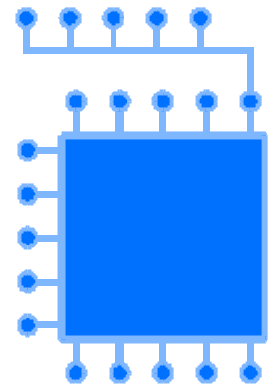


Telekom-Control Commission

Mariahilferstrasse 77-79

A-1060 Vienna, Austria

K 30/00



**telekom
control
kommission**

Vienna, December 22, 2000

**Tender Documentation:
GSM 1800 Frequency Allocation Procedure for Voice
Communication Services and Other Public Communication
Services using Independently Operated Mobile Networks**

Table of Contents

1	INTRODUCTION	4
1.1	GENERAL LEGAL TERMS AND CONDITIONS	4
1.2	ALLOCATION PROCEDURE SCHEDULE	5
2	APPLICATION DOCUMENTS	7
2.1	ORGANIZATIONAL STRUCTURE	7
2.2	TECHNICAL COMPETENCE, QUALITY OF SERVICES	9
2.3	FINANCIAL STRENGTH.....	10
2.4	DECLARATION OF COMPLETENESS.....	10
3	FREQUENCY ALLOCATION PROCEDURE	11
3.1	STEPS IN THE PROCEDURE	11
3.2	OBJECTS OF THE AUCTION	11
3.3	RATINGS OF FREQUENCY PACKAGES	14
3.4	APPLICATIONS.....	15
3.5	REQUIRED APPLICATION DOCUMENTS.....	16
3.6	BANK GUARANTEES.....	16
3.7	OPENING BIDS IN THE AUCTION.....	17
3.8	TERMS OF PARTICIPATION	17
3.9	APPLICATION DOCUMENTS.....	18
3.10	AUCTION PROCEDURE	19
4	ORGANIZATIONAL INFORMATION	20
4.1	RIGHTS TO APPLICATION DOCUMENTS.....	20
4.2	APPLICATIONS FOR FREQUENCY ALLOCATION AND LICENSES	20
4.3	AUTHORIZED CORRESPONDENCE RECIPIENTS.....	21
4.4	CLARIFICATIONS.....	21
4.5	INQUIRIES – CONSULTANTS.....	21
4.6	INSPECTION OF RECORDS	21
4.7	REVIEW AND INFORMATION OBLIGATIONS.....	22
4.8	PUBLICATION.....	22
4.9	ANNULMENT OF THE TENDER, DISCONTINUATION OF THE PROCEDURE	22
5	FEEES	23
5.1	FREQUENCY LICENSE FEE.....	23
5.2	LICENSE FEE.....	23
5.3	SPECTRUM FEES.....	23
5.4	CONSULTANCY COSTS.....	23

Index of Illustrations

FIGURE 1: PROCEDURE STEPS.....	6
--------------------------------	---

Index of Tables

TABLE 1: ALLOCATION PROCEDURE SCHEDULE	5
TABLE 2: FREQUENCY PACKAGES.....	12
TABLE 4: STAGE II, FREQUENCY PACKAGE NO. 2.....	13
TABLE 4: LOT RATING POINTS OF FREQUENCY PACKAGES IN STAGE I.....	15
TABLE 7: LOT RATING POINTS OF FREQUENCY PACKAGES IN STAGE II.....	15
TABLE 8: AMOUNT OF BANK GUARANTEE PER FREQUENCY PACKAGE.....	16
TABLE 10: AMOUNT OF OPENING BID PER FREQUENCY PACKAGE IN STAGE I.....	17
TABLE 11: AMOUNT OF OPENING BID FOR FREQUENCY PACKAGE NO. 2 IN STAGE II.....	17

Appendices

Appendix A	Business Plan Outline
Appendix B	Declaration of Completeness
Appendix C	Application Form
Appendix D	Terms and Restrictions of Use of Frequency Channels

Austrian Laws Cited in this Document

TKG	Telecommunications Act
AVG	General Administrative Procedures Act
HGB	Commercial Code
AktG	Securities Act
KartG	Anti-Trust Act
BörseG	Stock Exchange Act
ZustG	Correspondence Act
GmbHG	Private Limited Companies Act

1 Introduction

The Telekom-Control Commission is carrying out a frequency allocation procedure for mobile voice communication services and other public communication services using independently operated mobile networks. Eight to ten frequency packages (see Section 3.1) in the GSM-1800 frequency range are to be auctioned off.

1.1 General Legal Terms and Conditions

This invitation to tender is being carried out on the basis of the Austrian Telecommunications Act (TKG) BGBl. I No. 100/1997, in its current version (BGBl. I No. 26/2000). In addition, the regulations regarding procedure in Austria are applicable, especially the General Administrative Procedures Act of 1991 (AVG) BGBl. No. 51 in its current version (BGBl. I No. 29/2000).

