

Announcement of the Telekom-Control-Commission

By means of the decision of the European Commission concerning Case No. M.6497 of 12 December 2012, the Commission approved the merger of Hutchison 3G Austria (H3G) and Orange Austria subject to the condition that H3G must divest radio spectrum in the 2.6 GHz range (divestment spectrum) to a new entrant potentially participating in the multiband auction scheduled for September 2013.

According to the official assignment decision of the Telekom-Control Kommission no. F 4/08-76 of 18 October 2010, the following coverage requirements apply to these frequencies:

"Each frequency assignment holder is obliged to ensure a coverage level of 25% for the spectrum allocated to it in the course of this procedure by 31 December 2013."

In case a transfer is to be approved in line with the stipulations of Art. 56 Par. 1 of the Austrian Telecommunications Act 2003 (TKG 2003), meeting those coverage requirements is not reasonable for a potential new entrant due to the short time span between the transfer and 31 December 2013. In this respect, modifications regarding the coverage requirements or the respective deadline will be made by the Telekom-Control Kommission in the course of the transfer in order to avoid negative impacts on competition.

Taking into account that a potential new entrant requires a certain basis for reliable planning already before the multiband auction the Telekom-Control Kommission announces that in the case of a transfer of the divestment spectrum (2.6 GHz) an adaptation (i.e. postponing the deadline for meeting the coverage requirements by at least three years) will be applied in addition to the more lenient coverage requirements imposed on the new entrant for the reserved spectrum of the multiband auction in the 800 MHz range.,