

**DOCUMENTATION
OF THE TENDER ANNOUNCED IN THE SUBJECT OF
FREQUENCY USAGE RIGHTS FOR BASIC BLOCKS IN THE
26 GHz BAND**

Budapest, 8 November 2011

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Annex 1 — Technical annex
Annex 2 — The bidding sheet

This document is the tender documentation of the tender procedure (hereinafter: Tender or this tender procedure) announced in the subject of frequency usage rights for basic blocks in the 26 GHz frequency band (hereinafter: Documentation) and published by the National Media and Infocommunications Authority (1015 Budapest, Ostrom u. 23-25., hereinafter: Contracting Authority) on 8 November 2011 on its website (hereinafter: Notice), pursuant to the conditions set out in Act C of 2003 on Electronic Communications (hereinafter: Electronic Communications Act) and in NMHH Decree 4/2011 (X. 6.) on the rules of auction or tender for obtaining frequency usage right (hereinafter: Decree on the rules of auction or tender), specifying the detailed rules of the Tender and the application process.

This tender procedure, to be carried out pursuant to the Decree on the rules of auction or tender, is an official procedure within the competence of the Contracting Authority, launched ex officio and governed by the rules set out in the Electronic Communications Act and Act CXL of 2004 on the General Rules of Public Administration Procedures and Services (hereinafter: Administrative Proceedings Act). This Documentation defines the detailed rules of the tender procedure, elaborated by the Contracting Authority.

In issues arising from the tender procedure, the provisions set forth in this Documentation shall be applied with mandatory effect.

This tender procedure, obligations undertaken by winning participants and set out in the Documentation, as well as certain procedures of the Contracting Authority shall be governed by prevailing Hungarian with mandatory effect.

I. FUNDAMENTAL PROVISIONS

1.1. Definitions

The terms used in this Documentation shall be used in the following sense. All other definitions shall be governed by the applicable legislative provisions.

- a) “start of tender procedure” the day of publication by the Contracting Authority of the Notice on its website
- b) “day” calendar day

- c) “basic block” channel with a nationwide reach, defined in Annex I, as per Proposal CEPT T/R 13-02, Annex B c)
- d) “user block” continuous cluster of basic blocks
- e) “Bid” bid encompassing the bids for all the basic blocks up for offer and all compulsory substantive elements set out in the Documentation submitted as part of the Application for Tender
- f) “Offer price” Placed by an applicant for a given basic block, this bid cannot be lower than the tender price relevant to the basic block.

1.2. Liaising, notifications

The applicant shall provide the name and personal identification data of the person with full powers of representation (hereinafter: representative) in the tender procedure when applying (hereinafter: Application) for the Tender, and shall submit the document certifying the power of representation, as well as the name, personal identification data and contact details (telephone number, fax number, email, mailing address) of the contact person (hereinafter: contact person) as per this Section.

Applicants/participants may request forms of electronic liaison on the basis of the relevant rules of the Administrative Proceedings Act and Act LX of 2009 on Electronic Public Services.

Any information shared with the contact person shall qualify as legally effective notification of the applicant/participant and all of the joint applicants in case of Joint Application as per Section 3.10. The Contracting Authority shall liaise with the contact person via postal mail and/or fax, as per the following.

The Contracting Authority shall deliver all forms and documents related to the tender procedure to the mailing address provided for the contact person. The Contracting Authority shall treat all administrative decisions made in the course of the procedure as official documents, pursuant to the rules set out in the Administrative Proceedings Act.

The Contracting Authority shall communicate with the contact person via fax if the applicant/participant provides a fax number in the protocol when acquiring the hardcopy form of the Documentation as per Section 2.5 or in the Application, or provides such number at any time during the tender procedure, and expressly consents to the use of such number for liaison purposes in a relevant statement. If the applicant/participant has consented to liaison via fax, any document sent to the fax number provided – with the exception of administrative decisions – shall qualify as legally effective delivery to the applicant/participant and all joint applicants/participants applying within the consortium in case of Joint Applications from the moment of confirmation of successful delivery.

For the sake of more efficient and faster liaison, the Contracting Authority may simultaneously send the documents dispatched via mail and/or fax in email with unchanged content, provided that the applicant/participant has provided an email address and has consented to the use of such address for liaison purposes. Any communication via email is void of legal effect, and in case of any discrepancies, the communication sent via postal mail or fax shall have legal effect.

Any changes in the identity or data of the contact person shall be reported to the Contracting Authority in writing, within three days of such change in a duly signed original statement, sent in one copy via postal mail or courier service. The Contracting Authority shall acknowledge the changes in the identity or data of the contact person only after receipt of the original copy of the statement satisfying the criteria defined in this Section.

Unless provided otherwise herein or any amendments hereto, or unless the Contracting Authority defines a mandatory delivery method in consideration of the action or the nature of the document, all statements and documents addressed to the Contracting Authority during the tender procedure, as well as any other documents related to the tender procedure shall be delivered to the Contracting Authority's official address or fax number in writing, via postal mail, personal delivery or fax.

Any documents sent to the Contracting Authority in any phase of the tender procedure can be deemed effectively delivered only if the Contracting Authority has received the original copy of such document. To facilitate the faster processing of statements and documents and improve the tender procedure's efficiency, statements, documents and other forms may also be sent via email simultaneously to delivery by post, with such notification by email having no legal effect; in case of any discrepancies, the contents of notification sent by postal mail shall prevail.

Unless otherwise provided by the Documentation, any document delivered to the Contracting Authority as set out in this Section shall be considered validly delivered in the tender procedure only if it fully satisfies all substantive and formal requirements defined herein and the signature of one of the following persons is attached to the document:

- the contact person of the applicant/participant;
- the person(s) authorised to sign on behalf of the applicant/participant, or the persons duly authorised by them, or
- in case of Joint Application as per Section 3.10, the representative defined by the consortium agreement, or the person duly authorised by him/her.

Contact details of the Contracting Authority:

Nemzeti Média- és Hírközlési Hatóság (National Media and Infocommunications Authority)

Central Customer Service Office (Központi Ügyfélfogadó Iroda)

Address: 1133 Budapest, Visegrádi u. 106.

Telephone: (+36 1) 468 0673

Fax: (+36 1) 468 0680

e-mail: info@nmhh.hu

1.3. Planned agenda of the tender procedure

The Contracting Authority plans to conduct this tender procedure based on the following agenda. The dates indicated in the Documentation are for informational purposes only.

1. Publication of the Notice and the Documentation: 8 November 2011
2. Consultation: 1 December 2011

3. Application deadline: 6 February 2011, 2:00 pm
4. Opening of Applications: 7 February 2011
5. Rectification of deficiencies: 7-14 February 2011
6. Registration: 16 February 2011
7. Rectification of deficiencies, request for information: 16 February – 5 March 2011
8. Assessment of Tenders: 7 March 2011
9. Definition of user blocks: 9 March 2011
10. Decision concluding the Tender: 14 March 2011

II. SUMMARY

2.1. Objective of the Tender

By selling the frequency bands specified in the object of this Tender, the National Media and Infocommunications Authority aims to promote the introduction of broadband telecommunications systems, creating the foundations for equal opportunities in access to digital broadband infocommunications technologies and applications, in line with the objectives of the European Digital Agenda.

2.2. Object of the Tender, basic terms and conditions

The object of the Tender is the acquisition of exclusive frequency usage right for the user blocks created from the 26 basic blocks of the 26 GHz frequency band by the Contracting Authority, on the basis of the outcome of the Tender.

The document entitled Technical Conditions, appended as Annex I to the Documentation (hereinafter Annex I) contains the definition of the basic blocks up for offer in the Tender.

The tender price of one basic block is HUF 75,000,000 that is, seventy-five million Hungarian forints. This fee does not include the applicable VAT.

One applicant may submit bids for and be awarded the pertaining usage rights of no more than six (6) basic blocks; if the applicant has already acquired a basic block within the 26 GHz band in a tender procedure preceding the current one, the affected basic block(s) shall be included in the maximum number of basic blocks that can be acquired. The Contracting Authority shall verify as to whether an applicant is in possession of an existing frequency usage right within the 26 GHz band, without the applicant being required to submit any pertaining statement or certification.

The winner announced in the definitive resolution concluding this procedure may be only an applicant which has acquired rights for at least two basic blocks as a result of this procedure, unless the applicant already holds a frequency usage right in the 26 GHz frequency band at the time this tender procedure is commenced.

2.3. Usability of the frequency obtained in the Tender

The winners of the Tender are granted exclusive rights in respect of the frequency blocks acquired to initiate a procedure with the Contracting Authority for the issuance of administrative licenses required for the usage of the frequency blocks thereby acquired. Provided that it meets all statutory conditions, the applicant winning the frequency usage right may lawfully install and operate, based on the frequency usage licenses and in line with the contents thereof, point-to-point digital radio links and/or radio telecommunications systems based on point-to-multipoint digital radio links. The user block can be used for establishing and operating access systems (direct service of terminals) and internal operation networks serving radio relay networks, or mobile telecommunications base stations.

The detailed description and the rules of usage of the frequency blocks constituting the object of the Tender are specified in this Documentation, in particular the requirements set out in Annex 1, and in the legislation governing frequency usage [(in particular Government Decree 346/2004 (XII. 22.) on the establishment of the national allocation of frequency bands and NMHH Decree 7/2011 (X. 6.) on the establishment of the rules relating to the usage of frequency bands].

Winners of the Tender are entitled to sell and resell the frequency block in the context of secondary trading, in line with the requirements set out in the Decree on the establishment of the national allocation of frequency bands, the Decree on the establishment of the rules relating to the usage of frequency bands, as well as with the provisions under Section 5.3 of the Documentation.

2.4. Publication of the Notice

Pursuant to Section 5 (1) of the Decree on the rules of auction or tender, the Contracting Authority shall publish the Notice on its bulletin board and electronically on its website. The publication date shall be the date of publication of the Notice on the website of the Contracting Authority.

2.5. Acquiring the Documentation

The Documentation can be obtained in hardcopy form from the date of publication of the Notice until the expiry of the application deadline, following transfer of the Documentation fee to the Contracting Authority at the Contracting Authority [National Media and Infocommunications Authority, Központi Ügyfélfogadó Iroda, 1133 Budapest, Visegrádi u. 106., between 9:00 am and 2:00 pm Monday through Thursday, and between 9:00 am and 12:00 pm on Fridays]. The Documentation fee shall be transferred to the Contracting Authority's account number 10032000-00300939-00000017 held at the Hungarian State Treasury, specifying "26 GHz frekvenciasávban pályázati Dokumentáció díja".

The Documentation fee is HUF 25,000, that is, twenty-five thousand forints.

Proof of the irrevocable transfer shall be presented upon collection of the Documentation.

The Contracting Authority shall draw up a protocol on the hand-over of the Documentation.

The protocol may not be deemed as registration for the Tender (hereinafter: tender registration) as per Section 3.21.

The Documentation can be downloaded from the Contracting Authority's website in electronic form free of charge, but acquiring the Documentation in this form (downloading) does not grant eligibility for participating in the consultation and in the tender procedure as an applicant.

2.6. Formulation of questions, consultation

The Contracting Authority shall hold a consultation on 1 December 2011 at 10:00 am at the Event and Training Centre of the National Media and Infocommunications Authority (1027 Budapest, Fő u. 80.). Persons, organisations or their appointed representatives – up to four (4) persons representing each party – that have acquired the Documentation in the manner set out in section 2.5 herein and in the Notice are entitled to take part in the consultation. The information provided at the consultation primarily pertains to the parameters of the set of frequencies up for auction, its usage and circumstances of usage, and the activities that can be carried out using the frequency.

The Contracting Authority shall provide an opportunity for the formulation of written questions, to be submitted no later than 10 days prior to the application deadline.

As per Section 8 (4) of the Decree on the rules of auction or tender,, those entitled may submit their questions in writing at the postal addresses of 1133 Budapest, Visegrádi u. 106. or 1376 Budapest, Pf. 997., or via fax to (+36-1) 468 068.

Questions formulated verbally at the consultation and those submitted in writing shall be replied to by the Contracting Authority, in line with Section 8 (3)–(4) of the Decree on the rules of auction or tender.

The answers issued and sent by the Contracting Authority are informational only; they bear no legal effect, nor are they legally binding compared to the Documentation regarding this tender procedure and the administrative decisions made in the context of the procedure.

2.7. Modification of the tender notice documents

The Contracting Authority may amend the Notice and the Documentation pursuant to the rules set out in Section 6 of the Decree on the rules of auction or tender.

Modifications to the Notice and the Documentation shall enter into force upon their publication.

