preliminary auction for new entrants

221. This section solely concerns procedure A.

222. Procedure A starts with a preliminary auction reserved to new entrants in order to allocate six 5 MHz duplex frequency blocks, separately or as a single lot (see Chapter 4).

223. Only eligible full candidates may take part in this preliminary auction.

224. During the preliminary auction, the candidates may, during each round:

- bid for the single lot in the event of an auction of the reserved spectrum as a single lot;
- make several bids for separate lots in the event of an auction of the reserved spectrum as six 5 MHz duplex frequency blocks.

225. The selected auction format is the Simultaneous Multiple-Round Auction (SMRA). The SMRA format is "simultaneous" as it awards all the lots at the same time via one process. It is an ascending multiple-round auction as it allows candidates to make bids, in response to ascending prices, during successive rounds.

226. The different lots that are auctioned are described in Chapter 4.

227. Each candidate can bid for one or several lots during a round. By bidding, the candidate indicates that he wishes to buy the lot at the price published by the tendering system. A bid is binding and cannot be cancelled.

228. Article 30 of the ECA determines the minimum bid for the auction, which will be the price of the different lots during the first bidding round of the auction (see section 6.6).

229. The candidates may make a higher bid for several lots at the same time. The candidates are free to bid for different lots during different rounds. However, they must observe the activity rules of the auction laid down by the BIPT.

230. A candidate holding the highest bid for one lot is not allowed to make a new bid during the following round for that lot, nor to withdraw from the auction, unless another candidate has made a higher bid for that specific lot. However, the candidate can make a higher bid for other lots subject to the activity rules of the auction. Unless another candidate outbids the offer that has been made for this lot, the candidate will acquire the lot, at the end of the auction, at the price subject to the payment of a unique fee equivalent to his highest offer.

231. During each round, a candidate can:

- Make one or several bids
 - A candidate can make a bid by observing the activity rules.
 - Each bid must be a multiple of 10,000 EUR.
- Use a waiver
 - A candidate who would otherwise be required to bid or withdraw from the auction may also use one of his waivers, allowing him to take no action in that specific round without being deemed to have withdrawn from the auction.
 - Using the waiver can be implicit. A candidate who has not made a bid and who has not withdrawn from the auction is considered as having used a waiver if the candidate could do it.
 - It is always possible for a candidate to use a waiver as an alternative to making a bid, even if that candidate holds the highest bid for one or several frequency blocks. Each candidate can use a waiver for a maximum of three rounds.
- Withdraw from the preliminary auction
 - A candidate who does not hold the highest bid for any block may formally withdraw from the auction. A candidate who has withdrawn is not allowed to rejoin the auction at a later stage.
 - Withdrawing from the auction can be implicit. A candidate who has not made a bid and has not used his waiver is considered as having withdrawn from the auction if the candidate could not use a waiver (if the candidate still had a waiver, he is considered to have used this waiver).

232. At the end of each round, the tendering system will communicate to all participants the information on the activity during the closed round as well as the parameters for the next round. Candidates are provided with the following information:

- The time when the next round starts and finishes;
- For each lot:
 - the amount of the highest regular bid;
 - the fictitious identity of the candidate holding the highest regular bid;
 - the amount of the bid for the next round⁶³.

233. The last round of the preliminary auction is the round during which no new bid is made and no waiver is used.

234. All the eligible candidates for procedure A are informed of the amount of the highest bid and of the fictitious identity of the candidate holding that bid for each lot.

7.8.7. Main auction

235. This section provides an overview of the SMRA auction which will be used for the three procedures.

236. During the auction procedures, candidates can make several bids during each round for individual lots.

⁶³ The amount of the bid determined by the BIPT is equal to the highest regular bid, increased by a percentage between 2 and 10%.