The Telecommunications Act Amendment (BGBl. I No. 26/2000) that went into effect on June 1, 2000 has brought about a separation of licensing procedures and frequency allocation procedures. Therefore, the regulatory authority now puts the allocation of frequencies out to tender under § 49a Par. 2 TKG, as opposed to the licenses put out to tender before the amendment (§ 22 Par. 2, previous TKG)

The frequency allocation procedure is now governed by § 49a TKG, while regulations pertaining to licensing procedures are still found under § 15 TKG.

1.1.1 Frequency Allocation Procedure

Pursuant to § 49a Par. 1 TKG, the regulatory authority is to allocate the frequencies placed under its authority to the applicant that fulfills all general prerequisites under § 15 Par. 2 No. 1 and 2 TKG and guarantees the most efficient use of frequencies. This will be determined by the amount of the frequency license fee offered. The frequency allocation procedure is divided into two parts:

1. Once the applications have been submitted, the regulatory authority will check whether all prerequisites have been met in accordance with § 15 Par. 2 No. 1 and 2 TKG (cf. Section 0). Those applicants which do not fulfill the prerequisites will be excluded from the frequency allocation procedure in accordance with § 49a Par. 6 TKG. The rules for determining the standing high bid in the course of the auction will be defined by the Telekom-Control Commission in accordance with § 49a Par. 7 TKG and sent to the applicants at the latest 2 weeks before the start of the auction. The Telekom-Control Commission plans to publish a draft of the auction rules on its web site (www.tkc.at) in February/March 2001 and to send the Rules of Procedure to the applicants as soon after the application deadline as possible.
2. The second part of the frequency allocation procedure will be carried out in the form of an auction. (cf. Section 3.10).

1.1.2 Licensing Procedure

Because the rendering of mobile voice communications services and other public mobile communications services using independently operated networks is subject to mandatory licensing under § 14 Par. 1 TKG, those applicants who do not have a license to render 2nd-generation mobile communication services are also to submit an application for a license.

Licenses will be awarded once the applicants to whom frequencies will be allocated have been determined (§ 15 Par. 2 No. 3 TKG).

1.2 Allocation Procedure Schedule

The table below contains the most important dates in the allocation process. The exact time of the auction will be announced to the applicants once the Telekom-Control Commission has made its decision on this matter.

Activity	Date	Reference
Publication of invitation to tender	December 22, 2000	
Questions answered by the Telekom-Control Commission:		Section 0
Deadline for questions	January 19, 2001 / 10:00 am (local time)	
Questions will be answered by	February 9, 2001	
End of tender submission period	February 26, 2001 / 2:00 pm (local time)	
If necessary: Elimination of affiliated companies	March 2001	Section 0
Auction procedure	April/May 2001	Section 3.10
Date of frequency allocations	Within 14 days after end of auction	

TABLE 1: ALLOCATION PROCEDURE SCHEDULE

Figure 1 gives a general overview of the steps involved in the allocation procedure.

Application for Frequency Allocation	Application for License	
Delivery of Auction Rules	Review of Applications	
	under § 15(2) TKG	Eliminated Companies
If necessary:		
Elimination of Affiliated Companies		Eliminated Companies
Admission to Auction		
Bidders' Training Seminar		
Auction		
Frequency Allocation	License Award	

FIGURE 1: PROCEDURE STEPS

2 Application Documents

Pursuant to § 49a Par. 1 TKG, frequencies can be allocated to those applicants who fulfill the prerequisites stipulated under §15 Par. 2 No. 1 and 2TKG. In the course of the licensing procedure for public mobile communication services, fulfillment of the prerequisites specified under § 15 Par. 2 TKG is to be verified as well. In the case of companies applying for frequency allocation without a (previously awarded) mobile communications license, the application for frequency allocation as well as the application for a license are to contain the documents and information specified in Sections 0 to 2.4. If a combined application is submitted, this information need only be submitted once.

If an applicant has already been awarded a license to render 2nd or 3rd-generation mobile voice communication services, then the application only has to contain the documents and information specified in Sections 0 and 2.4, unless changes have been introduced since the last application was submitted (especially those concerning the ownership structure of the company).

2.1 Organizational Structure

In order to determine whether applicants fulfill the prerequisites indicated in §15 Par. 2 TKG, certain information on the applicant's organizational structure will be necessary. This information includes precise indications as to the applicant's legal and financial situation as well as the ownership structure (up to the ultimate owner). In addition, due attention must be paid to the provisions in Section 0.