2.8. Personal (participation), conflict of interest and formal requirements

2.8.1. The following registered business organisations, other registered organisations, sole entrepreneurs, sole proprietorships or natural persons may take part in the tender procedure, either individually or as part of a consortium as per Section 3.10:

- a) those with no overdue frequency fee payment obligations towards the Contracting Authority (the Contracting Authority shall verify outstanding frequency fee payment obligations based on its own records; applicants are not required to provide a certificate thereof);
- b) those that do not have customs duty or social security contribution payment debt overdue for more than 60 days or did not fail to fulfil their tax payment obligation registered by the central tax authority or other obligation of payment to a dedicated state fund, except when the creditor gave its written consent to payment of the debt at a later date;
- c) those that are not subject to bankruptcy procedure, liquidation or voluntary dissolution;
- d) those complying with the conditions defined in this Documentation and other conditions set out in the FNTN defined for the set of frequencies,
- e) those that have issued a separate written document in the course of Application, acknowledging that the contents of the Documentation are binding upon them.

2.8.2. Only persons complying with the following conflict of interest rules may participate in the tender procedure, either individually or as part of a consortium per Section 3.10 herein:

- a) Natural or legal persons, business organisations with no legal personality, other registered organisations or sole entrepreneurs/sole proprietorships holding a controlling stake in each other or having the same third party as the holder of a controlling stake may not participate in the Tender simultaneously.
A controlling share is:
 - a direct and indirect stake in a company, the total of which provides control in excess of twenty-five percent of the company's assets or voting rights; direct and indirect stakes of close relatives as per Article 685 b) of the Civil Code shall be combined,
 - any situation which makes a controlling influence in the company possible on the basis of a contract, the deed of foundation (bylaws) or preferred stock, through the appointment (removal) of the decision-making or supervisory bodies, or in any other way.
- b) Natural or legal persons, business organisations with no legal personality, as well as other registered organisations or sole entrepreneurs/sole proprietorships the ownership background of which cannot be established, or whose majority owner or controlling entity under Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (hereinafter as: Competition Act) is a controlled foreign company as per Act LXXXI of 1996 on Corporate Tax and Dividend Tax may not participate in the Tender, with there, however, being no requirement from the perspective of this tender procedure for the ultimate beneficial owner to be a resident company generating the majority of its revenues domestically.
- c) Natural persons and legal entities, business organisations with no legal personality, other registered organisations, sole entrepreneurs or sole proprietorships with controlling stakes in each other or controlled by the same enterprise (other organisation) not participating in this tender procedure may not participate simultaneously in the Tender.

A controlling relationship shall mean, pursuant to Sections 23 (2) and (3) of the Competition Act, that an undertaking or several undertakings jointly:

- has the ownership of the interests or shares of another undertaking entitling them to exercise majority voting rights, or are holders of more than fifty percent of the voting rights; or
- are entitled to appoint, elect or recall the majority of the executive officials of another undertaking; or
- are entitled by contract to exercise decisive influence on the decisions of another undertaking; or
- acquire the ability on a factual basis to exercise decisive influence on the decisions of another undertaking.

Control is also exercised by one undertaking over another undertaking (or organisation) which is controlled, solely or together with it, by a third party under its control or is jointly controlled by third parties under its control.

2.8.3. Foreign applicants may only participate in this tender procedure if, in their statement, they undertake an irrevocable and unconditional obligation to establish, in the event of a winning bid, a business organisation with legal personality or an organisation, branch office or agency without legal personality in its exclusive ownership and headquartered in Hungary within ten days of the binding, substantive resolution concluding the tender procedure, and to transfer the frequency usage rights acquired in this tender procedure within fifteen days of the binding, substantive resolution concluding the tender procedure to such company, taking into consideration the provisions set out in this Documentation, the Decree on the rules of auction or tender and Decree 6/2004 (IV. 10.) of the Ministry of Informatics and Communications on certain administrative procedures of civil frequency management, or to a resident business organisation, association or alliance that is in its exclusive ownership (hereinafter: controlled entity).

The winning participant shall take all measures to ensure that the controlled entity fulfils the stipulations of the definitive resolution concluding the tender procedure and the related authority license(s) and resolution(s).

In its unconditional and irrevocable statement of commitment as specified herein, the foreign applicant shall also acknowledge, in the event that it is selected as the winner, being jointly and severally liable for all obligations arising from the awarded rights of use of frequency including the obligations of its subcontractors on behalf of the controlled entity under administrative and public administration procedural law even in the case that the substantive decision concluding the tender procedure or the related authority licenses and resolutions issued fail to specify the winning participant or the controlled entity separately for each individual obligation.

In the event of the violation of the stipulations of the substantive resolution concluding the tender procedure and the related administrative license(s) and resolution(s), the Contracting Authority may elect, in the context of the sanctions set out in the Electronic Communications Act, to include either the controlled entity, the winning participant in the Tender, or both under the legal consequences applied (application of sanctions). The winning participant in the Tender and the company controlled by it shall have joint and several liability for any sanctions imposed.

2.8.4. No modifications, changes or legal succession in the person of the applicant/participant affecting the validity of the Application shall be permitted during the tender procedure.

2.8.5. Only persons/organisations having acquired the Documentation, paid the participation fee as per the Notice and Section 2.5 of this Documentation, and submitted the security on the tender price in the context of Application to the Contracting Authority are entitled to participate in the Tender.

2.8.6. Each applicant shall submit the documents and declarations required as per this Documentation and the Decree on the rules of auction or tender in the manner and form defined herein.

2.9. Method, place and time of submission of Applications for the tender

In order to apply for the tender, all documents necessary pursuant to the Decree on the rules of auction or tender and the Documentation may be submitted by those applicants who have paid the participation fee and acquired and purchased the Documentation in the manner defined in the Notice.

Only the applicant's authorised representative may submit the Application. Authorisation to represent shall be certified upon submission of the Application with a duly signed authorisation form.

All statements, deeds and certificates specified under Sections 2.8 and 3.12 (and under Section 3.10 in case of Joint Applications) shall be appended to the Application, as well as all compulsory substantive elements set out in the Documentation and in the Decree on the rules of auction or tender, in the required format and number of copies.

Applications of applicants can be submitted at the address of the Contracting Authority, taking into account the substantive and formal requirements specified in the Documentation:

Nemzeti Média- és Hírközlési Hatóság (National Media and Infocommunications Authority)

Central Customer Service Office (Központi Ügyfélfogadó Iroda)

Address: 1133 Budapest, Visegrádi u. 106.

between 9:00 am and 2:00 pm Monday through Thursday, and between 9:00 am and 12:00 pm on Fridays, by 6 February 2011 at the latest.

Upon receipt of an Application, the Contracting Authority shall inscribe the exact time and date of receipt on the sealed packages, simultaneously issuing an acknowledgement of receipt containing the exact time and date of receipt, to be handed over to the applicant's representative submitting the Application.

One applicant may only submit one Application. If an applicant submits more than one Application, the Contracting Authority shall deem the Application submitted at the latest date to be the sole Application submitted.

III. RULES OF PROCEDURE

3.1. Fundamental principles of the tender procedure

When carrying out the tender procedure, the Contracting Authority shall proceed in line with the prevailing legislation – in particular the stipulations set out in the Electronic Communications Act, the Administrative Proceedings Act, and Decree on the rules of auction or tender –, and with this Documentation, taking into consideration the criteria of objectiveness, transparency, non-discrimination and proportionality. In order to fulfil the fundamental principles and the objectives defined in the Electronic Communications Act, the Administrative Proceedings Act, the Decree on the rules of auction or tender, the Contracting Authority shall proceed in line with the requirement of equal treatment.

The Contracting Authority shall also take into account the criterion of cost-effectiveness, conducting the tender procedure in a manner that allows its fastest conclusion, respecting the statutory deadlines and yielding a result.

Applicants/participants shall proceed in line with the principles of good faith and fairness in this tender procedure, and shall cooperate with the Contracting Authority to facilitate the fast and successful conclusion of the procedure. Applicants/participants may not conduct themselves in a manner aimed at deceiving the Contracting Authority, may not issue statements (including the Application) in the course of the tender procedure that contain misrepresentations (incorrect, false information), and may not conceal any data substantial from the perspective of the Tender in any of their statements (including the Application). Applicants/participants shall be liable for the adequacy, valid grounds, timeliness, credibility and truthfulness of the contents of their statements (including the Application) issued in the context of the tender procedure. In the event of the violation of the requirements pertaining to documents and statements defined under this Section, the Contracting Authority may enforce the legal consequences set out under Section 3.9.

3.2. Language of the procedure

The official language of the tender procedure shall be Hungarian. The Tender and all communication between the applicants/participants and the Contracting Authority pertaining to the Tender shall be conducted in Hungarian.

If the applicant submits any document in a language other than Hungarian, a certified translation shall be appended. In the event of any dispute, the Hungarian version shall prevail.

Any documents made available by the Contracting Authority in a foreign language shall serve informational purposes only.

3.3. Hierarchy of the Tender notice documents

The Tender notice includes the Notice published on the tender procedure, this Documentation specifying the detailed conditions and provisions of the tender (along with its annexes) and any amendments to the Documentation or the Notice.

In the event of any discrepancy between the documents constituting the Tender notice and other documents, the prevailing order among the documents shall be the following:

amendment to the Documentation, this Documentation, amendment to the Notice and the Notice.

3.4. Trade secrets protected by law

During this tender procedure – in particular when allowing the inspection of the documents, the announcement of the decision and its publication – the Contracting Authority shall ensure the protection of the secrets and personal data defined under Sections 27 and 33 of the Electronic Communications Act, protected on a statutory basis.

Applicants/participants may request the restriction of document inspection rights, specifying the data in question (e.g. the documents of the Application or any other data or document delivered to the Contracting Authority), on the grounds of the protection of its business and other valid interests.

Any data, document, information or notification delivered to the Contracting Authority by the applicant/participant in the context of the tender procedure shall be deemed to be a trade secret if qualified as such by the applicant/participant in line with the relevant legislation. Data defined under Article 81 (3) of the Civil Code will not qualify as a trade secret. The substantive resolution concluding the tender procedure and any annexes thereto can be revealed or published by the Contracting Authority to the extent set out in the effective legislation – with special regard to legislation regulating the issuance and disclosure of data of public interest and data published for reasons of public interest. Qualification by the applicant/participant as a trade secret will not restrict the Contracting Authority's ability to fulfil its public disclosure obligation pursuant to the relevant legislation, while providing adequate guarantees for the protection of data lawfully qualified to be a trade secret.

The Contracting Authority reserves the right to publish information from the Applications for the tender procedure submitted by applicants as per this Documentation, to the extent and to the group required for carrying out the Tender among the other applicants/participants taking part in the procedure, in keeping with the principles of necessity, proportionality, transparency, objectiveness and non-discrimination, and keeping the personal data of applicants/participants private.

Applicants/participants acknowledge that the Contracting Authority shall treat the entirety of the Application submitted by them, the annexes and amendments thereto, the portions submitted in the context of rectifying deficiencies and the written questions submitted to the Contracting Authority in compliance with the Electronic Communications Act – in particular Sections 27 and 33 thereof –, and with the other relevant legislation governing the handling of data. Accordingly, the Contracting Authority, the Contracting Authority's officers, employees, authorised parties, experts and organisations and persons acting on their behalf, as well as other persons or bodies authorised by legislation may gain knowledge of data, information and documents classified as trade secrets without the separate consent of the applicant/participant, in keeping with the rules governing the protection of trade secrets.

The Contracting Authority, the Contracting Authority's officers, employees, authorised parties, experts and organisations and persons acting on their behalf, as well as applicants/participants shall preserve trade secrets and ensure that no unauthorised persons can gain access to them. Data, information and documents qualifying as trade secrets or not qualifying as such pursuant to Article 81 (3) of the Civil Code shall be strictly used or made available to third parties by the Contracting Authority, the Contracting Authority's officers, employees, authorised parties, experts and organisations and persons acting on their behalf, as well as applicants/participants for the purpose of performing their obligations related to the preparation of the Application to the Tender, to the assessment of Applications and those defined in legislation, with due heed to the rules on the regularity of the Tender set out under this Section and Sections 3.1 and 3.6.

Applicants/participants shall inform their employees, colleagues, authorised parties, performance assistants and all other cooperating entities involved in the Tender on the confidential nature and scope of the data, information and documents qualified as trade secrets, and shall oblige them to adhere to their obligations regarding the preservation of trade secrets. Applicants/participants shall be held liable for the conduct of their cooperating entities as if they were their own.

At the Contracting Authority's separate request, the applicant/participant shall clearly specify, supported by justification, which data among those qualified as trade secret would entail disproportionate damage to the applicant's/participant's business interests in the event of disclosure or publication.