237. The selected auction format is the Simultaneous Multiple-Round Auction (SMRA). The SMRA format is "simultaneous" as it awards all the lots at the same time via one process. It is an ascending multiple-round auction as it allows candidates to make bids, in response to ascending prices, during successive rounds.
238. The different lots that are auctioned are described in Chapter 3. Candidates are not allowed to bid for the lots that are automatically awarded to the existing operators (section 7.8.5) or for the lots acquired by a new entrant during the preliminary auction (section 7.8.6).
239. Each candidate can bid for one or several lots during a round. By bidding, the candidate indicates that he wishes to buy this lot at the price he chooses within a range announced by the tendering system. A bid is binding and cannot be cancelled.
240. Article 30 of the ECA determines the minimum bid for the auction, which will be the minimum price of the different lots during the first bidding round of the auction (see section 6.6).
241. The candidates can simultaneously bid for several lots provided that the aggregated bandwidth of the blocks they are bidding for or for which they hold the highest bid does not exceed the various spectrum caps (see section 7.2). The candidates are free to bid for different lots during different rounds. However, they must observe the activity rules of the auction laid down by the BIPT.
242. A candidate holding the highest bid for one lot is not allowed to make a new bid during the following round for that lot, nor to withdraw from the auction, unless another candidate has made a higher bid for that specific lot. However, the candidate can make a higher bid for other lots subject to the activity rules of the auction. Unless another candidate outbids the offer that has been made for this lot, the candidate will acquire the lot, at the end of the auction, at the price subject to the payment of a unique fee equivalent to his highest offer.
243. During each round, a candidate can:
- Make one or several bids
 - A candidate can make an offer by observing the spectrum caps and the activity rules. The bids cannot be lower than the minimum amount set by the BIPT for the round. The bids cannot be higher than the maximum amount set by the BIPT for the round.
 - Each bid must be a multiple of 10,000 EUR.
 - Use a waiver
 - A candidate who would otherwise be required to bid or withdraw from the auction may also use one of his waivers, allowing him to take no action in that specific round without being deemed to have withdrawn from the auction.
 - Given that the three procedures are autonomous, a waiver only applies to the sole procedure for which it is used.
 - Using the waiver can be implicit. A candidate who has not made a bid and who has not withdrawn from the auction is considered as having used a waiver if the candidate could do it.
 - It is always possible for a candidate to use a waiver as an alternative to making a bid, even if that candidate holds the highest bid for one or several frequency blocks. Each candidate can use a waiver for a maximum of three rounds.
 - Withdraw from the auction
 - A candidate who does not hold the highest bid for any block may formally withdraw from the auction. A candidate who has withdrawn is not allowed to rejoin the auction at a later stage.
 - Given that the three procedures are autonomous, withdrawal from the auction evidently only applies to the auction from which the candidate has withdrawn.

- Withdrawing from the auction can be implicit. A candidate who has not made a bid and has not used his waiver is considered as having withdrawn from the auction if the candidate could not use a waiver (if the candidate still had a waiver, he is considered to have used this waiver).

244. At the end of each round, the tendering system will communicate to all participants the information on the activity during the closed round as well as the parameters for the next round. Candidates are provided with the following information:

- The time when the next round starts and finishes;
- For each lot:
 - the amount of the highest regular bid;
 - the fictitious identity of the candidate holding the highest regular bid;
 - amount of the minimum bid for the next round⁶⁴;
 - amount of the maximum bid for the next round⁶⁵.

245. The final round of the SMRA auction of each procedure will be the round during which no new bid will be made and no waiver will be used, within the framework of this procedure.

246. At the end of the final round of each procedure, the tendering system will communicate to each successful candidate (see definition in the annex) the amount of the highest regular bid as well as the identity of the candidate holding that bid.

7.8.8. Positioning of the lots

247. At the end of the SMRA auction, the positioning of the frequency blocks corresponding to the generic lots is not defined yet.

248. For each procedure, the successful candidates can, within a period to be laid down by the BIPT, communicate to the BIPT a common proposition on the positioning of the different frequency blocks. In the case of procedure A, all the candidates holding the highest regular bid for at least one lot in a frequency band can communicate a proposition for this sole frequency band.

249. If the successful candidates cannot reach an agreement or if the BIPT does not accept the common proposition, an additional round must be organised.

250. For each frequency band without an agreement, the BIPT will draft a comprehensive list of positioning options. For every option, all the frequency blocks allocated to an operator in a frequency band should, to the extent possible, be adjacent. For the 700 MHz, 900 MHz, 1800 MHz and 2100 MHz frequency bands, the unallocated spectrum must be in the lower part of the band. For the 3600 MHz frequency band, the unallocated spectrum must be in the upper part of the band.