The applications are to contain the following information (wherever applicable):

2.1.1 Information on the Applicant

- (a) Name (company), place of incorporation (address), date and place of establishment, including a current excerpt from the Commercial Register;
- (b) Type and number of capital shares, nominal value of capital shares as well as voting and dividend rights associated with any and all types of shares;
- (c) Subscribed capital per type of capital share, precise information on the stakeholders at the time of application submission as well as any and all foreseeable changes in this respect;
- (d) Number, value and rights (including conversion rights) of any and all options, certificates of entitlement, preferred stock or debt capital as well as any other securities issued by the applicant;
- (e) The company's articles of incorporation and bylaws in their current applicable version;
- (f) A description of the applicant's business activities;
- (g) The audited annual accounts from the last three years;
- (h) A summary of all essential financial data (revenue and profit data) from the last three years;

- (i) The name of the applicant's authorized recipient (as defined in § 8a ZustG) as well as that of an authorized representative (as defined in § 10 AVG) along with his/her telephone and fax numbers as well as postal and e-mail addresses (cf. Section 0). These two parties can be the same person.
- (j) Any and all other matters which, if mentioned or omitted, could substantially influence the Telekom-Control Commission's decision in the review to be carried out prior to the frequency allocation procedure in compliance with § 15 Par. 2 TKG.

2.1.2 Information on the Applicant's Stakeholders

For each stakeholder, shareholder, bearer of options, of certificates of entitlement, of preferred stock, of debt capital or of other securities issued by the applicant, the information indicated in lit. a) to f) is to be submitted wherever applicable. In cases where the applicant has a large number of stakeholders (shareholders), the information indicated is to be provided on all main shareholders. In the case of minority shareholders owning a small portion of the company's capital (up to 5%), general information will be sufficient, unless their share is considered a significant stake as defined in §§ 91 f BörseG. In such cases, the Telekom-Control Commission will request further information as it sees necessary.

- (a) Name (company), place of incorporation (address), date and place of establishment;
- (b) A description of the stakeholder's main business activity;
- (c) The stakeholder's relationship to the applicant (e.g., number and type of capital shares or securities held), syndicate / consortium agreements;
- (d) Parent company of the group
- (e) The audited annual accounts from the last three years;
- (f) A summary of all essential financial data (revenue and profit data) from the last three years;

In cases where capital shares or other securities issued by the applicant are held for third parties by persons acting as trustees or in another similar function, these circumstances are to be noted in the application and the aforementioned information is to be provided for the actual owner.

If a partner (shareholder) belongs to a group of companies, the group's essential financial data is also to be submitted in consolidated form.

2.1.3 Information on Consortia

In the case of consortia or joint ventures, the following additional information will be necessary:

- (a) The role of each member in the consortium and information on the resources, experience and expert knowledge of each member.

(b) The type of relationship among the members as well as detailed information on:

- Syndicate agreements, consortium agreements or
- Joint venture agreements;
- Declarations of intent;
- Stakeholder agreements.

In addition, the information indicated in Section (h) on all the consortium members is to be included in the application.

2.2 Technical Competence, Quality of Services

Pursuant §15 Par. 2 TKG, there must be no reason to believe that the applicant will fail to render the service applied for in compliance with the license to be issued, especially with regard to service quality and coverage obligations.

2.2.1 Construction of the GSM-1800 Network

(a) Information on planned infrastructure:

- Overview of network construction, with schedule
- Locations of essential infrastructure elements of radio and core network in electronic format (GIS) and map printouts; essential technical characteristics of each infrastructure element (frequency range, capacity, etc.)
- Connections between infrastructure elements (wireless local loop, leased lines, own lines) in electronic format (GIS) and map printouts; capacity of each connection
- Interconnection with other networks (interconnection points, capacity)

(b) Planned levels of population coverage, with schedule

(c) Short description of planned services and service quality

2.3 Financial Strength

In order to illustrate the applicants' financial strength, applications are to include the following information:

2.3.1 Business plan

Applicants are to submit a business plan based on their strategy for the business area(s) in which the frequencies applied for are to be used, their overall market assessment as well as their estimate of operations in the five years after the license is awarded. Applicants are to take into account that the frequency license fee offered in the course of the auction is to be commensurate with the financial situation of the company as described in the application and with the development of business operations to be expected.

If considered useful, additions to the information requested in Appendix A are both permitted and desired.

A bank guarantee is also to be enclosed in the application. Details on the bank guarantee can be found in Section 0.

2.3.2 Financing

Furthermore, applicants are to submit evidence that the necessary capital can be raised to cover the frequency license fee, including the following information:

- Equity financing - Schedule and sources of equity capital, including planned issues of company capital
- Debt financing - Credit lines, available collateral, credit terms and lenders for all loans in the first three years

2.4 Declaration of Completeness

In addition, a Declaration of Completeness (Appendix B) is to be enclosed with the application to confirm that the application contains correct and complete indications of all information requested in this tender document as well as all information relevant to the Telekom-Control Commission's evaluation of the objective facts.