3.5. Copyrights

Applicants/participants hereby acknowledge that the Contracting Authority shall acquire non-exclusive usage rights free of charge for the entire duration of the copyright period, for the complete Application submitted – including the information contained therein – whether in entirety or in parts, as well as any other material, submission and question submitted in written or electronic form to the Contracting Authority in the context of this Tender (hereinafter, for the purposes of this Section: other submissions). This right – subject to the rules on the protection of trade secrets and pertaining to data of public interest – extends to the use of the Applications and other submissions submitted by the applicant/participant related to this tender procedure, in particular their hardcopy or electronic reproduction and their use in the work material prepared by the Contracting Authority on the Tender (including reworking and broadcasting to the public). The Contracting Authority shall be entitled to exercise such rights in an unrestricted manner via the intermediary of its authorised parties or experts, the bodies or persons acting on behalf thereof, as well as other persons or bodies authorised by virtue of legislation.

3.6. Responsibility of the applicant and the participant in respect of the Tender

In the course of the Application process, the applicant – including consortium members in the case of a consortium application – shall issue a statement to the effect that it acknowledges to be bound by the contents of the Documentation and the Notice.

The applicant shall be responsible for the inspection and interpretation of the Documentation, including the technical conditions and specifications, as well as the forms appended in the annex. The applicant/participant shall assume the risk of being denied registration or having its Application voided by the Contracting Authority in case of its failure to fulfil the formal or substantive requirements defined in the relevant legislation or the Documentation. The applicant shall be responsible for assessing the domestic electronic telecommunications market and the legislative environment governing electronic telecommunication activities and any related risks. The Contracting Authority assumes no responsibility for any disadvantage affecting the applicant/participant in connection with its failure to adequately assess the domestic electronic telecommunications market and the legislative environment governing electronic telecommunication activities during or following the Tender.

The applicant/participant shall bear all costs of preparing and submitting the Application. Reimbursement of the participation fee may only be possible in the cases defined in the Decree on the rules of auction or tender; in all other cases the applicant/participant may not reclaim its costs related to the Tender from the Contracting Authority, its authorised party, cooperating entity or any other public administrative body or authority on any grounds, irrespective of the Tender's outcome.

Applicants/participants shall refrain from any conduct that may influence the outcome of the Tender in any form, unfairly influence the decision of another applicant/participant, thus, in particular, from any form of collusion and from making any declarations, statements, or implications – especially in public (through the press, electronic media, online websites or forums) – that apply to (a) the value of the frequency usage right that can be acquired; (b) the conditions of participation in the Tender or the contents of the Application; (c) the conduct of applicants/participants vis-à-vis new market entrants; (d) business plans based on the acquired rights.

If the above conduct is perpetrated by a person or an organisation other than the applicant/participant, the Contracting Authority shall assess the degree of responsibility borne by the affected applicant/participant for the statement or conduct, and may commence an investigation and request the submission of relevant data.

In the event of any doubt regarding the regularity of the Tender, the Contracting Authority may seek the opinion of the Hungarian Competition Authority (hereinafter: Competition Authority), primarily to assess the restricting effect of such conduct on competition and to evaluate the social damage inflicted. The above shall in no way restrict the Competition Authority's right to conduct competition surveillance procedures pursuant to relevant legislation, irrespective of the contents of this Documentation.

If (a) it has been established in a binding authority or court decision that the frequency usage right at issue was acquired based on an unlawful agreement as per Section 11 of the Competition Act (cartel agreement), or (b) it is established in a binding authority or court decision following the successful conclusion of the Tender that the participant had concluded a cartel agreement that also impacted its participation in this Tender, the

Contracting Authority may, following assessment of the circumstances of the case, revoke the frequency usage rights affected by the cartel agreement.

3.7. Tender Committee

Having given due consideration to the matter, the Contracting Authority decided not to set up a Tender Committee as per Section 15 (1) of the Decree on the rules of auction or tender.

3.8. Supervision of compliance with the conditions of the Tender

The applicant/participant shall comply with the conditions or participation set out in this Documentation and the relevant legislation during the entire period of the tender procedure, from the submission of its Application until the entry into force of the decision concluding the tender procedure.

The Contracting Authority shall continuously monitor compliance with the requirements set out in the Documentation and the Notice (including the rules governing the conditions of participation and the regularity of the Tender). If the Contracting Authority establishes that an applicant/participant is in violation of the provisions set out in the Documentation, the Notice and the Decree on the rules of auction or tender, it shall decide as per Section 3.9 on the legal consequences to be applied.

If the applicant/participant fails to comply with any of the conditions of participation or the conflict of interest rules for any reason during the tender procedure, it shall immediately notify the Contracting Authority thereof. If the Contracting Authority is thus or otherwise notified that the applicant does not fulfill, throughout the tender procedure, the conditions on participation and conflict of interest, as set out in the Documentation, the Notice, the Decree on the rules of auction or tender or in relevant legislation, it may apply the legal consequences concerning formal invalidity as per Section 3.19 herein.

3.9. Legal consequences applicable in the event of infringing conduct by the applicant/participant

The applicant/participant shall comply with the rules of procedure and provisions on order of procedure set out in the Documentation and in legislation, in particular in the Decree on the rules of auction or tender (hereinafter, for the purposes of this Section: procedural law obligations).

If the Contracting Authority detects any violation of procedural law obligations, it may impose the procedural fine set out under Section 38 of the Electronic Communications Act, and in the event of non-payment thereof, it may enforce, in part or in full, the procedure-related security.

Neither imposition of a procedural fine nor the enforcement of the procedure-related security may affect the Contracting Authority's right and obligation to seek other legal remedies.

In particular, the applicant/participant withdrawing its Application, rescinding from its intention to participate in the tender procedure during the term of the tender procedure

or participating in collusive behaviour as per Section 3.6 shall be deemed to be in violation of procedural law obligations.

Procedural fines may be levied by the Contracting Authority, taking into account the principles of proportionality and distinction.

If, in the course of the tender procedure

a) a court judgment which has the force of *res judicata* has established – or such judgment is not excluded by the lack of substantiation – the applicant's/participant's criminal conduct, or

b) an authority decision which has the force of *res judicata* has established that the applicant/participant has misled the Contracting Authority and such conduct has affected the outcome of the procedure, or

c) the applicant/participant withdrew, partially or in full, its Application or another application for other basic block(s) during the term of offer validity in a manner entailing non-compliance of the applicant or its Application with the conditions set out under Sections 2.2., 2.8 and Annexes 1-2.,

the Contracting Authority shall be entitled to apply the legal consequences of substantive invalidity.

If the breach of obligations under procedural law entails, in addition to the legal consequences defined under this Section, a fine or liability under administrative or criminal law, or an indemnification liability set out under public administration substantive legislation, the legal consequences applied pursuant to the Documentation or the provisions of the Decree on the rules of auction or tender will not exempt from other legal consequences arising out of the applicant's/participant's behaviour.

3.10. Joint Application (consortium)

For Joint Applications, applicable provisions of the Documentation shall be amended with the following.

Several applicants may submit an Application jointly (Joint Application). In the event of a Joint Application, only one member of the consortium is required to purchase the Documentation. If an applicant submits an Application as a single, individual applicant, it may not submit a subsequent Application as a member of a consortium. Following a Joint Application, consortium members may not validly submit Applications and Joint Applications.

Formal invalidity shall be established for a Joint Application if a consortium agreement, valid and effective on the day of submission of the Application, fulfilling the following conditions and duly signed by respective members, is not appended even after a prospective rectification of deficiencies. A Joint Application shall be considered substantively invalid, if the consortium agreement does not meet all of the following requirements:

- a) it contains the specification of the form of the applicants' Joint Application;
- b) it contains the specification of the method of signature of the Application;
- c) it contains the consortium members' unanimous statement of intent according to which the members undertake an irrevocable and unconditional obligation to establish, in the event of a winning bid, an organisation as defined under Section

- 2.8.3 in the exclusive ownership of consortium members and headquartered in Hungary within ten days of the binding, substantive resolution concluding the tender procedure and to transfer the frequency usage rights acquired in this tender procedure within fifteen days of the binding, substantive resolution concluding the tender procedure to such company, taking into consideration the provisions set out in this Documentation, the Decree on the rules of auction or tender and Decree 2.8.3 (IV. 15.);
- d) it contains the extent of participation in the business entity to be established, and the related rights;
 - e) it contains the rights and obligations of consortium members;
 - f) it identifies the consortium member authorised for representation, stating that
 - such representative is authorised to represent, with no restrictions, all jointly applying members vis-à-vis the Contracting Authority in the tender procedure, and
 - in the issuance of legal statements, made either on a mandatory or a discretionary basis by the Contracting Authority to the applicant/participant and vice versa, in any further procedures related thereto,
 - the representative shall also be otherwise entitled to communicate with the Contracting Authority;
 - g) it contains a statement issued by each consortium member establishing that the consortium and consortium members shall be liable together and separately for compliance with the stipulations of the Documentation and relevant legislation from the perspective of public administrative authority procedures;
 - h) consortium members shall hold joint and severable liability for the submission and the enforcement of the procedure related security by the Contracting Authority, and
 - i) the applicability or enforceability of the agreement may not depend on any suspension implementation, termination, or other conditions.

Should a Joint Application be found formally or substantively invalid, the provisions set forth in Sections 3.19 and 3.20 herein shall apply as appropriate.

The validity and effect of Joint Applications may not depend on the approval of any third party and the Contracting Authority as from the date of Application.

Joint Applications shall be formally invalid if the Application does not include all the statements and documents specified under this Point within the deadline for rectifying deficiencies as per Section 3.23.

For Joint Applications, each member of the consortium shall meet the conditions set out under Sections 2.8.1., 2.8.2., and 2.8.4, and documents, statements and certificates stipulated under Section 2.8.6 shall be submitted by respective members or jointly by the consortium itself, as applicable. It is sufficient for consortium members to comply jointly with the conditions set out under Sections 2.8.3. and 2.8.5.

In the event of the violation of the procedural obligation specified in Section 3.9, the Contracting Authority may elect to apply legal consequences to all members or to selected members of the consortium.

3.11. Formal and substantive requirements for the Application

The Application to be submitted is comprised of two main sections:

- (1) the application for participation, and
- (2) the bid (hereinafter: Bid).

Accordingly, the envelope (package) containing the Application shall

- (1) contain the documents listed under Section 3.12, appended as part of the Application, and
- (2) a separate sealed envelope within the envelope holding the entire Application, the former containing the documents prepared in line with Section 3.16 and Annex 2 as part of the Application. The electronic version of the Application shall be placed in the envelope containing the original counterpart (and within it, in the envelope containing the Application).

a) The Application

- shall be submitted in two (2) hardcopies – one (1) original counterpart and one copy –, furthermore
- in one (1) electronic copy – exclusively in MS Word, MS Excel and/or PDF files on a CD,

in two clearly separated dossiers.

In the event of any discrepancy between the counterparts of the Application, the original hardcopy shall prevail.

b) The cover sheet of the original copy shall bear a clear inscription of the word “ORIGINAL”, while the duplicate shall bear a “DUPLICATE” inscription.

c) In the event that an Application comprises several separate parts, it should be clearly indicated as to whether these sections constitute the original or the duplicate copy.

d) At the time of submission the Application must be sealed. The number of documentation specified under Point a) shall be packaged together. The packaging shall ensure the following:

- the external surface of the packaging bears the elements listed under Point e);
- the respective counterparts of the Application remain together;
- the unopened state of each package following sealing is clearly visible, with the sealing being intact.

e) The packaging of the Application shall bear the following data and inscriptions:

- the name and address of the Contracting Authority and;
- the following inscription:
 - “APPLICATION – for the tender procedure for the acquisition of frequency rights of use in the 26 GHz band”;
 - “Do not open before the deadline.”

The packaging shall bear no other inscription other than those outlined above. Any other inscription shall imply the risk of the Application being deemed formally invalid.

- f) The pages of the Application shall be bound or otherwise attached in an indivisible manner.
- g) Each page of the Application shall be consecutively numbered and signed by the applicant's representative.
Title/separation sheets shall also be numbered, unless empty. Those left blank need not be numbered.
Official documents need not be individually numbered; instead the title sheet inserted on the front of each shall contain the number of pages of the given document. Title/separation sheets, or official documents without page numbering shall be assigned the next available page number in the Application as appropriate.
- h) Documents and certificates pertaining to the applicant(s) shall be included in distinct individual blocks in the Application.
- i) the Application may not contain any inserts, deletions or over-written segments, except if the applicant carries out any corrections. In this case, corrections shall be clearly indicated and the signature of the applicant's representative affixed to them.
- j) The Application shall be prepared in Hungarian. Deeds, certificates or copies thereof issued by foreign authorities shall be appended with a certified Hungarian translation. Requirements concerning the translation are contained under Section 3.2 herein.