251. For the 700 MHz, 900 MHz, 1800 MHz and 2100 MHz frequency bands, the number of positioning options is equal to the factorial of the number of candidates who have obtained rights of use in the frequency band.

252. The tendering system will communicate to each candidate participating in the additional round of a procedure:

- the list of positioning options for each frequency band;

⁶⁴ The maximum amount of the bid determined by the BIPT is equal to the highest regular bid, increased by a percentage between 0 and 10%.

⁶⁵ The maximum amount of the bid determined by the BIPT is equal to the highest regular bid, increased by a percentage between 0 and 50%.

- the time when the additional round starts and finishes.

253. During the additional round, the candidates can make additional bids for their preferred positioning options for each frequency band.

254. For each frequency band, the chosen option is the one for which the sum of the bids is the highest⁶⁶.

255. The detailed auction rules which will be provided to the eligible candidates provide detailed information on the execution of the additional round.

7.8.9. Grant of rights of use

256. The BIPT will formally notify each successful candidate of the grant of his rights of use, and confirm the unique fee due. The unique fee paid by a candidate amounts to the sum of the highest bids for all the lots awarded to that candidate (see section 7.8.5, 7.8.6 and 7.8.7) and, if applicable, the additional bids made by that candidate for the chosen positioning options (see section 7.8.8).

257. The amount of the deposit and accrued interest will be set off against the unique fee due.

258. In case of payments by instalments (see § 119), it may be that the amount of the deposit exceeds the amount of the first payment. In that case the amount of the guarantee will be used for the full or partial payment of the following:

259. Non-payment or late or incomplete payment of the balance of the unique fee will entail the withdrawal of the rights of use.

260. Instructions for the payment of the balance will be sent in due course to the successful candidates.

7.9. Chronology of the procedures

261. The BIPT will publish all calls for candidates simultaneously and will set a deadline for the submission of the applications, common for all procedures. The number of candidates may of course differ from one procedure to the other.

262. The BIPT will notify all decisions regarding the admissibility of the applications at the same time.

263. Procedures A and B will be organised at the same time. The two procedures will remain autonomous but the start and the end of each round of the different procedures will be synchronised. The number of rounds may of course differ from one procedure to the other.

264. The simultaneous organisation of procedures A and B will immediately be followed by the organisation of procedure C.

⁶⁶ In the event of a tie between two options, the tendering system will decide by lot.

Chapter 8. Regulatory issues

8.1. Obligations

265. Operators are subject to certain obligations resulting from the regulatory framework regarding electronic communications.
266. The BIPT publishes a list of obligations⁶⁷ on its website. However, this list is not an exhaustive listing of all the obligations an operator active on the Belgian market must fulfil.

8.2. Modification of the rights of use

267. Rights of use cannot be modified but in objectively justified cases and in a proportionate manner. The intended modification will first be submitted to the sector. The European regulatory framework⁶⁸ lays down that interested parties, including users and consumers, should be allowed a sufficient period of time to express their views on the proposed amendments.

8.3. Breach and revocation

268. If the BIPT establishes that the operator is not complying with the conditions for the exercise of the user rights granted to him, or does not act in compliance with the Acts and regulations the observance of which is monitored by the BIPT or with the decisions taken by the BIPT, the latter may order the operator to remedy that situation, either immediately or within the period it allows, and impose an administrative fine or a penalty in accordance with Article 21, §§ 1 to 5 of the BIPT Act. If the operator is still in breach, the BIPT may again impose an administrative fine or a penalty on the operator (Article 21, § 6, of the BIPT Act).
269. Article 21, § 7, of the BIPT Act adds that if the breach is serious or repeated and the measures taken have not remedied the breach, the BIPT may suspend or revoke the granted rights of use, or order the operation of the network or the provision of the service involved, as well as the marketing or use of any service or product concerned to be suspended entirely or partly.