3 Frequency Allocation Procedure

3.1 Steps in the Procedure

As mentioned in Section 0, the frequency allocation procedure is divided into 2 parts. In accordance with § 49a Par. 1 TKG, the regulatory authority will check whether the applications fulfill the criteria stipulated in § 15 Par. 2 No. 1 and 2 TKG in the first part. Those applications which do not fulfill the prerequisites pursuant to § 15 Par. 2 No. 1 and 2 TKG will be excluded from the frequency allocation procedure in accordance with § 49a Par. 6 TKG. In addition, the first stage will involve a review of the applicants to determine whether they are affiliated with each other through groups of companies. In case where affiliated companies apply for admission to the auction, the company that submitted its application first will be admitted to the auction.

The second part will be carried out in the form of an auction, if necessary in two stages. In the first step, eight frequency packages will be auctioned off (see Section 0). If Frequency Package No. 2 (2x8 MHz) is not allocated in this stage, a second stage will be carried out. In Stage II, Frequency Package No. 2 will be divided into three separate frequency packages (see Section 0). In addition, any frequency packages not allocated in Stage I will be auctioned off again in Stage II. Each applicant's bidding entitlement for Stage II will be calculated by subtracting the number of lot rating points used by the frequency packages allocated in Stage I from the total number of lot rating points applied for.

3.2 Objects of the Auction

3.2.1 Stage I Frequency Packages

8 frequency packages from the range dedicated to public digital GSM-1800 cellular mobile communications systems under the Austrian Frequency Utilization Ordinance (BGBl. II No. 364/1998) are to be auctioned off in this procedure. Table 2: Frequency Packages

shows the channel numbers assigned to the frequency packages. The frequency channels and assigned frequency ranges correspond to the Absolute Radio Frequency Channel Numbers (ARFCNs) for DCS 1800 specified in the ETSI's GSM 05.05 (EN 300 910) document on "Digital cellular telecommunications system (Phase 2+); Radio transmission and reception", Chapter 2: "Frequency bands and channel arrangement".

As illustrated in Table 2: Frequency Packages

, buffer channels will be maintained between Packages 1 and 2, 2 and 3, 3 and 4, 6 and 7 as well as 7 and 8. These buffer channels will not be allocated if different applicants acquire adjacent packages in the course of the auction. In cases where a single applicant acquires adjacent frequency packages, the buffer channels between them and shown in Table 2:

Frequency Packages

will be allocated to the applicant as well.

Frequency Package	Channel No.	Number of channels	Size
1	512-521	10	2x2 MHz
Buffer channel	522		
2	523-562	40	2x8 MHz
Buffer channel	563		
3	564-573	10	2x2 MHz
Buffer channel	574		
4	575-584	10	2x2 MHz
5	661-666	6	2x1.2 MHz
6	837-846	10	2x2 MHz
Buffer channel	847		
7	848-857	10	2x2 MHz
Buffer channel	858		
8	859-868	10	2x2 MHz

TABLE 2: FREQUENCY PACKAGES

3.2.2 Stage II Frequency Packages

Stage II will only take place if Frequency Package No. 2 can not be allocated in the course of Stage I. In Stage II, all frequency packages that were not allocated in Stage I will be auctioned off, and Frequency Package No. 2 (2x8 MHz) will be divided into 3 parts Table 3: Stage II, Frequency Package No. 2

shows the precise position of these packages in the frequency spectrum.

As illustrated by Table 3: Stage II, Frequency Package No. 2

, a buffer channel is positioned between Packages 2A and 2B as well as 2B and 2C. These buffer channels will not be allocated if different applicants acquire adjacent packages in the course of the auction. In cases where a single applicant acquires adjacent frequency packages, the buffer channels between them and shown in Table 3: Stage II, Frequency Package No. 2

will be allocated to the applicant as well.

Frequency Package	Channel No.	Number of channels	Size
2A	523-535	13	2x2.6 MHz
Buffer channel	536		
2B	537-549	13	2x2.6 MHz
Buffer channel	550		
2C	551-562	12	2x2.4 MHz

TABLE 3: STAGE II, FREQUENCY PACKAGE NO. 2

3.2.3 Duration of Use

Under § 49 Par. 13 TKG, all frequencies are to be allocated for a limited time period only. The time period is to be defined according to reasonable business criteria. The frequency channels awarded in the course of this procedure will be allocated for a limited time period ending on December 31, 2019, on the condition that the network operated and services rendered by the licensee in the last three years allow the Commission to expect a level of quality comparable to European standards. Evidence of this level of quality is to be submitted by December 31, 2015. Likewise, frequencies will be allocated on the condition that the applicant possesses a valid license to render 2nd-generation mobile communications services. Frequency allocations will thus be considered void when the license expires or is revoked for other reasons as specified in § 23 TKG.