3.12. Documents to be submitted for Application

For purposes of application, the applicant shall submit the following documents in line with the formal requirements set out under Section 3.11.

- a) In the course of the Application, the applicant shall issue a statement on its clear intent to participate, also acknowledging – on behalf of each consortium member and the consortium as a whole in case of Joint Application – that the contents of the Decree on the rules of auction or tender, the Documentation and the Notice are binding.
- b) Any of the following documents suitable for identification of the applicant, or of every consortium member in case of Joint Application:
- certificate of incorporation or certificate issued by a competent foreign authority not longer than 30 days earlier showing the fact and date of registration, the amount of capital registered, the names of the company's owners and the names of the persons authorised to sign on behalf of the company;
 - in the case of other organisations, a resolution on the registration and the articles of association consolidated with later amendments dated maximum 30 days earlier, or a copy thereof certified by a notary public, or another deed of foundation;

- in case of natural persons, the duplicates of official documents suitable for the identification of the applying natural person;
 - in case of sole entrepreneurs/sole companies, the articles of association and a copy of the order of incorporation certified by a notary public.
- c) The documents certifying the ownership composition of the applicant – or in the undertaking of each consortium member in case of Joint Application – and the documents needed for verification of the undertakings which hold a controlling share in the applicant’s undertaking – or in the undertaking of every consortium member in case of Joint Application –, the undertakings in which the applicant or consortium members hold a controlling share, and a statement on the absence of any issue giving rise to a conflict of interest as per Section 2.8.2. The applicant shall append a statement of completeness in which to assume liability for all the documents and information made available for the assessment of a controlling stake and conflict of interest as per Section 2.8.2.
- d) A document showing the names and personal identification data of the persons authorised for full representation of the applicant in the tender procedure and the document certifying the representation right – if such cannot be obtained from certified public records –, as well as the indication of the contact person as per Section 1.2.
- e) Documents certifying the purchase of the Documentation and the payment via bank transfer of the participation fee.
- f) Every applicant – or every consortium member in case of Joint Application – shall submit the following certificates and declarations as per Section 2.8.1.:
- a) negative tax certificate or reference to the database of taxpayers with no public debt,
 - b) certificate on the absence of any bankruptcy, liquidation or winding-up proceedings against, as well as a declaration on the absence of any other procedures aimed at the termination of the applicant.
- g) The procedure-related security as per Section 3.13 and the performance bond as per Section 3.15.
- h) The documents listed under Section 3.10 in case of Joint Application.
- i) The documents listed under Section 3.16.
- j) A statement of completeness, in which the applicant – or every consortium member in case of Joint Application – assumes liability for all the documents and information made available for the certification of controlling shares.

- k) Furthermore, all documents and statements that are compulsory pursuant to the provisions of the Documentation and the Decree on the rules of auction or tender, or that confirm any of the circumstances requiring certification.

3.13. Procedure-related security

The applicant – or, in the event of a Joint Application, a consortium as per Section 3.10 – shall submit, as part of its Application, a security of HUF 10,000,000 that is ten million Hungarian forints issued in favour of the Contracting Authority, in line with the relevant provision of the Decree on the rules of auction or tender and this Section for guaranteeing the performance of its obligations defined in this Documentation, irrevocable or only revocable subject to the Contracting Authority's authorisation.

The procedure-related security shall be fully enforceable by the Contracting Authority, or drawn down in the adequate amount as per Section 3.9.

The issuer of the procedure-related security shall notify the Contracting Authority in writing of any changes in the data included in the security, within two (2) business days of the occurrence of such change.

In the event of full or partial enforcement of the procedure-related security, the issuer of the security shall transfer the amount drawn by the Contracting Authority within three (3) business days to the Contracting Authority via bank transfer. In the event of full or partial enforcement of the procedure-related security, the participant shall renew the procedure related security for the entire amount with the original conditions set out under this Section and submit a receipt of the renewed procedure-related security to the Authority within five (5) days.

The procedure-related security shall remain valid for a period of at least 60 days following the planned date of the decision concluding this tender procedure.

Section 19 of the Decree on the rules of auction or tender shall govern the procedure-related security in all other respects, and Section 3.15. of this Documentation shall govern the required formal and substantive elements of the security, with the proviso that the security may only take on the form of a bank guarantee.

3.14. The participation fee and conditions of payment thereof

Applicants to the tender procedure shall pay, via an irrevocable transfer, a participation fee of HUF 2,000,000 that is two million Hungarian forints + VAT to the Contracting Authority's account number 10032000-00300939-00000017 held at the Hungarian State Treasury. "26GHz frekvenciasávban pályázati részvételi díj" must be specified in the transfer's comment section.

If the tender procedure fails in its entirety for all basic blocks, the Contracting Authority shall reimburse the participation fees paid, except where the reason for the failure can be attributed to the applicants.

3.15. Performance bond

The applicant – or, in the event of a Joint Application, a consortium as per Section 3.10 – shall submit, as an annex to its Application, a security issued in favour of the Contracting Authority in the form of a bank guarantee or a security bond equivalent to

the sum of the fees offered for the number of frequency blocks specified in its Bid, in line with the relevant provision of the Decree on the rules of auction or tender and this Section for guaranteeing the performance of its obligations defined in this Documentation, irrevocable or only revocable subject to the Contracting Authority's authorisation.

Bank guarantees in compliance with the following criteria may be accepted as security:

- a) the guarantee is an original bank guarantee in which the issuing credit institution undertakes an obligation to unconditionally perform the guarantee – in line with the rules governing bank turnover, but within three banking days at the latest – based on the Contracting Authority's request,
- b) the guarantee names the Contracting Authority as the sole beneficiary of a request for payment,
- c) the guarantee is irrevocable or can only be revoked with the authorisation of the Contracting Authority.

Bank guarantees provided by a non-resident credit institution may only be accepted if a resident credit institution has provided an additional guarantee on it and a certified Hungarian translation thereof has been appended.

Bank guarantees cannot be accepted if extraordinary measures as per Section 157 of Act CXII of 1996 on Credit Institutions and Financial Enterprises have been instigated against the resident credit institution providing the bank guarantee or the additional guarantee.

The bank guarantee shall include

- a) the name and bank account number of the credit institution providing it;
- b) in case of a non-resident credit institution, the name and bank account number of the credit institution providing the additional guarantee;
- c) the name, address, current account number and tax number of the assignor;
- d) the amount of the guarantee, expressed in numbers and written as text;
- e) the start and end date of the guarantee's validity period;
- f) an irrevocable obligation according to which the issuer of the security shall disburse the amount drawn down by the Contracting Authority within three (3) banking days via domestic wire transfer to the Contracting Authority in the event of the full or partial enforcement of the security.

Security bonds in compliance with the following criteria may be accepted as security:

- a) the security bond has been placed in the custody of a solicitor, and the solicitor undertakes an obligation in the escrow agreement to unconditionally perform the bond – in line with the rules governing bank turnover, but within three banking days at the latest – based on the Contracting Authority's request,
- b) the guarantee names the Contracting Authority as the sole beneficiary of a request for payment,
- c) the guarantee is irrevocable or can only be revoked with the authorisation of the Contracting Authority.

The security bond and the escrow agreement shall contain all the substantive elements specified in this Section for bank guarantees. The solicitor concluding the escrow agreement shall not be involved in a procedure aimed at terminating its Bar Association membership as per Section 12/A (1) a) of Act XI of 1998 on Attorneys (hereinafter: Act on Attorneys), and its activities may not be suspended as per Section 12/A (1) c) of the Act on Attorneys.

The security bond shall remain valid for a period of at least 60 days following the planned date of the decision concluding this tender procedure.

The issuer of the security undertakes to notify the Contracting Authority of any changes in the data included in the bond in writing within two (2) business days of the occurrence of such change.

The full and proportional amount of the security may be immediately drawn in the event that the winner of the tender procedure fails or only partially performs its obligation to pay the full tender price.

Section 18 of the Decree on the rules of auction or tender shall govern the security in all other respects.

3.16. Substantive elements of the Bid

Applicants shall prepare their Bids based on the following substantive structure:

- a) summary;
- b) presentation of the applicant;
- c) relevant content allowing the assessment of the Bid for the user block tendered for by the Applicant as per Section 4.2.1. (business plan and background);
- d) the offer price for the basic block, broken down into blocks as per Annex 2;
- e) any additional substantive elements and annexes deemed necessary by the applicant.

3.17. Opening of Applications

Date of opening of Applications: 7 February 2011 at 10:00 am.

Location: Nemzeti Média- és Hírközlési Hatóság Hivatala (Office of the National Media and Infocommunications Authority)

1133 Budapest, Visegrádi u. 106., conference room.

The representatives of applicants may also be present at the opening (with no more than four persons per applicant). The Contracting Authority shall draw up a protocol on the opening of Applications, and shall provide a copy of the protocol to every applicant.

3.18. Examination and validity of Applications

The Contracting Authority shall examine within 15 days of the expiry of the deadline whether the Application complies with the personal (participation) and formal requirements for validity set out in Section 9 of the Decree on the rules of auction or tender and herein (hereinafter jointly: formal requirements for validity).

During the assessment of formal validity, the Contracting Authority shall examine the Application from a formal aspect, verifying whether it contains the documents and statements listed under Section 3.12, and whether the method and form of its submission complies with the requirements set out in this Documentation.

Moreover, the Contracting Authority shall examine whether based on the documents submitted, the Applicant complies with the subject-related, participation, conflict of interest conditions and requirements set out in the Decree on the rules of auction or tender and in this Documentation.

The Contracting Authority shall enter in its tender registry all formally valid Applications as per Section 3.21.

Following registration, during the assessment of substantive validity, the Contracting Authority shall examine the documents submitted with the Application from the perspective of content, checking whether they comply with the substantive conditions set out in the Decree on the rules of auction or tender and in this Documentation.

3.19. Formal invalidity

Applications shall be formally invalid if they are not submitted at the deadline, place, number of copies, in the form and manner defined in the Notice and the Documentation, or if the applicant did not, or did not adequately submit every document or declaration required as per the Documentation and the Decree on the rules of auction or tender, or in the event that the applicant does not comply with the subject-related (participation) conditions and rules on conflict of interest defined under Sections 2.8.1. and 2.8.2 of the Documentation.

In the event that the Application remains invalid – even after expiry of the available deadline for rectification as per Section 3.23 –, the Contracting Authority shall deny the registration of the applicant by means of an order.

If the Contracting Authority perceives such grounds for formal invalidity only following registration and the Application remains invalid after expiry of the deadline for rectification defined under Section 3.23., the Contracting Authority shall not establish formal invalidity in a separate order, declaring the Application's invalidity in a substantive resolution concluding the procedure.

3.20. Substantive invalidity

When assessing the Application from a substantive perspective, the Contracting Authority shall assess and examine the well-foundedness of the Application as a whole, as well as from the perspective of each tender element.

The Contracting Authority shall assess applicants' Applications in terms of content, verifying, in particular, that the mandatory commitments to be made in relation to the Application are in line with the relevant considerations set out in the Documentation, that the terms or limitations set by the participants do not contradict the provisions of the Documentation, and that the bidding sheets and performance securities have been

submitted in accordance with the content requirements stipulated in the Documentation and in the Decree on the rules of auction or tender. In the context of the substantive assessment, the Contracting Authority shall in particular check as to whether the bidding sheet has been adequately filled out (an amount equal to or greater than the tender price has been entered as the offer price, whether the Bid is in compliance with those set forth in Section 2.2 and Annex II etc.), and whether the procedure-related security and the performance bond are in compliance with the Documentation and the Decree on the rules of auction or tender.

The Application shall be substantively invalid in cases as specified under Section 27 (5) of the Decree on the rules of auction or tender.

If the Application is found to be substantively deficient, the Contracting Authority shall instruct the applicant to rectify such deficiencies as per Section 3.23. If the Application remains invalid after rectification as per Section 3.23., the Contracting Authority shall not establish substantive invalidity in a separate order, instead, it shall declare the Application's invalidity in a substantive resolution concluding the procedure. .

3.21. Registration as participant

The Contracting Authority shall enter all Applications found formally valid as per Section 3.21 in its tender registry.

The Contracting Authority shall notify applicants registered as participants of their registration, and publish the list of participants on its website. Among the data listed in the tender registry, the name and data allowing their identification shall be public.

3.22. Request for clarification

If the Bid lacks clarity, the Contracting Authority may request clarification from the applicant, in keeping with the principle of equal opportunity and in accordance with the Decree on the rules of auction or tender. The applicant shall have a fifteen-day deadline from the day of delivery for fulfilling the request for clarification.