8.4. Urban planning permit and environmental exposure limits

8.4.1. General

270. For the creation of sites and the installation of antennas there may be a requirement to obtain an urban planning permit. On the one hand, the Regions, i.e. the Brussels Capital Region, the Flemish Region and the Walloon Region are competent for urban planning permits. On the other hand, it is possible that an additional municipal regulation is in force. More information on urban planning requirements should be requested from the respective Regions and municipalities.
271. The installation of antennas can also be subject to obtaining an environmental permit or a certificate confirming that the regional regulation relating to an electromagnetic radiation limit is observed. These permits or certificates should be requested from the respective Regions.
272. The details about the situation in the three Regions are merely given for information.
273. The BIPT has no competence in this matter. It can by no means be held accountable in case the authorisations or permits required by the Regions were refused, nor when the radiation limits are exceeded.

⁶⁷ <https://www.bipt.be/operators/publication/list-of-obligations>.

⁶⁸ Article 18 of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 *establishing the European Electronic Communications Code (recast)*.

8.4.2. Situation in the Brussels Capital Region

274. The ordinance of 1 March 2007 on the protection of the environment against any harmful effects and nuisance caused by non-ionising radiation sets a cumulative limit of 0.096 W/m² (i.e. about 6V/m) at a frequency of 900 MHz, in the areas accessible to the public. This limit varies depending on the frequency:
- 0.043 W/m² for frequencies between 0.1 and 400 MHz;
 - $f/9375$ in W/m² between 400 MHz and 2 GHz, where f represents the frequency in MHz;
 - 0.22 W/m² for frequencies between 2 GHz and 300 GHz.
275. Under the Decree of the Government of the Brussels Capital Region of 30 October 2009 *on certain antennas emitting electromagnetic waves*, all the antennas of an operator are not to exceed 33% of the cumulative limit.
276. The Decree of the Government of the Brussels Capital Region of 8 October 2009 *laying down the methodology and terms for measuring the electromagnetic field emitted by some antennas* as well as the Ministerial Order of 30 June 2010 *concerning the validation of a simulation tool calculating the electric field emitted by an antenna emitting electromagnetic waves* also apply.
277. The applications for environmental permits are processed by Bruxelles Environnement/Leefmilieu Brussel, the institute for environment and energy management in the Brussels Capital Region. In addition, operators have to communicate to Bruxelles Environnement/Leefmilieu Brussel certain technical features of their installations.
278. Information is available on the website of Bruxelles Environnement⁶⁹.
279. On 23 July 2021, the Brussels Government decided to validate the principle of a limited increase of the current emission standard bringing it to 14.5 V/m.

8.4.3. Situation in the Flemish Region

280. The Decree of the Flemish Government of 1 June 1995 laying down the general and sector-bound provisions regarding environmental hygiene (VLAREM II) sets a cumulative limit of 20.58 V/m at 900 MHz, for all the areas that are accessible to the public. This limit varies depending on the frequency:
- 13.7 V/m for frequencies between 10 and 400 MHz;
 - $0.686 \sqrt{f}$ expressed in V/m between 400 MHz and 2 GHz, where f represents the frequency in MHz;
 - 30.7 V/m for frequencies between 2 GHz and 10 GHz.
281. Pursuant to the Decree of the Flemish Government of 1 June 1995, each antenna⁷⁰ of an operator must not exceed 3V/m at 900 MHz, which corresponds to 2.125%⁷¹ of the cumulative limit.
282. In practice⁷², the limit per antenna is therefore always the most restrictive.
283. A draft revision of the Decree of the Flemish Government of 1 June 1995 provides for replacing the 3 V/m limit per antenna by a 9.2 V/m limit per operator.

⁶⁹ <https://environnement.brussels/thematiques/ondes-et-antennes>.

⁷⁰ Concerning the Flemish Region, it must be borne in mind that there is an antenna per deployed technology and per frequency band.

⁷¹ $(3/20.58)^2$.

⁷² Up to 47 antennas.

284. A conformity certificate is necessary for each operation and modification of a stationary transmitting antenna, proving that the standard is observed. Applications are handled by the *Departement Leefmilieu, Natuur en Energie*.
285. In addition, the Flemish town and country planning code requires that in principle an urban planning permit should be issued to erect a transmitting antenna. That permit is issued by the Flemish authority. However, the code allows for a number of exceptions to that principle.
286. Information is available on the website of the *Departement Omgeving* of the Flemish Government⁷³.