3.2.4 Terms of Use

The frequency channels to be awarded in the course of this procedure are intended for the rendering of public voice communication services and other public mobile communication services using independently operated telecommunications networks in the GSM-1800 frequency range. The radio interface is to be implemented in accordance with the GSM norm and all applicable ETSI standards.

Additional terms as well as restrictions of use can be found in Appendix D.

3.2.5 Coverage Obligations

In the case that frequency packages are acquired by an applicant who does not have a license to render 2nd-generation mobile communications services, the frequencies will be allocated on the following conditions:

The public mobile communication service is to be offered commercially with the following level of coverage:

- 25% coverage by December 31, 2003
- 50% coverage by December 31, 2005

“Level of coverage” is defined as the share of the resident population covered in relation to the total resident population. This level of coverage is to be offered using an independently operated network.

The definition of coverage areas will be based on simulation calculations performed by the licensee using recognized simulation tools. The base stations in operation as of the deadline as well as their technical parameters will be taken as the basis for these calculations. Capacity utilization levels for radiocommunication cells and quality parameters that are realistic and based on real measurement data are to be used as input parameters for the simulation calculations. The simulation calculations are to focus on coverage outside of buildings using standard handsets that are available on the consumer market.

The population units (smallest possible covered and non-covered regions) to be used are the census zones for provincial capitals, otherwise the towns specified by the Austrian Statistics Office (ÖSTAT). A census zone will be considered covered if its area center is covered according to the criteria indicated above. A town will be considered covered if its center point (town data is already available as point data) is covered according to the criteria indicated above. The resident population covered in Austria will be calculated by adding up the populations of all census zones (for provincial capitals) and all towns (for the rest of Austria) covered. The resident population covered – expressed as a percentage of the total population of Austria – will be the resulting level of coverage.

Licensees are to submit the following documents to the Telekom-Control Commission in electronic format at the latest two months after the aforementioned deadlines, the reference date for all data being December 31st of the previous year:

- A list of all base stations including geocoded data (GIS format), cells and frequency channels
- Traffic figures and capacity utilization of cells
- Other essential input parameters for simulation calculations
- A map of Austria with base station locations and covered areas (Best Server Plot, GIS format)
- A list of towns and census zones covered
- The level of coverage calculated on the basis of this data

All information is to be submitted in accordance with a data model specified by the Telekom-Control Commission.

The Telekom-Control Commission will take measurements to verify coverage levels. The costs of this verification process are to be borne by the licensee.

3.3 Ratings of Frequency Packages

Each frequency package will be rated according to its frequency size. This value will be referred to as the *lot rating* throughout the procedure. This calculation yields the following values for each frequency package and region:

Frequency Package	Number of channels	Size	Lot rating points
1	10	2x2 MHz	100
2	40	2x8 MHz	400
3	10	2x2 MHz	100
4	10	2x2 MHz	100
5	6	2x1.2 MHz	60
6	10	2x2 MHz	100
7	10	2x2 MHz	100
8	10	2x2 MHz	100

TABLE 4: LOT RATING POINTS OF FREQUENCY PACKAGES IN STAGE I

If Stage II is carried out, the lot rating points for Frequency Package No. 2 will be changed as indicated below:

Frequency package	Number of channels	Size	Lot rating points
2A	13	2x2.6 MHz	130
2B	13	2x2.6 MHz	130
2C	12	2x2.4 MHz	120

TABLE 5: LOT RATING POINTS OF FREQUENCY PACKAGES IN STAGE II

3.4 Applications

Each applicant is to apply for bidding rights for the auction procedure using the forms provided.

No concrete frequency packages can be named in the application. Instead, applicants request bidding entitlement points for the auction procedure (cf. Section 3.4). The bidding entitlement must be backed by a bank guarantee. The number of bidding entitlement points applied for is equal to the total lot rating points for the maximum number of frequency packages a bidder would like to acquire (cf. Table 4: Lot Rating Points of Frequency Packages in Stage I

). The required amount of the bank guarantee is to be calculated by multiplying the bidding entitlement points by ATS 1,000,000. A bidder can bid on any combination of frequency packages, provided that the total of all lot rating points for his/her bids does not exceed the bidding entitlement points applied for.

3.5 Required Application Documents

The maximum number of bidding entitlement points an applicant can apply for is 1,060 lot rating points. Applicants who already possess a license to render 2nd-generation mobile communication services at the time of application can only apply for a bidding entitlement of 500 lot rating points.