Clarification thereby provided may not engender any change in the financial and value-related obligations and main declarations made by it in its Application and solely serves the interpretation thereof.

The Contracting Authority shall not be bound by the contents of the clarification supplied by the participant, and shall be free to decide whether to take such clarification into account in its decision-making. If the participant fails to fulfil the request for clarification, the Contracting Authority shall assess the Application based on the declarations and documents submitted by the participant and available to the Contracting Authority.

3.23. Rectification of deficiencies

The Contracting Authority shall call on the applicant to rectify deficiencies, setting a deadline of at least five (5) days from the day of delivery of the call for rectification. The Contracting Authority may set a deadline for rectification longer than five days – but no more than fifteen (15) days pursuant to Section 10 (5) of the Decree on the rules of

auction or tender – if the five day period is evidently insufficient for acquiring the data, certificate or declaration or due to reasons of scope.

If the applicant/participant rectifies the deficiency and supplements missing items within the deadline specified in the call, the Application shall be considered as having been originally correct and complete. The deadline defined for performance shall lose effect; after expiry of the deadline, no request for certification may be submitted.

Rectification by the applicant/participant shall be allowed for one deficiency on one occasion in the course of the procedure.

Throughout the tender procedure, the availability of rectification shall be maintained for each individual criteria regarding both formal and substantive validity.

3.24. Offer validity

The offer shall remain valid for a period of 90 (ninety) days following the expiry of the Application submission deadline, or for the period extended pursuant to the following. The participant may not define an offer validity that is shorter than the above.

The participant shall extend the validity of the offer by an additional 60 (sixty) days upon the Contracting Authority's justified request. In the event of the extension of offer validity, the participant shall not be entitled to make such extension conditional, or to amend its Bid in the declaration disposing on the extension of offer validity.

During the term of offer validity, the participant may not amend – with the exception of satisfying the conditions set out in the call for rectification – or withdraw its Bid. If the participant withdraws its Bid for any basic block during the term of offer validity, the Contracting Authority shall be entitled to levy a fine as per Section 3.9., and apply the legal consequences of substantive invalidity in the case specified under Section 3.9. c). If the participant withdraws its Bid for any basic block or its entire Bid during the term of offer validity, the Contracting Authority shall carry out the re-assessment of the Bids according to the rules of assessment, proceeding as if the participant had not submitted any valid bids for the basic block(s).

IV. RULES OF IMPLEMENTING THE TENDER PHASE

4.1. Implementation and phases of the Tender

The Contracting Authority shall issue its decision concluding this tender procedure between the 60th and 150th day following the publication of the Notice; this deadline may be extended only once by a maximum of thirty (30) days.

The Contracting Authority shall first evaluate bids submitted for individual basic blocks, to be followed by the creation of user blocks and the establishment of Tender results.

4.2. Assessment of the Bids

When assessing the Bids, the Contracting Authority shall establish the order of participants. A score shall be assigned by the Contracting Authority to each bid on individual basic blocks. In the course of assessment, the Contracting Authority shall examine compliance with the assessment criteria set out under Section 4.2.1., in the

course of which it shall determine the relative ranking of the bids for basic blocks, based on the weighting and the principles set out under Section 4.2.1., using the scores awarded during assessment.

4.2.1. Assessment criteria and weighting

When assessing Bids, the Contracting Authority shall judge the following assessment criteria, and award points up to the maximum score specified below based on its judgement, in line with the principles also defined below:

- | | |
|---|--------------------|
| a) tender price offered by participant for the basic blocks | maximum 50 points; |
| b) participant's business plan and background | maximum 10 points. |
| c) Band size factor | maximum 40 points. |

When assessing the section of the Bid made on the tender price – assessment criteria a) –, the Contracting Authority shall rank Bids based on the value of the price offered, awarding the maximum score defined in item a) above to the highest Bid. The scores of the remaining Bids shall be defined by expressing each Bid as a percentage of the highest Bid, and multiplying the figure thereby obtained by the maximum score, with the final result being rounded off to two decimals.

With regards to assessment criteria b), the Contracting Authority shall evaluate the business plans submitted by the participants. Given that each participant is entitled to submit only one business plan – one that applies to all basic block being tendered for –, when awarding points to the bid of a given participant for all basic blocks, the Contracting Authority shall take into consideration the score established for assessment criteria b)..

Points – up to the maximum score defined for assessment criteria c), – shall be awarded by the Contracting Authority to Bids by means of comparison and following individual evaluation of Bids.

Factors assessed in the participant's business plan and background:

- (i) When examining strategic prospects, the Contracting Authority shall assess how the use of the acquired block contributes to the provision of the electronic communications service provided or planned by the participant – including the potential introduction of innovative services.
- (ii) When examining the professional background of the participant, the Contracting Authority shall assess the participant's experience in electronic communications acquired in the infocommunications sector, as well as other infocommunications experience acquired in Hungary and abroad.

Assessment of a participant's business plan and background is not dependent on the number of basic blocks tendered for.

In case of assessment criteria c), the Contracting Authority shall award points to Bids submitted for each basic block based on the number of basic blocks within the 26 GHz band that the participant would acquire rights for in the event of a potential win. The highest offer prices of a participant granting access to the first two basic blocks shall be awarded the maximum 40 points. The prices offered for the other two basic blocks (blocks 3 and 4) shall be awarded 20 points each and blocks 5 and 6 shall be awarded 0 points. When scoring for assessment criteria c), the Bids submitted by a participant for each basic block shall be scored consecutively based on the offered price, starting from the highest bid. For Bids with identical prices, the Contracting Authority shall decide in favour of those with the lower serial number on their bidding sheet. If a participant already holds rights of use in the 26 GHz range, the Contracting Authority shall also take these into account when awarding points as per criteria c).

The Contracting Authority shall aggregate, for Bids placed on each basic block, the scores awarded based on assessment criteria a)–c), and rank these Bids based on the aggregate scores. In the case of identical scores, the Contracting Authority shall establish the ranking through a public draw held in the presence of a notary.

4.3. Definition and positioning of user blocks

The Contracting Authority shall create a sufficient number of blocks on the basis of the ranking for each basic block determined as the outcome of the assessment, defined based on the ranking of Bids, and in line with the number of basic blocks acquired by the participant, taking into account the requirements for the minimum and maximum number of basic blocks.

The rules on user block placement are set out under Section 1 of Annex I.

4.4. Declaring the Tender successful, establishing the winners

In its decision concluding the tender procedure, the Contracting Authority shall pronounce the Tender as successful if a winner was established for at least one frequency block.

The Contracting Authority shall issue a consolidated resolution pertaining to all basic block forming the subject of this tender procedure and to each individual Application.

Pursuant to the rules set out in the Decree on the rules of auction or tender, the Electronic Communications Act and the Administrative Proceedings Act, the Contracting Authority shall determine a winner based on the outcome of user block definition.

The winner may be selected only from those participants which, from the date of registration, continuously complied with the conditions set out in the Documentation and in the Decree on the rules of auction or tender.

The Contracting Authority shall notify every participant of its decision concluding the procedure, also publishing the decision on its website.

Appeals against the decision pronouncing the outcome of the Tender shall be governed by the Electronic Communications Act and the Administrative Proceedings Act.

Acquisition of frequency usage rights shall be subject to the provisions set out under Section 22 of the Decree on the rules of auction or tender, and in the Documentation

4.5. Declaring the Tender unsuccessful

If the invalidity of all of the submitted Applications is established, the Contracting Authority shall pronounce the Tender as unsuccessful in a resolution.

The Contracting Authority shall notify every participant of its decision pronouncing the Tender as unsuccessful, also publishing the decision on its website.

Appeals against the decision pronouncing the Tender as unsuccessful may be lodged in line with the provisions of the Electronic Communications Act and the Administrative Proceedings Act.

In the event of the failure of this tender procedure, the Contracting Authority shall be entitled to decide on launching a new procedure – with either unchanged or modified conditions – in the subject of the set of frequencies up for offer, or for specific elements thereof.

4.6. Termination of the tender procedure

In the cases set out under Section 20 (1) of the Decree on the rules of auction or tender, the Contracting Authority shall terminate the procedure by way of an order.

The Contracting Authority shall publish the failure of the Tender at the same place and in the same way as in the case of the Notice.

V. OBLIGATIONS DERIVED FROM THE ACQUISITION OF FREQUENCY USAGE RIGHTS

The Contracting Authority shall verify full compliance with and performance of the stipulations set out in the substantive resolution concluding the tender procedure in the context of a market surveillance procedure.

The right holder shall comply with the conditions for having acquired the rights of use of frequency during the entire term of the right; if any condition of such compliance ceases to exist, the legal consequences set out in the Electronic Communications Act shall become applicable.

The winning participant acquiring the rights of use of frequency will not be under any additional obligation other than the general obligations arising from frequency use and those set out in the Documentation.

5.1. Conditions of payment of the total tender price

The winner of this tender procedure shall pay the total tender price as per the following. The winning participant shall pay the full tender price in one lump sum, equal to its winning bids for each frequency block acquired, along with the applicable value added tax to the Contracting Authority's bank account within fifteen (15) days of entry into force of the resolution closing the tender procedure .

The total tender price shall be transferred to the Contracting Authority's account number 10032000-00300939-00000017 held at the Hungarian State Treasury, specifying "26 GHz frekvenciasávban teljes pályázati díj".

In the event of late payment, the Contracting Authority shall be entitled to charge a late payment interest as stipulated in the Civil Code and, subject to a one-time payment notice and following the expiry of the deadline therein specified, to satisfy its claim from the performance bond submitted as per Section 3.15; and to apply the legal consequences set out under Section 3.9.

5.2. Frequency selection, radio license, distribution of equipment

Having acquired the frequency usage rights, winners shall obtain from the Contracting Authority the following administrative licenses for the utilisation of the acquired frequency blocks, pursuant to the Electronic Communications Act and Decree 6/2004 (IV. 13.) on certain administrative procedures of civil frequency management:

- a) for the installation of point-to-point digital radio links and/or radio telecommunications systems based on point-to-multipoint digital radio links as defined in the frequency definition resolution for the frequency band (user block) defined in the resolution on frequency definition right, in the area to be covered and for the period of usage, and
- b) a framework radio license for the stations to be commissioned, containing the general conditions for network operation, without the specific parameters of the stations.

If a consortium submitting a Joint Application or a non-resident participant emerges as the winner of the Tender, the request for the issuance of the licenses required for frequency usage shall be submitted by the business organisation established pursuant to Section 3.10 in case of consortium members, and pursuant to Section 2.8.3. in case of non-residents.

The winner of the Tender shall be entitled to initiate with the Contracting Authority the procedure for the issuance of administrative licenses, required for the utilisation of the frequency acquired by it, within a period of one year following the effective date of the decision as per Section 4.4. This deadline shall lose effect; after expiry of the deadline, no request for certification may be submitted.

The winner of the Tender shall apply for the framework radio license based on frequency selection prior to the commissioning of the network's first station.

Individual radio licenses are not required for the commissioning of stations, but detailed data shall be provided on each station to the Contracting Authority in electronic form, in

the format defined by the Authority (<http://www.nhh.hu/index.php?id=hir&cid=1399&mid=1140&lang=hu>).

The Authority shall register the stations with their pertaining installation and broadcasting parameters in line with the framework radio license, and shall deny registration in case of non-conforming parameters, notifying the affected party thereof in a resolution. The Contracting Authority shall be entitled to verify compliance with the license in the context of a market surveillance procedure.

Stations may be commission based on plans, with the installation and broadcasting parameters defined in the course of planning. Plans do not have to be presented or submitted to the Contracting Authority, but the detailed plans of either operating or formerly operating stations shall be made available to it within five days in signed hardcopy form upon its request.

In the event that the winning participant (including the winning consortium) fails to fulfil its obligation related to the issuance of the administrative licenses required for the usage of the acquired frequency – defined herein – by the specified deadline, the Contracting Authority shall modify its substantive resolution concluding the tender procedure on the basis of substantive law, declaring the winning participant's Application invalid. The rules of appeal against such decision are set out in the Electronic Communications Act and the Administrative Proceedings Act.

The following regulation applies to the market introduction and utilisation of mobile telecommunication equipment:

- point-to-point link stations and the central and forwarding stations of point-to-multipoint systems shall be reported to the Contracting Authority for registration;
- the terminal stations of point-to-multipoint systems are exempted from the licensing obligation, but they may nevertheless be registered.

5.3. Conditions for the reselling of frequency usage rights

The frequency usage rights that can be acquired in the context of this tender procedure may be transferred or resold pursuant to the provisions of Government Decree 346/2004 (XII. 22.) on the establishment of the national allocation of frequency bands and Decree of the Minister of Informatics and Communications 35/2004 (XII. 28.) on the establishment of the rules relating to the usage of frequency bands, with the restriction that the party acquiring rights of use shall not possess and therefore use more than six basic blocks defined in this Tender.