8.4.4. Situation in the Walloon Region

287. The Decree of 3 April 2009 on the protection against any harmful effects and nuisance caused by non-ionising radiation generated by stationary transmitting antennas lays down a limit of 3V/m for each antenna⁷⁴ of an operator, regardless of the frequency.
288. An application is to be submitted for each installation to the Scientific Institute for Public Services (Institut Scientifique de Service Public - ISSeP).
289. Stationary transmitting antennas below 500 kW and the maximum EIRP of which is higher than 4 W are also subject to prior declaration within the meaning of the Decree of 11 March 1999 *on the environmental permit* proving observance of the standard. The declaration is sent to the town council of the municipality on the territory of which the facility is situated. Antennas over 500 kW are subject to the environmental permit.
290. In addition, in principle, the *Code wallon de l'aménagement du territoire, de l'urbanisme, du patrimoine et de l'énergie* ("CWATUPE") requires an urban planning permit to erect a transmitting antenna. That permit is issued by the delegated civil servant or the Walloon Government. However, the CWATUPE allows for a number of exceptions to that principle.
291. Information is available on the website of the Institut Scientifique de Service Public (ISSeP)⁷⁵.
292. The Walloon Government has established a group of experts tasked with evaluating and as the case may be, proposing amendments to the Decree of 3 April 2009 *on the protection against any harmful effects and nuisance caused by non-ionising radiation generated by stationary transmitting antennas*, in order to allow a controlled 5G roll-out in Wallonia. The aim is to have a recast of the Decree of 3 April 2009 in the course of 2022 based on the recommendations from the group of experts.

8.5. Infrastructure and spectrum sharing

293. Mobile infrastructure and more specifically the shared use of the radio access network (RAN) becomes an important issue, which mobile network operators evaluate and consider in their expansion projects and investment decisions.
294. In that context, with a view to ensuring total transparency for all market players the BIPT had published a communication⁷⁶ in 2012 in order to clarify the main concepts associated with the shared use of mobile infrastructure, to explain the pros and cons involved, to give guidelines and to explain the BIPT's expectations as to the operators' conduct on the Belgian market.

⁷³ <https://omgeving.vlaanderen.be/klimaat-en-milieu/gezonde-veilige-en-aantrekkelijke-leefomgeving/straling-zendantennes-wifi-gsm>.

⁷⁴ Concerning the Walloon Region, it must be borne in mind that there is an antenna per deployed technology.

⁷⁵ <https://www.issep.be/champs-electromagnetiques/>.

⁷⁶ BIPT Communication of 17 January 2012 *containing guidelines for infrastructure sharing*.

295. In 2017, the BIPT appointed an external consultant to study infrastructure and spectrum sharing. The study was carried out by IDATE and led to the report "Infrastructure and spectrum sharing". The report has been published⁷⁷ by the BIPT.

8.6. Spectrum hoarding

296. Article 19/1 of the ECA lays down that conditions should be attached to the rights of use for radio spectrum in such a way as to ensure optimal and the most effective and efficient use of radio spectrum. Such conditions specify the applicable parameters, including the deadline for exercising the rights of use, the non-fulfilment of which would entitle the BIPT to withdraw the right of use in accordance with Article 18, § 3, or to impose other measures. The BIPT organised a public consultation on 14 January 2014. Following that consultation, the BIPT published the Communication of 28 April 2014 *regarding the consultation on spectrum hoarding*.

8.7. High-risk suppliers

297. Work has been conducted at the European level regarding 5G security, resulting in recommendations for Member States to take specific measures.

298. On 9 October 2019, the NIS Cooperation Group published a report on the coordinated risk assessment of the cybersecurity of 5G networks. In 2020, a common toolbox containing risk mitigation measures was also published by the NIS Cooperation Group. Its purpose is to propose solutions regarding the risks identified in the aforementioned report.

299. The European Commission supported the implementation of this toolbox and encouraged it by publishing on 29 January 2020 its Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Secure 5G deployment in the EU - Implementing the EU toolbox".

300. To implement this toolbox, it has been decided to add a new provision to the ECA. This amendment to the ECA is, at the time of writing this text, being discussed by the Chamber of Representatives.