3.6 Bank Guarantees

All applicants are to secure the bidding entitlement applied for by means of an abstract bank guarantee payable at first demand from a bank in good credit standing. The required amount of the bank guarantee is to be calculated by multiplying the bidding entitlement points by ATS 1,000,000. If the bidding entitlement applied for is not completely secured by the bank guarantee, the bidding entitlement will be reduced to the number of points actually secured by the bank guarantee.

The bank guarantee's sole purpose provision is to be for the allocation of frequencies to the applicant in the course of this tender procedure. The guarantee must name the Federal Government of the Republic of Austria as beneficiary and be valid from February 21, 2001 at the latest until at least June 30, 2001. The bank guarantee is to be enclosed in the application.

Table 6: Amount of Bank Guarantee per Frequency Package

provides an overview of the bank guarantee amounts required for each frequency package.

Frequency package	Size	Bank guarantee in ATS (EUR)
1	2x2 MHz	100,000,000.- (7,267,283.41)
2	2x8 MHz	400,000,000.- (29,069,133.66)
3	2x2 MHz	100,000,000.- (7,267,283.41)
4	2x2 MHz	100,000,000.- (7,267,283.41)
5	2x1.2 MHz	60,000,000.- (4,360,370.05)
6	2x2 MHz	100,000,000.- (7,267,283.41)
7	2x2 MHz	100,000,000.- (7,267,283.41)
8	2x2 MHz	100,000,000.- (7,267,283.41)

TABLE 6: AMOUNT OF BANK GUARANTEE PER FREQUENCY PACKAGE

Once the procedure has been completed, bank guarantees will be returned to those applicants to whom the frequency packages applied for were not allocated. Bank guarantees will be returned to those applicants to whom frequencies were allocated in this procedure once the frequency license fee has been paid in full.

3.7 Opening Bids in the Auction

The auction will begin with an opening bid (the minimum bid for the first round) set by the Telekom-Control Commission. The table below shows the amount of the opening bid in ATS (EUR) for each frequency package in Stage I.

Frequency package	Size	Opening bid in ATS (EUR)
1	2x2 MHz	100,000,000.- (7,267,283.41)
2	2x8 MHz	400,000,000.- (29,069,133.66)
3	2x2 MHz	100,000,000.- (7,267,283.41)
4	2x2 MHz	100,000,000.- (7,267,283.41)
5	2x1.2 MHz	60,000,000.- (4,360,370.05)
6	2x2 MHz	100,000,000.- (7,267,283.41)
7	2x2 MHz	100,000,000.- (7,267,283.41)
8	2x2 MHz	100,000,000.- (7,267,283.41)

TABLE 7: AMOUNT OF OPENING BID PER FREQUENCY PACKAGE IN STAGE I

If Stage II is carried out, the opening bid for Frequency Package No. 2 will be calculated as shown in the table below:

Frequency package	Size	Opening bid in ATS (EUR)
2A	2x2.6 MHz	130,000,000.- (9,447,468.40)
2B	2x2.6 MHz	130,000,000.- (9,447,468.40)
2C	2x2.4 MHz	120,000,000.- (8,720,740.10)

TABLE 8: AMOUNT OF OPENING BID FOR FREQUENCY PACKAGE NO. 2 IN STAGE II

If additional frequency packages (i.e., those not allocated in Stage I) are auctioned off in Stage II, the auction for these packages will begin with the same opening bid per frequency package as that used in Stage I (exception: Frequency Package No. 2).

3.8 Terms of Participation

The applicant must be a physical person or legal entity that is completely competent to act and enter into binding contracts, as specified in §9 of the General Administrative Procedures Act (AVG). Applicants must have their main residence (for legal entities their place of incorporation)

in a country belonging to the European Economic Area. Each company or physical person, including those belonging to consortia, will be admitted to the auction only once.

3.8.1 Affiliated Companies

In this invitation to tender, only one application to participate in the frequency auction will be accepted from companies that are affiliated with one another under § 244 HGB, § 15 AktG or § 115 GmbHG, or in the form described under § 41 KartG 1988 (directly or indirectly). The same applies when applicants are affiliated with each other in another way which could lead to one applicant directly or indirectly exercising influence over another applicant in a manner that affects competition considerably (e.g., by syndicate agreements, etc.). For the purposes of this invitation to tender, "influence which affects competition considerably" is considered to be present where a significant stake (as specified in §§ 91ff. BörseG) is held, with the exception of purely financial stakes.

When assessing individual cases, the regulatory authority will also take into consideration whether the applicants are currently in the process of a demerger. In such cases, previous decisions made by competition authorities (on both the national and EU levels) are to be taken into special consideration (e.g., the restrictions imposed in permits regarding the execution of the demerger, etc.).