As a condition to the resale of frequency usage rights acquired in the Tender, the winner shall submit the draft agreement pertaining to the resale of frequency usage rights to the Contracting Authority for approval. The draft may be approved by the Contracting Authority if

- a) as a result of the resale, the party intending to acquire the frequency usage rights will not possess and therefore use more than six basic blocks, and
- b) parties ensure to append to the draft agreement a statement by the party intending to acquire the frequency usage rights, stipulating no further

conditions and fully subjecting, with mandatory effect, to all provisions concerning the frequency usage right, whether set forth in legislation, the Documentation, the resolution validly closing the procedure or any other relevant administrative resolution.

All sales, in-kind contribution and the establishment of any legal relationship shall qualify as sale if they entail the actual transfer of the right of disposal related to the frequency usage right to a third party other than the winning participant, or any equivalent situation. The parties shall notify the Authority of any planned sales and acquisitions in a joint notification.

5.4. Term of the acquirable right of use of frequency

The term of the right of use of frequency in case of the block forming the object of this Tender shall be fifteen (15) years from the effective date of the resolution on the right of use of frequency.

5.5. Amendment of the resolution pertaining to the right of use of frequency

The Contracting Authority shall be entitled to amend its resolution on the right of use of frequency on the basis of substantive law, in particular the band limits of the frequency bands forming the object of the right of use of frequency, the size and configuration of the block formed within the frequency band, and shall be entitled to review, withdraw or amend the conditions of band usage, taking into account Section 84 (8) of the Electronic Communications Act, providing timely notification, without significant prejudice to the winning participant's interests, with due heed to the effective legislative requirements and to the obligations, both international and those stemming from Hungary's membership in the European Union, solely in particularly warranted cases for the sake of efficient band usage, for any of the following reasons.

- a) a situation has emerged in the Hungarian electronic telecommunications market that impedes the provision of a broader access to a wide range of consumers to foster the development of information society and the appearance and development of technologies or services allowing greater choice and/or more accessible and higher standard opportunities at a competitive price, and such situation cannot be resolved among rational conditions without the application of the above measures;
- b) with regard to provisions applying to spectrum regulation stemming from international obligations applicable on the basis of Hungarian law; or
- c) with regard to primary or secondary sources of European Union law governing implemented spectrum regulation.

5.6. Cooperation in qualified periods and in the interest of national defence

Entities having obtained frequency usage rights shall comply with the provisions set out in the Electronic Communications Act and other legislation regarding qualified periods and cooperation with state organisations in the interest of national defence. The usage of certain frequency bands may be restricted during qualified periods.

5.7. Cooperation for purposes of gathering confidential information

Entities having obtained frequency usage rights shall comply with the relevant provisions set out in the Act on National Security Services and in Government Decree 180/2004 (V. 26.) on the rules of cooperation between the organisations performing electronic communications tasks and the organisations authorised to collect confidential information and obtain confidential data.

5.8. Data disclosure

Entities having obtained frequency usage rights shall disclose the data necessary for performing the tasks within the competence of the Contracting Authority and defined in relevant legislation to the Contracting Authority, in the manner and with the conditions defined in legislation, even if such data qualifies as a trade secret. The Contracting Authority shall handle the data disclosed by the entity having obtained frequency usage rights confidentially and in line with data protection rules, upon the entity's request. Data disclosure to the Contracting Authority shall be free of charge. Entities having obtained frequency usage rights shall comply with the data handling rules defined in legislation.

5.9. Returning the frequency usage right

Pursuant to the Electronic Communications Act and the relevant sections of Decree 6/2004 (IV. 13.), the Contracting Authority shall revoke its resolution on the frequency usage right obtained in the context of the tender procedure upon the request of the operator holding the frequency usage right.

If the participant issues a request for the withdrawal of the frequency usage right obtained in the context of this tender procedure as outlined above, the amount paid by the participant for the frequency usage right (in particular, the total tender price) will not be reimbursed.

Annex 2

The bidding sheet

The applicant shall submit the following bidding sheet in the context of its Application, completed and submitted as set out in the Documentation.

<u>Basic block</u>	<u>Offer price</u>
<u>Basic block 1</u>	
<u>Basic block 2</u>	
<u>Basic block 3</u>	
<u>Basic block 4</u>	
<u>Basic block 5</u>	
<u>Basic block 6</u>	

If the applicant does not wish to make an offer for every basic block, it shall clearly cross out the respective rows of the basic blocks which it is not applying for.

The bidding sheet shall be deemed valid if an amount equal to or greater than the tender price was specified.

Furthermore, the bidding sheet shall be deemed valid if pursuant to Section 2.2, the applicant has made an offer for at least two basic blocks, except where the applicant already has a right of use of frequency in the 26 GHz frequency band at the commencement of this tender procedure.

Technical Conditions

1. Description of the 26 GHz frequency band

The 26 GHz frequency band consists of 32 nationwide basic blocks. These have a bandwidth of 2 x 28 MHz, with a duplex distance of 1008 MHz. The upper and lower block bands are separated by a 112 MHz guard band.

Basic block	User block	Lower block band frequencies (MHz)			Upper block band frequencies (MHz)		
		lower	middle	upper	lower	middle	upper
1	Basic blocks offered through this tender	24549	24563	24577	25557	25571	25585
2		24577	24591	24605	25585	25599	25613
3		24605	24619	24633	25613	25627	25641
4		24633	24647	24661	25641	25655	25669
5		24661	24675	24689	25669	25683	25697
6		24689	24703	24717	25697	25711	25725
7		24717	24731	24745	25725	25739	25753
8		24745	24759	24773	25753	25767	25781
9		24773	24787	24801	25781	25795	25809
10		24801	24815	24829	25809	25823	25837
11		24829	24843	24857	25837	25851	25865
12		24857	24871	24885	25865	25879	25893
13		24885	24899	24913	25893	25907	25921
14		24913	24927	24941	25921	25935	25949
15		24941	24955	24969	25949	25963	25977
16		24969	24983	24997	25977	25991	26005
17		24997	25011	25025	26005	26019	26033
18		25025	25039	25053	26033	26047	26061
19		25053	25067	25081	26061	26075	26089
20		25081	25095	25109	26089	26103	26117
21		25109	25123	25137	26117	26131	26145
22		25137	25151	25165	26145	26159	26173
23		25165	25179	25193	26173	26187	26201
24		25193	25207	25221	26201	26215	26229
25		25221	25235	25249	26229	26243	26257
26		25249	25263	25277	26257	26271	26285
27	"B"	25277	25291	25305	26285	26299	26313
28		25305	25319	25333	26313	26327	26341
29		25333	25347	25361	26341	26355	26369
30	guard band	25361	25375	25389	26369	26383	26397
31	"A"	25389	25403	25417	26397	26411	26425
32		25417	25431	25445	26425	26439	26453

The basic block arrangement to be used is defined by Recommendation CEPT T/R 13-02, Annex B, Item c). The table above shows the frequency parameters of individual basic blocks. The figure below shows the basic block arrangement described by the table.

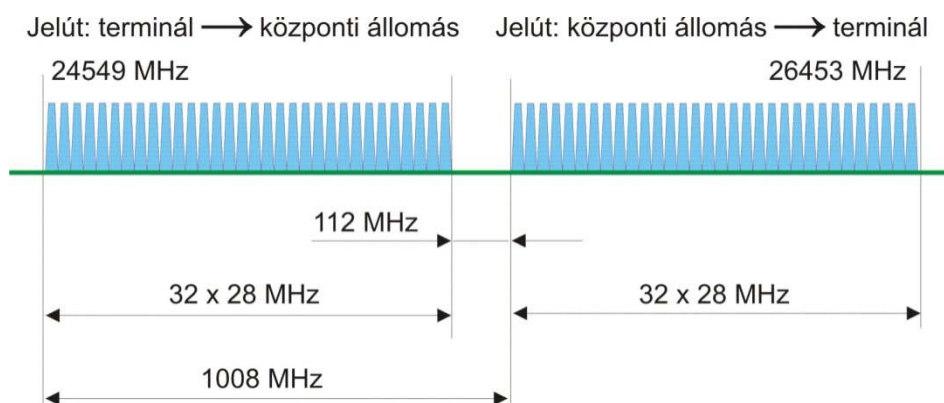


Figure 1: Basic block arrangement of the 26 GHz frequency band

The Authority (NMHH) has already assigned user blocks "A" and "B".

- User block "A": consisting of two basic blocks (basic blocks 31-32)
- User block "B": consisting of three basic blocks (basic blocks 27-29)

User blocks "A" and "B" are separated by basic block No. 30, acting as a guard band between them.

Within the framework of this tender, the National Media and Infocommunications Authority offers the band covered by basic blocks No. 1 through 26 for allocation.

Minimum number of basic blocks

The applicant must make an offer for at least 2 basic blocks, and can only be declared winner if at least 2 basic blocks are awarded to it.

Licensees of user blocks "A" and "B" can make an offer for 1 basic block as well, and can be declared winners of 1 basic block, if they accept that the Contracting Authority is entitled to rearrange, following the evaluation, their existing basic blocks and the newly acquired basic block in the 26 GHz frequency band in order to create a new user block and optimise frequency usage, taking into account the frequency range of the equipment in question.

Maximum accumulation

A licensee can have frequency usage rights for a maximum of 6 basic blocks within the 26 GHz frequency band.

Creation of user blocks and their placement within the frequency band

After the evaluation of the tender, the creation and placement within the frequency band of user blocks will be performed according to the following principles:

- Basic blocks awarded through this tender will be merged by the Contracting Authority into continuous user blocks.
- If licensees of user blocks "A" and/or "B" acquire the frequency usage rights of (a) new basic block(s), their user blocks will be placed first (also taking into account the conditions defined for the minimum number of basic blocks), to optimise spectrum usage. In case a new user block acquired through this tender by the licensee of either of user block "A" or "B" is placed adjacent to their existing block, the continuous cluster of basic blocks thereby created shall be considered a single user block.
- If, as a result of having the basic blocks of the licensee of user block "A" rearranged, basic blocks No. 31 and 32 are released and basic block No. 30 will not be assigned, the Contracting Authority may be entitled to insert – from among user blocks consisting of 2 basic blocks acquired by various bidders different from the licensees of user blocks "A" and "B", if any – the user block of the licensee having submitted the highest overall bid for the basic blocks, into the slot thereby released (basic blocks No. 31 and 32). In this case, basic block No. 30 shall function as a guard band. For identical bids, a draw shall decide the successful licensee whose user block is to be inserted into the frequency position concerned.
- This shall be followed by the placement of user blocks, in descending order based on user block size and in descending order of frequencies, each separated from adjacent user blocks by a 28 MHz guard band (equalling a basic block). For equal user block sizes, the user block awarded to the licensee with a higher overall bid will be placed first. If user block sizes and bid prices are identical, the order of placement will be decided by a draw.

2. Radiotelecommunications characteristics

2.1 Realizable communications systems

User blocks created in the 26 GHz band can be used for implementing telecommunications systems with the following structures:

- a) Point-to-point digital links
- b) Digital point-to-multipoint telecommunications systems

Both of the above structures can be used for the following purposes:

- a) Access systems:
Direct service for end-user stations (e.g. data transmission and internet service).
- b) Radio relay networks:
Multi-repeater radio transmission.

c) Internal operational network infrastructure for mobile telecommunications:

In this case, the 26 GHz system is used for servicing the base stations of mobile telecommunications. ECC Report 19 gives good general guidelines for the implementation method. (*Guidance Material for Assessing the Spectrum Requirements of the Fixed Service to Provide Infrastructure to Support the UMTS/IMT-2000 Networks.*)

2.2 Radio transmission technology

This part summarises the technological requirements for the 26 GHz band, including general options and constraints.

a) Modulation mode: any.

b) Access mode: any.

c) Duplex mode: FDD or TDD.

For FDD point-to-multipoint systems, the frequency bands of transmission signal paths are the following:

user station – central station signal path: lower block band,
central station – user station signal path: upper block band.

d) Recommended transmission capacities for point-to-point links:

Equipment nominal bandwidth [MHz]	Transmission capacity [Mbit/s]
3.5	min. 2
7	min. 8
14	min. 16
28	min. 34
56	min. 140

2.3 Power constraints for antennas

a) Maximum power allowed for antennae:

for stations of point-to-point radio links: 0 dBW,
for stations of point-to-multipoint systems: 10 dBW.

b) Maximum EIRP values of emitted output for point-to-point links:

correlation between max. EIRP and link distance (L):

If $L \geq 7$ km, then

max. EIRP = 50 dBW

If $L < 7$ km, then

max. EIRP = $50 - 20 \lg(7/L)$ dBW

c) Maximum EIRP density of emitted output for point-to-multipoint systems:

for the central station and for branches of repeater stations linked to user stations: 23 dBW/MHz,

for indoor user stations: 12 dBW/MHz,

for outdoor user stations and for branches of repeater stations linked to the central station: 20 dBW/MHz.