301. This new article contains several requirements regarding the MNOs (Mobile Network Operators):

- They must obtain prior authorisation (or regularisation authorisation) to use an element of their 5G networks;
- They must also obtain prior authorisation (or regularisation authorisation) to be able to call on certain service providers;
- When an MNO offers electronic communications services in Belgium over a 5G network, the network infrastructure must be located within the territory of one of the UE Member States.

302. Furthermore, the MNOs may be subject to rules so that they conduct, on the territory of the EU Member States, the activities which are absolutely vital for the functioning, the security and the continuity of their 5G networks.

303. It should also be added that the new draft provision provides a possibility for an extension of these obligations to one or several categories of MVNOs (Mobile Virtual Network Operators) and certain private network providers when they offer 5G services.

304. The following elements are not subject to prior authorisation:

- The passive elements of the network (i.e. those which are not powered by an energy source);
- The network termination points, unless they are used for the provision of 5G services;

⁷⁷ BIPT Communication of 26 July 2018 *on infrastructure and spectrum sharing*.

- The mobile networks of the fourth generation and previous generations, provided that they are not necessary for the transmission of radio signals of generations later than the fourth (5G and following).
305. By definition, it is not possible to grant prior authorisation if the operator already started the deployment of the 5G network before the entry into force of the foreseen provisions. In that case, the operator will have to submit a regularisation request within two months starting from the date of entry into force of the Royal Decree which will be adopted to give effect to the new provision.
306. When the ministers wish to review the authorisation decision (prior authorisation or authorisation within the framework of a regularisation request) due to a new element, the date of entry into force they set regarding the new decision should at least be 5 years after its notification, to allow the operator to ensure the continuity of its services during the migration and to limit the impact of the new decision on the pending contracts.
307. Finally, the bill gives the BIPT the power to monitor compliance with the ministers' decision, as well as to penalise non-compliance with it pursuant to Article 21 of the BIPT Act⁷⁸.
308. It should be mentioned that several draft implementing Royal Decrees concerning the new provision of the telecom Act have been subject to public consultation and are available on the website of the BIPT.
309. Since the aforementioned drafts have not been adopted yet, the BIPT cannot guarantee that the content will not be modified at the time of the adoption of the final versions. The BIPT shall not be liable for any potential negative effect.

8.8. Spectrum trading

310. Article 19 of the ECA allows an operator to transfer or lease his rights of use, if authorised by the BIPT. The BIPT allows the transfer or lease of rights of use for radio spectrum where the original conditions attached to the rights of use are maintained and without prejudice to the need to ensure the absence of a distortion of competition. The terms of the transfer or lease are laid down in the Royal Decree of 26 February 2010 *on the transfer of rights of use for radio frequencies that are used entirely or in part for publicly available electronic communications services*.
311. The operator who transfers or leases his rights of use can transfer or lease them entirely or partially. The operator to whom rights of use are transferred observes the conditions required for obtaining and exercising these transferred rights of use. The lessor remains responsible for the observance of the conditions for obtaining and exercising the leased rights of use.
312. Any request for a transfer or a lease gives rise to the payment of a €500 fee intended to cover the cost for examining the file. Within 6 weeks following the reception of the request, the BIPT may request all the additional information it needs to approve or disapprove the transfer or lease. If the BIPT did not ask for additional information, it notifies its decision within 3 months following the reception of the request. If the BIPT asked for additional information, it notifies its decision within 3 months following the reception of the information in question.
313. A provision aiming to prevent a new entrant from acquiring the single lot merely for speculation purposes, has been inserted into the Royal Decree 2G/3G. The holder of the rights of use is possibly allowed to transfer them only if they have been granted at least six years before and if the imposed levels of coverage have been reached. The BIPT's authorisation remains necessary for that transfer, in accordance with Article 19, § 1 of the ECA.

⁷⁸ i.e. the power to impose fines up to 5% of the turnover and 10% in the event of renewed breaches, but also the possibility to suspend or withdraw the granted rights of use or to order the suspension of all or part of the network operation or of the provision of the service concerned, as well as the sale or use of all the services or products concerned.

Chapter 9. Timetable

314. The current legislation imposes no timetable. Consequently, the BIPT will determine the timetable of the allocation procedure, taking account of the circumstances. However, in order to assist potential candidates in the preparation of bids, Table 21 provides an indicative timetable of the intended process. The BIPT is by no means bound by this indication and accepts no responsibility with regard to the non-observance of this indication. Definitive information will be published on the website <https://auction2022.be/en> later on.