Should two or more companies that are affiliated in the manner described above apply for frequencies, the applicant who submitted the application first will be admitted to the frequency auction.

3.8.2 Changes in Ownership Structure

Changes in the person submitting an application, or any and all – direct or indirect – substantial changes in the stakes held in a company submitting an application at any point in this procedure are not permitted. In all cases, a substantial change is regarded as a change in ownership (exceeding the percentage limits set forth in §§ 91ff. BörseG) or the initial acquisition of a significant stake as defined in §§ 91ff. BörseG, with the exception of mere financial stakes.

The previous paragraph does not apply to changes in ownership structure ordered by authorities for monopoly/cartel affairs or required by the proceedings of such authorities. All applicants are required to inform the Telekom-Control Commission of all proceedings of authorities for monopoly/cartel affairs, both pending and to be expected, relating to their ownership structure and to include any and all decisions made in this context in their applications. All changes in ownership structure carried out in order to fulfill such obligations are to be reported to the Telekom-Control Commission immediately, even after submission of the application.

3.9 Application Documents

Properly completed written applications must contain all information requested in Section 0. In addition, a Declaration of Completeness (Appendix B) is to be enclosed with the application to confirm that the application contains correct and complete indications of all information requested in this tender document as well as all information relevant to the Telekom-Control Commission's evaluation of the objective facts.

3.10 Auction Procedure

3.10.1 Admission to the Auction

All applicants who are not excluded from the frequency allocation procedure under Section 49a Par. 6 TKG nor eliminated due to company affiliations will be admitted to the auction (cf. Section 0).

3.10.2 Auction Procedure: General

The auction will be carried out in an open, ascending, simultaneous, multiple-round format. In accordance with § 49a Par. 7 (last line) of the Telecommunications Act (TKG), the detailed rules governing the auction procedure will be delivered to the parties participating in the auction at least two weeks before the start of the auction. The Telekom-Control Commission plans to publish a draft of the auction rules on its web site (www.tkc.at) in February 2001 and to send the Rules of Procedure to the applicants as soon after the application deadline as possible.

4 Organizational Information

The following sections contain information on the deadlines to be adhered to as well as other essential issues in the allocation procedure.

4.1 Rights to Application Documents

In submitting an application for frequency allocation, the applicant irrevocably agrees to allow the Telekom-Control Commission to use – without restriction – all information and documents received in connection with the application for the purposes of this procedure, for the review of compliance with the official allocation decision and for all procedures otherwise associated with the license.

4.2 Applications for Frequency Allocation and Licenses

Please send applications to:

Telekom-Control Commission
Mariahilferstrasse 77-79
A-1060 Vienna
Austria

The application for frequency allocation (abbreviated here as “the application”) must be received by the Telekom-Control Commission in a sealed envelope or package labeled “GSM-1800” by February 26, 2001 at 2:00 pm local time. Applications received after the deadline will not be reviewed. License applications should be submitted simultaneously with the application for frequency allocation. Applications for frequency allocations and licenses are to be submitted in triplicate hard copies (one original and two copies) in German language, as well as in electronic format (CD-ROM or diskette in Microsoft WinWord and/or Excel format). One copy is to be submitted in loose-leaf form. Applicants will be allowed to submit a combined application for frequency allocations as well as licenses, as this will increase the efficiency and economy of the procedure.

Changing or withdrawing applications after the application deadline will not be permitted. This does not apply to changes in the frequency license fee in the course of the auction.

The application may be no longer than 300 pages in a 12-point font; there is no font requirement for Appendix A. However, additional enclosures, such as annual reports and maps, can be attached as necessary. These enclosures will also be accepted in English.

4.3 Authorized Correspondence Recipients

Applicants are required to name an authorized correspondence recipient in Austria in their applications (cf. Section 2.1). The unlimited authorization of the correspondence recipient must be signed by official representatives of the company and included with the application documents. In cases where the correspondence recipient is changed, a new unlimited authorization is to be sent to the Telekom-Control Commission immediately.

4.4 Clarifications

For the purpose of preparing their applications, interested parties who have paid the fee of ATS 5,000.00 (EUR 363.36) for the provision of tender documentation will be allowed to pose questions regarding the tender documentation in a question and answer session with the Telekom-Control Commission. The Telekom-Control Commission reserves the right to decide whether questions are answered in each individual case.

Questions to the Telekom-Control Commission can be sent only by fax (+43 1 58058 9504) or in writing by January 19, 2001, at 10:00 am local time (date and time of receipt). Questions will be answered exclusively by fax or in writing by February 09, 2001 (date of dispatch).

Questions submitted to the Telekom-Control Commission will be collected and forwarded along with the answers to all potential bidders, without disclosure of the names of the parties who posed the questions.