For maximum EIRP densities, tolerances and (if applicable) the ATPC range [ATPC: *automatic transmitter power control*] must also be taken into account.

EIRP densities higher than the above limits can only be authorised, if the same protection level resulting from the limits above is guaranteed using an appropriate mitigation method.

3. Type of licensing

Licensees of frequency usage rights receive a framework license for establishing connections within the specified band(s).

3.1 Stations of point-to-point links

Radio licence is required in the form of a framework licence for stations of point-to-pointlinks.

3.2 Central stations and repeater stations of point-to-multipoint systems

Radio licence is required in the form of a framework licence for central stations and repeater stations of point-to-multipoint connections.

3.3 Terminal stations of point-to-multipoint systems

Terminal stations of point-to-multipoint systems are exempt from individual radio licensing, but an option for registration exists. Registration is voluntary, and must be requested by the service provider with frequency usage rights from the licensing authority. For registered terminal stations adjacent block interference protection is ensured as specified in Section 6. Interference protection cannot be ensured for terminal stations that are installed on a license-exempt basis and are not registered.

3.4 Renewal of radio licence and registration

For licensed or registered stations, the framework licence or registration for the given station needs to be renewed, if there is a change in the technical parameters of the station affecting radio technology integration in any way (installation site, operating frequency range, transmitter and receiver bandwidth, output power, EIRP, EIRP density, noise factor, antenna gain, antenna direction, antenna characteristics). In the process of the renewal of the framework licence of registration (due to a change in integration parameters), the licensing authority replaces the former effective date with the new effective date.

3.5 Termination of registration

If the central station or a repeater station of a point-to-multipoint system ceases to exist, or its geographical location is changed, then the registration of all terminals linked to it will be automatically terminated. These terminal stations become unregistered until they are registered again.

4. International coordination

Concerning basic blocks No. 1 – 18, Hungary (HNG) has signed an international coordination agreement (preferred block agreement) with the neighbouring countries, namely the following:

- | | |
|-----------------|-----------------|
| Austria (AUT), | Serbia (SRB), |
| Slovakia (SVK), | Croatia (HRV), |
| Ukraine (UKR), | Slovenia (SLV). |
| Romania (ROU), | |

The agreement specifies whether Hungary or a neighbouring country has preferences concerning basic blocks No. 1 – 18.

The usage of this block range near the country borders is limited by the preferred block agreement. Currently, there are no such restrictions for basic blocks No. 19 – 32. If a coordination agreement is reached for basic blocks No. 19 – 32 or any part of them in the future, the preferred block restrictions will become effective in this range. However, there are no plans at present for such an extension of the agreement.

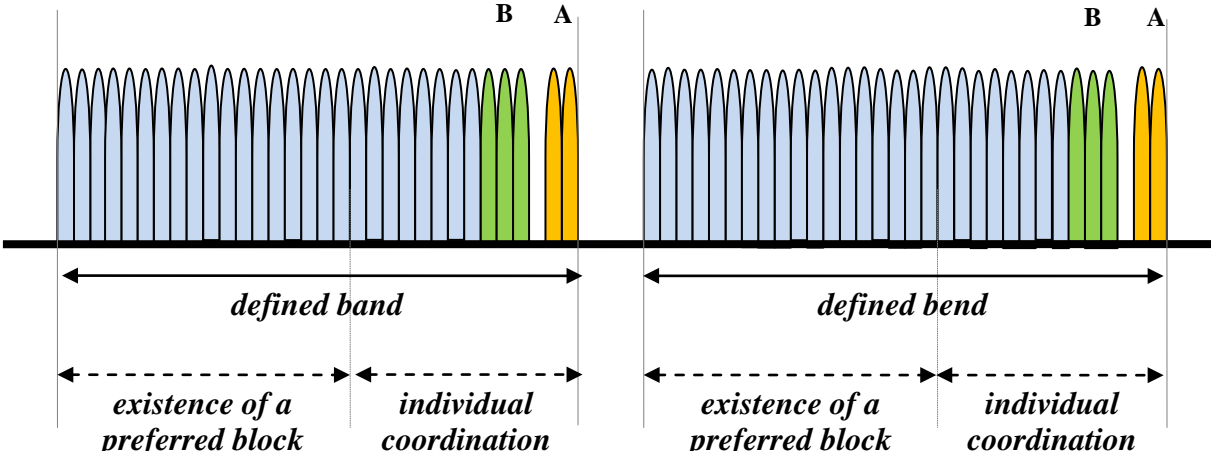


Figure 2: Coordination status of the 26 GHz frequency band

4.1 Basic blocks regulated by the international coordination agreement

Usage of basic blocks 1 – 18 is regulated by a preferred block agreement. The agreement is valid for FDD stations. For FDD transmissions, "pr" indicates preference, and "-" indicates dispreference. Where Hungary has preference, the neighbouring country has dispreference, and vice versa.

Basic block	Frequency band [MHz]	AUT	SVK	UKR	ROU	SRB	HRV	SVN	AUT SVK	SVK UKR	UKR ROU	ROU SRB	SRB HRV	HRV SVN	SVN AUT
1	24549-24577 25557-25585	-	pr	-	-	-	-	pr	-	-	-	-	-	-	-
2	24577-24605 25585-25613	-	-	-	-	-	-	-	-	-	-	-	-	-	-
3	24605-24633 25613-25641	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr
4	24633-24661 25641-25669	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr
5	24661-24689 25669-25697	-	-	-	-	-	-	-	-	-	-	-	-	-	-
6	24689-24717 25697-25725	-	-	-	-	pr	-	-	-	-	-	-	-	-	-
7	24717-24745 25725-25753	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr
8	24745-24773 25753-25781	pr	-	pr	pr	-	pr	-	-	-	pr	-	-	-	-
9	24773-24801 25781-25809	-	-	-	-	pr	-	pr	-	-	-	-	-	-	-
10	24801-24829 25809-25837	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr	pr
11	24829-24857 25837-25865	-	-	pr	-	-	-	-	-	-	-	-	-	-	-
12	24857-24885 25865-25893	pr	-	-	pr	-	-	-	-	-	-	-	-	-	-
13	24885-24913 25893-25921	-	pr	pr	-	-	pr	pr	-	pr	-	-	-	pr	-
14	24913-24941 25921-25949	-	pr	pr	-	pr	-	-	-	pr	-	-	-	-	-
15	24941-24969 25949-25977	pr	-	pr	pr	-	-	-	-	-	pr	-	-	-	-
16	24969-24997 25977-26005	pr	pr	-	pr	pr	pr	pr	pr	-	-	pr	pr	pr	pr
17	24997-25025 26005-26033	pr	pr	-	pr	pr	pr	pr	pr	-	-	pr	pr	-	pr
18	25025-25053 26033-26061	-	-	-	-	-	-	-	-	-	-	-	-	-	-

The power of transmissions across national borders is regulated by the international coordination agreement as follows:

a) For point-to-point links:

- in the case of an existing preference, the transmission across the national border must be such that the maximum value of the power flux density measured in the neighbouring country at a distance of 25 km from the national border shall not exceed $-115 \text{ dB(W/(m}^2 \cdot \text{MHz))}$;
- in the case of an existing dispreference, the maximum value of the power flux density measured at the national border cannot exceed $-115 \text{ dB(W/(m}^2 \cdot \text{MHz))}$.

b) For point-to-multipoint systems:

- in the case of an existing preference, the transmission across the national border must be such that the maximum value of the power flux density measured in the neighbouring country at a distance of 15 km from the national border shall not exceed $-105 \text{ dB(W/(m}^2 \cdot \text{MHz))}$;
- in the case of an existing dispreference, the maximum value of the power flux density measured at the national border cannot exceed $-105 \text{ dB(W/(m}^2 \cdot \text{MHz))}$.

The calculation of field strength must be based on free space wave propagation and assuming an atmospheric attenuation of 0,21 dB/km, as specified in the ITU-R P.452-12 Recommendation.

The international preferred block agreement does not apply to TDD type transmissions. TDD systems use tertiary stations: they cannot cause interference to foreign FDD stations, and they must tolerate interferences caused by foreign FDD stations.

4.2 Basic blocks not regulated by the international coordination agreement

The preferred block agreement does not regulate basic blocks No. 19 – 26. The two frequency bands (25053 – 25277 MHz / 26061 – 26285 MHz) defined by basic blocks No. 19 – 26 are regulated by the general coordination policies of the International Telecommunication Union (ITU). Near national borders, priority is given to stations registered earlier at ITU's radio communications office in Geneva. In the case of and interference, the operator of the station registered at a later date in ITU's offices (or not registered at all)

- a) is obliged to remedy the interference issues, and
- b) must tolerate any interference.

Concerning the power conditions of basic blocks No. 19 – 26, domestic limits apply for FDD transmissions (see 2.3), and there are no restrictions limiting the strength of transmissions across national borders.

TDD stations in basic blocks No. 19 – 26 have a tertiary status, therefore they cannot cause interference in foreign FDD stations, and they must tolerate interferences caused by foreign FDD stations.

5. Automotive radars

Automotive radars can operate at 24 GHz, as specified by Commission Decision 2005/50/EC amended by implementing decision 2011/485/EU. These radars have a broadband emission range, covering the entire 26 GHz communications band, but potential interferences in the upper range of the 26 GHz band is significantly reduces even in the case of direct irradiation. Interferences caused by automotive radars must be taken into account by users of the 26 GHz blocks according to CEPT/ECC Report 23.

6. Elimination of interference

6.1 Interferences within user blocks

Basic blocks of the 26 GHz band are allocated nationwide. Therefore, within a given user block, the transmitters causing interference and receivers subjected to its effects are handled by the same operator within the country. Any interference occurring within a user block can be considered internal issues of the telecommunications operators, and such issues are to be remedied by the operators themselves, without help from third parties or the authorities.

Near the national borders interferences can be caused by foreign transmitters (foreign equipment causing interference in Hungary, and vice versa). This is covered in detail in Section 5 of the present Technical Conditions document (*International coordination*).

6.2 TDD interferences between adjacent user blocks

In the case of point-to-multipoint systems, the central stations

- operating in adjacent user blocks, and
- deployed near each other, and
- using a TDD system without mutual synchronisation

can have a significant interference effect on each other. Therefore, the installation of stations close to each other needs to be restricted.

For the authorisation of TDD central stations and repeater stations of point-to-multipoint systems, the approval of the adjacent block's licensee is required, if within 500 m of the site location of these central stations or relay stations there are existing central stations or repeater stations operating in an adjacent user block. The newly installed TDD station cannot claim protection against the interference effects of an existing central station or repeater station operating in an adjacent user block and deployed, earlier, within a radius of 500 m from the foreseen installation site [ECC/REC/(11)01, Rec. 6.].

For the authorisation of central stations and repeater stations of point-to-multipoint systems, the approval of the adjacent block's licensee is required, if within 500 m of the installation location of this central station there are existing TDD central stations or repeater stations operating in an adjacent user block. The newly installed station cannot claim protection against the interference effects of an existing TDD central station or repeater station operating in an adjacent user block and installed within a radius of 500 m from the foreseen installation site [ECC/REC/(11)01, Rec. 6.].

6.3 Interference tolerance limits

In the absence of mutual agreement, licensees of adjacent frequency blocks cannot raise objections against interferences caused to a maximum of 2 dB reduction in fading reserves. This may be modified by mutual agreement.

6.4 Measures to eliminate interference

For the purposes of eliminating interference, stations of the 26 GHz band can be classified according to priority.

If there is adjacent channel interference between two channels, the operator of the channel with the lower priority is obliged to eliminate such interference (or tolerate such interference in case of receiver station).

a) Priorities

For the purposes of evaluating adjacent block interference, the stations can be classified as having priority "A", "B" or "C" according to the table below.

Equipment	p-p stations and	p-mp terminal stations
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bandwidth	p-mp central stations	with registration	without registration
28 MHz or lower	category "A"	category "A"	category "C"
higher than 28 MHz	category "B"	category "B"	category "C"

Stations in category "A" have the highest priority. The priority between two category "A" stations is determined by the date of issuing their radio licence or the date of registration; an earlier date means higher priority.

Stations in category "B" have a lower priority than those in category "A", but rank higher than those in category "C". The priority between two category "B" stations is determined by the date of issuing their radio licence or the date of registration; an earlier date means higher priority.