Call for candidates	14 January 2022
Submission of applications	16 February 2022
Notification of successful candidates	March 2022
Start of the assignment procedure	Beginning of June 2022

Table 21 Indicative timetable

Chapter 10. Additional information

10.1. Request for information

315. Information on this memorandum and the allocation procedure, including during the procedure, must be requested in writing or by e-mail to the BIPT with the indication "Question Auction 2022":

Belgian Institute for Postal Services and Telecommunications
Ellipse Building - Building C
Boulevard du Roi Albert II, 35 bte 1
B-1030 Brussels
E-mail: auction2022@ibpt.be

316. An acknowledgement of receipt will be sent for each request.

317. The BIPT reserves the right not to reply to questions. However, if the BIPT does give an answer, it will publish the question (in a form that does not disclose the identity of who is asking the question) and the answer on the website <https://auction2022.be/en>. Therefore, the author of the question must see to it that his/her question does not include any confidential information that should not be published. If need be, the author will draw the BIPT's attention to the confidential parts in the question and will also submit a non-confidential version of the question. This information will be treated by the BIPT in accordance with Article 23, § 3 of the BIPT Act.

10.2. Availability of the memorandum

318. This document can be downloaded in French, Dutch or English from the website <https://auction2022.be/en>. The BIPT will not provide the document in writing.

Annex. Definitions and glossary

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

BIPT	Belgian Institute for Postal Services and Telecommunications
700 MHz band	703-733 MHz and 758-788 MHz frequency bands
800 MHz band	791-821 MHz and 832-862 MHz frequency bands
900 MHz band	880-915 MHz and 925-960 MHz frequency bands
1400 MHz band	1427-1517 MHz frequency band
1800 MHz band	1710-1785 MHz and 1815-1880 MHz frequency bands
2100 MHz band	1900-1980 MHz and 2110-2170 MHz frequency bands
2600 MHz band	2500-2690 MHz frequency band
3600 MHz band	Frequency band 3400-3800 MHz
ECA	Electronic Communications Act of 13 June 2005
Royal Decree 2G/3G	Royal Decree of 28 November 2021 on radio access in the 900 MHz, 1800 MHz and 2 GHz frequency bands
Royal Decree 700 MHz	Royal Decree of 28 November 2021 on radio access in the 700 MHz frequency band
Royal Decree 1400 MHz	Royal Decree of 28 November 2021 on radio access in the 1427-1517 MHz frequency band
Royal Decree 3600 MHz	Royal Decree of 28 November 2021 on radio access in the 3400-3800 MHz band
Procedure A	Procedure for the allocation of the existing 2G and 3G spectrum, i.e. 35 MHz duplex in the 900 MHz band, 75 MHz duplex in the 1800 MHz band and 60 MHz duplex in the 2100 MHz band and/or 30 MHz duplex in the 700 MHz band
Procedure B	Procedure for the allocation of 390 MHz in the 3600 band
Procedure C	Procedure for the allocation of 90 MHz in the 1400 MHz band
A _α application file	Call for candidates - Auction of rights of use for the radio frequencies in the 900 MHz, 1800 MHz and 2 GHz frequency bands
A _β application file	Call for candidates - Auction of rights of use for the radio frequencies in the 700 MHz frequency band
B application file	Call for candidates - Auction of rights of use for the radio frequencies in the 3600 MHz frequency band
C application file	Call for candidates - Auction of rights of use for the radio frequencies in the 1427- 1517 MHz frequency band
Candidate	Candidate for rights of use who has submitted an application file
Full candidate	Candidate having submitted an A _α application file who can bid for the type A1, A2, A3 and A4 lots (see section 7.4)

Restricted candidate	Candidate having submitted an Aa application file who can only bid for the type A1, A3 and A4 lots (see section 7.4)
Eligible candidate	Candidate found eligible by the BIPT (see section 7.7)
Successful candidate	Candidate holding the highest regular offer for at least one lot at the end of the final round of the SMRA auction
Existing operator	Proximus, Orange Belgium or Telenet Group
New entrant	Eligible full candidate who is not an existing operator