If the Telekom-Control Commission considers it necessary or appropriate to pose questions to applicants, the applicant irrevocably agrees in submitting the application to reply to such inquiries and submit the requested additional information within the period specified by the Telekom-Control Commission.

4.5 Inquiries – Consultants

In this tender procedure, the Telekom-Control Commission may call in consultants in the course of its inquiries and surveys (§ 49a Par. 11 TKG). This also applies *inter alia* (however in no way exclusively) to inquiries related to the clarification issues mentioned in Section 0, to inquiries related to the review of eligibility criteria under § 15 Par. 2 TKG, and to support in the course of the auction.

4.6 Inspection of Records

Upon request, all applicants will be allowed to inspect records to the same extent. No separate appeal against the refusal to allow an inspection of records is permitted (§ 17 AVG).

The Telekom-Control Commission acknowledges the fact that in the course of this procedure a large amount of information will be provided and that the inspection of these records may damage the legitimate interests of a party to the procedure or those of third parties. In addition, the procedure may involve information which, if inspected by one of the parties, could endanger the fulfillment of the regulatory authority's duties or frustrate the purpose of the procedure. The Telekom-Control Commission thus reserves the right to deny parties the right to inspect such parts of the records.

In order to ensure the confidentiality of the sensitive information provided by the applicants, the applicants are to label all data they regard as company and trade secrets appropriately in their applications. In addition, a copy of the application is to be submitted in which the company and trade secrets have been omitted; in this version of the application, it must be made obvious that those elements have been removed. The Telekom-Control Commission furthermore reserves the right to deny parties the right to inspect other records pursuant to § 17 Par. 3 AVG. Likewise, the Telekom-Control Commission reserves the right to allow the inspection of records which are labeled as company or trade secrets by the applicants if damage to the legitimate interests of a party or third party is not expected to arise from allowing such an inspection.

The applicants undertake to use any information about other applicants obtained in the course of this procedure exclusively for the purposes of this procedure.

4.7 Review and Information Obligations

All applicants are requested to carry out a review of the information provided in the tender documents and in the attachments themselves and to notify the Telekom-Control Commission of any and all additional (e.g., technical) remarks or corrections.

4.8 Publication

The Telekom-Control Commission intends to publish the names of the applicants in the allocation procedure. In addition, the applicants admitted to the auction, the bids submitted in each round of the auction as well as the frequencies allocated thereafter will be made available to the public on a web site.

4.9 Annulment of the Tender, Discontinuation of the Procedure

Under § 49a Par. 12 TKG, the Telekom-Control Commission is authorized to annul the tender and discontinue the procedure at any stage for important reasons, especially if

1. The Telekom-Control Commission detects collusive behavior on the part of the applicants and an efficient, fair and non-discriminatory procedure can not be carried out
2. None or only one of the applicants fulfills the prerequisites pursuant to § 49a Par. 1 TKG
3. None or only one of the applicants that fulfill the prerequisites under § 49a Abs 1 TKG actually participates in determining the standing high bid
4. The procedure results in the applicants requesting less frequency spectrum than that which is to be allocated

None of these circumstances justify any claim to remuneration, government authority liability claims notwithstanding.

5 Fees

5.1 Frequency License Fee

In the case of frequency allocation, the frequency license fee offered in the course of the auction is to be paid within seven days after receipt of the official decisions on frequency allocations/license awards.

In case of non-payment (including incomplete or delayed payments) of the frequency license fee, frequency allocations and license awards will be rendered void. This fact notwithstanding, the Federal Republic of Austria shall have the right in such cases to draw the bank guarantee and to collect any unpaid portion of the frequency license fee by means of administrative enforcement.

5.2 License Fee

In order to cover the administrative costs arising from the granting of the license, a fee is to be charged in accordance with § 17 Par. 1 TKG. The amount of this fee was set at ATS 100,000.00 (one hundred thousand Austrian schillings) in Section 2, Chapter C, No. 2 of the Telecommunications Fees Ordinance (TKGV, BGBl II No. 29/1998). The License Fee is to be paid within 14 days after receipt of the official decisions on frequency allocations/license awards.

5.3 Spectrum Fees

In accordance with § 51 TKG, spectrum fees for the use of frequencies are also to be paid by the network operators. These fees will be determined and mandated by the Telecommunications Offices when the operation permit is issued.

5.4 Consultancy Costs

Any and all costs arising in the course of the procedure for experts or consultants, who may be called in by the Telekom-Control Commission at any point in this procedure, are to be paid on a *pro rata* basis by those applicants to whom frequencies are allocated (§ 49a Par. 11). These costs will be prescribed in the official frequency allocation and license award decisions and are to be paid within 14 days of receipt of the official decisions.