Stations in category "C" have a lower priority than those in categories "A" or "B". For two category "C" stations, there is no prioritisation based on dates. These stations cannot claim protection with regard to adjacent block interference and are not allowed to cause interference for category "A" or "B" stations (i.e. they can only operate in non-interference mode).

If interference occurs between two stations of adjacent blocks, the first step is to determine their order of priority. The station with the lower priority is obliged to take action (or to tolerate the interference in case of receiver station).

b) Determining the bandwidth

Priority is determined based on bandwidth – see Section 6.4. a), column 1 in the table). Bandwidth B can be derived from

B_{nom} nominal bandwidth,
 B_{Tx} transmitter bandwidth, and
 B_{Rx} receiver bandwidth.

Bandwidth B is the largest of the three special bandwidth types specified above, i.e. $B = \max (B_{nom}, B_{Tx}, B_{Rx})$

Nominal bandwidth B_{nom} is always known, while B_{Tx} (transmitter bandwidth) and B_{Rx} (receiver bandwidth) are often unavailable. If any of these latter are unknown, the following formula yields a good estimate for bandwidth B:

$$B = 1,6 B_{nom}$$

7. Standards

International standards provide an abundance of material for the 26 GHz band for both point-to-point (p-p), and point-to-multipoint (p-mp) systems. All of the standards referenced herein were prepared by the European Telecommunications Standards Institute (ETSI).

- EN (EuroNorm) standards were localised by the European Union.
- MSZ (Hungarian Standard) standards were localised for Hungary by the Hungarian Standards Institution.
- Harmonised standards were approved as harmonised by the European Commission.

While the standards classified as "obsolete" have not been withdrawn, a new improved standard in their area of applications has already been published, fully replacing the former (obsolete) standard. Standards classified as obsolete are those which can be used for equipment with older declarations of conformity.

Hungarian technical regulations specify only harmonised standards on a legislative level. Harmonised standards specify the minimum requirements of equipment and transmission devices used in their area of application. It should be noted that standards are not mandatory in Hungary. There are, however, mandatory minimum requirements for equipment and system parameters that have to be fulfilled. These minimum requirements are summarised by harmonised standards.

ETSI's TR (Technical Reports) documents are not standard type documents. These extremely useful documents often provide detailed information on technical topics and their scientific background.

7.1 Harmonised p-p standards

MSZ EN 301 751 V1.2.1 (2002-11) Obsolete	Fixed Radio Systems. Point-to-Point equipments and antennas. Generic harmonised standard for Point-to-Point digital fixed radio systems and antennas covering the essential requirements under article 3.2 of the 1999/5/EC Directive.
MSZ EN 302 217-2-2 V1.4.1 (2010-07)	Fixed Radio Systems. Characteristics and requirements for point-to-point equipment and antennas. Part 2-2: Digital systems operating in frequency bands where frequency co-ordination is applied; Harmonised EN covering the essential requirements of article 3.2 of the R&TTE Directive.
MSZ EN 302 217-4-2 V1.5.1 (2010-01)	Fixed Radio Systems. Characteristics and requirements for point-to-point equipment and antennas. Part 4-2: Harmonised EN covering the essential requirements of article 3.2 of R&TTE Directive.

7.2 Other p-p standards

MSZ EN 300 431 V1.4.1 (2002-07) Obsolete	Fixed Radio Systems. Point-to-point equipment. Parameters for radio system for the transmission of digital signals operating in the frequency range 24,50 GHz to 29,50 GHz.
MSZ EN 300 833 V1.4.1 (2002-11) Obsolete	Fixed Radio Systems. Point-to-point antennas. Antennas for point-to-point fixed radio systems operating in the frequency band 3 GHz to 60 GHz.
MSZ EN 301 126-1 V1.1.2 (1999-09)	Fixed Radio Systems. Conformance testing. Part 1: Point-to-point equipment. Definitions, general requirements and test procedures.
MSZ EN 301 126-3-1 V1.1.2 (2002-12)	Fixed Radio Systems. Conformance testing. Part 3-1: Point-to-point antennas. Definitions, general requirements and test procedures.
MSZ EN 301 785 V1.2.1 (2002-02) Obsolete	Fixed Radio Systems. Point-to-Point Packet Data Equipment. Parameters for radio systems with packet data interfaces for transmission of digital signals operating in the frequency range 7, 8, 13, 15, 18, 23, 26, 28, 32, 38, 52 to 55 GHz.
MSZ EN 302 217-1 V1.3.1 (2010-01)	Fixed Radio Systems. Characteristics and requirements for point-to-point equipment and antennas. Part 1: Overview and system-independent common characteristics.
MSZ EN 302 217-2-1 V1.3.1 (2010-01)	Fixed Radio Systems. Characteristics and requirements for point-to-point equipment and antennas. Part 2-1: System-dependent requirements for digital systems operating in frequency bands where frequency co-ordination is applied.
MSZ EN 302 217-4-1 V1.4.1 (2010-01)	Fixed Radio Systems. Characteristics and requirements for point-to-point equipment and antennas. Part 4-1: System-dependent requirements for antennas.

7.3 Harmonised p-mp standards

MSZ EN 301 753 V1.2.1 (2003-12) Obsolete	Fixed Radio Systems. Multipoint equipment and antennas. Generic harmonised standard for multipoint digital fixed radio systems and antennas covering the essential requirements under article 3.2 of the Directive 1999/5/EC.
MSZ EN 302 326-2 V1.2.2 (2007-06)	Fixed Radio Systems. Multipoint equipment and antennas. Part 2: The essential requirements of article 3.2 of the R&TTE Directive for digital multipoint radio equipment.
MSZ EN 302 326-3 V1.3.1 (2008-02)	Fixed Radio Systems. Multipoint equipment and antennas. Part 3: Harmonised EN covering the essential requirements of article 3.2 of the R&TTE Directive for Multipoint Radio Antennas.

7.4 Other p-mp standards

MSZ EN 302 326-1 V1.2.2 (2007-06)	Fixed Radio Systems. Multipoint equipment and antennas. Part 1: Overview and Requirements for Digital Multipoint Radio Systems.
MSZ EN 301 126-2-1 V1.1.1 (2000-12)	Fixed Radio Systems. Conformance testing. Part 2-1: Point-to-Multipoint equipment. Definitions and general requirements.
MSZ EN 301 126-2-2 V1.1.1 (2000-11)	Fixed Radio Systems. Conformance testing. Part 2-2: Point-to-Multipoint equipment. Test procedures for FDMA systems.
MSZ EN 301 126-2-3 V1.2.1 (2004-11)	Fixed Radio Systems. Conformance testing. Part 2-3: Point-to-Multipoint equipment. Test procedures for TDMA systems.

MSZ EN 301 126-2-4 V1.1.1 (2000-11)	Fixed Radio Systems. Conformance testing. Part 2-4: Point-to-Multipoint equipment. Test procedures for FH-CDMA systems.
MSZ EN 301 126-2-5 V1.1.1 (2000-11)	Fixed Radio Systems. Conformance testing. Part 2-5: Point-to-Multipoint equipment. Test procedures for DS-CDMA systems.
MSZ EN 301 126-2-6 V1.1.1 (2002-02)	Fixed Radio Systems. Conformance testing. Part 2-6: Point-to-Multipoint equipment. Test procedures for Multi Carrier Time Division Multiple Access (MC-TDMA) systems.
MSZ EN 301 126-3-2 V1.2.1 (2003-12)	Fixed Radio Systems. Conformance testing. Part 3-2: Point-to-Multipoint antennas. Definitions, general requirements and test procedures.
MSZ EN 301 213-1 V1.1.2 (2002-02) Obsolete	Fixed Radio Systems. Point-to-Multipoint equipment. Point-to-multipoint digital radio systems in frequency bands in the range 24,25 GHz to 29,5 GHz using different access methods. Part 1: Basic parameters.
MSZ EN 301 213-2 V1.3.1 (2001-06) Obsolete	Fixed Radio Systems. Point-to-Multipoint equipment. Point-to-multipoint digital radio systems in frequency bands in the range 24,25 GHz to 29,5 GHz using different access methods. Part 2: Frequency Division Multiple Access (FDMA) methods.
MSZ EN 301 213-3 V1.4.1 (2002-02) Obsolete	Fixed Radio Systems. Point-to-Multipoint equipment. Point-to-multipoint digital radio systems in frequency bands in the range 24,25 GHz to 29,5 GHz using different access methods. Part 3: Time Division Multiple Access (TDMA) methods.

<p>MSZ EN 301 213-4 V1.1.1 (2001-08) Obsolete</p>	<p>Fixed Radio Systems. Point-to-Multipoint equipment. Point-to-multipoint digital radio systems in frequency bands in the range 24,25 GHz to 29,5 GHz using different access methods. Part 4: Direct Sequence Code Division Multiple Access (DS-CDMA) methods.</p>
<p>MSZ EN 301 213-5 V1.1.1 (2001-10) Obsolete</p>	<p>Fixed Radio Systems. Point-to-Multipoint equipment. Point-to-multipoint digital radio systems in frequency bands in the range 24,25 GHz to 29,5 GHz using different access methods. Part 5: Multi-Carrier Time Division Multiple Access (MC-TDMA) methods.</p>
<p>MSZ EN 301 215-1 V1.2.1 (2001-08) Obsolete</p>	<p>Fixed Radio Systems. Point-to-Multipoint antennas. Antennas for point-to-multipoint fixed radio systems in the 11 GHz to 60 GHz band. Part 1: General aspects.</p>
<p>MSZ EN 301 215-2 V1.3.1 (2002-06) Obsolete</p>	<p>Fixed Radio Systems. Point-to-Multipoint antennas. Antennas for point-to-multipoint fixed radio systems in the 11 GHz to 60 GHz band. Part 2: 24 GHz to 30 GHz.</p>

7.5 Technical reports on p-p and p-mp systems

<p>ETSI TR 101 853 V1.1.1 (2000-10)</p>	<p>Fixed Radio Systems; Point-to-point and point-to-multipoint equipment; Rules for the co-existence of point-to-point and point-to-multipoint systems using different access methods in the same frequency band.</p>
<p>ETSI TR 102 031-1 V1.1.1 (2002-01)</p>	<p>Fixed Radio Systems; Point-to-point and point-to-multipoint equipment; Use of circular polarization in multipoint systems; Part 1: Systems aspects.</p>

ETSI TR 102 031-2 Fixed Radio Systems;
V1.1.1 (2002-01) Point-to-point and point-to-multipoint equipment;
Use of circular polarization in multipoint systems;
Part 2:
Antenna parameters

7.6 Technical reports on p-p systems

ETSI TR 101 036-1 Fixed Radio Systems;
V1.3.1 (2002-08) Generic wordings for standards on DFRS (Digital Fixed
Radio Systems) characteristics;
Part 1:
General aspects and point-to-point equipment parameters.

ETSI TR 101 854 Fixed Radio Systems;
V1.3.1 (2005-01) Point-to-point equipment;
Derivation of receiver interference parameters useful for
planning fixed service point-to-point systems operating
different equipment classes and/or capacities.

ETSI TR 101 904 Transmission and Multiplexing (TM);
V1.1.1 (2001-03) Time Division Duplex (TDD) in Point-to-Multipoint (P-MP)
Fixed Wireless Access (FWA) systems;
Characteristics and network applications.

ETSI TR 102 243-1 Fixed Radio Systems;
V1.1.1 (2004-05) Representative values for transmitter power and antenna gain
to support inter- and intra-compatibility and sharing analysis;
Part 1:
Digital point-to-point systems.

ETSI TR 102 311 Fixed Radio Systems;
V1.1.1 (2004-04) Point-to-point equipment;
Specific aspects of the spatial frequency reuse method.

7.7 Technical reports on p-mp systems

ETSI TR 101 036-2 Fixed Radio Systems;
V1.1.1 (2001-08) Generic wordings for standards on DRRS (Digital Radio
Relay Systems) characteristics;
Part 2:
Point-to-multipoint equipment parameters.

- ETSI TR 101 274
V1.1.1 (1998-06) Transmission and Multiplexing (TM);
Digital Radio Relay Systems (DRRS);
Point-to-multipoint DRRS in the access network;
Overview of different access techniques.
- ETSI TR 101 939
V1.1.1 (2002-01) Fixed Radio Systems;
Multipoint-to-Multipoint systems;
Requirements for broadband multipoint-to-multipoint radio
systems operating in the 24,25 GHz to 29,5 GHz band and in
the available bands within the 31,0 GHz to 33,4 GHz
frequency range.
- ETSI TR 102 271
V1.1.1 (2004-04) Broadband Radio Access Networks (BRAN);
HIPERACCESS;
Recommendations on essential radio parameters to be
included in EN 302 326 (Harmonized Standard for
Multipoint Systems).