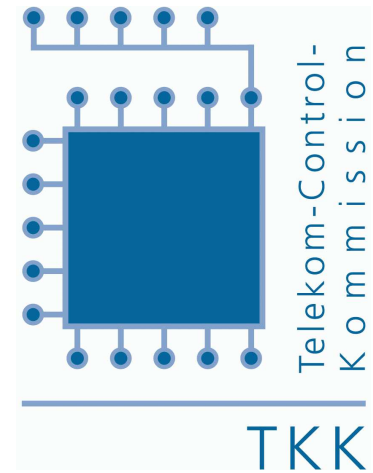


Telekom-Control Commission

Mariahilfer Strasse 77-79

A-1060 Vienna, Austria

F 1/07



Vienna, June 26, 2008

**Tender Documentation for Frequency Allocations
in the 914 – 915 / 959 – 960 MHz Frequency Range**

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1 Introduction

The Telekom-Control Commission is conducting a procedure to allocate frequencies in the 900 MHz frequency range in accordance with Art. 55 of the Austrian Telecommunications Act 2003 (TKG 2003). In this procedure, the regulatory authority will auction off one nationwide frequency packet consisting of multiple duplex channels.

1.1 General conditions under Austrian law

This invitation to tender is being carried out on the basis of the Austrian Telecommunications Act 2003 (TKG 2003, Federal Law Gazette I No. 70/2003 as amended by Federal Law Gazette I No. 133/2005). In addition, Austrian procedural rules and regulations are also applicable, especially the General Administrative Procedures Act of 1991 (AVG; Federal Law Gazette No. 51 as amended by Federal Law Gazette I No. 5/2008).

The Telekom-Control Commission's responsibility for allocating frequencies under Art. 55 TKG 2003 is based on Art. 54 Par. 3 No. 2 in conjunction with Art. 117 No. 10 TKG 2003. Under Art. 54 Par. 3 No. 2, the regulatory authority is responsible for frequency allocation as well as changing and revoking allocations for those frequencies which are subject to a determination in the frequency usage plan under Art. 52 Par. 3.

This determination was made in the Ordinance of the Federal Minister of Transport, Innovation and Technology amending the Frequency Utilization Ordinance (Federal Law Gazette II No. 307/2005 as last amended by Federal Law Gazette II No. 121/2008). The Telekom-Control Commission's responsibility is based on this determination.

The frequency allocation procedure carried out by the regulatory authority is governed by Art. 55 TKG 2003.

1.2 Frequency allocation procedure

Under Art. 55 Par. 1 TKG 2003, the regulatory authority is to allocate the frequencies placed under its authority to the applicant who fulfills the general prerequisites under Par. 2 No. 2 (Art. 55 Par. 2 No. 2 TKG 2003) and ensures the most efficient use of the frequencies. This will be determined by the amount of the frequency license fee offered. The frequency allocation procedure is divided into two stages:

1. Once the applications have been submitted, the regulatory authority will review whether the prerequisites have been met in accordance with Art. 55 Par. 2 No. 2 TKG 2003 (cf. Sections 5.2., 5.3 and 5.4 of this document). In accordance with Art. 55 Par. 8 TKG 2003, those applicants who do not fulfill the prerequisites will be excluded from the frequency allocation procedure. With regard to the information required in the tender documentation for which the Telekom-Control Commission reserves the right to request additional information from the applicants (cf. Section 5.1 of this document), the Telekom-Control Commission will request such additional information as it sees necessary and indicate a deadline for submission. Any applications who fail to submit the information requested in this way before the deadline will also be excluded from the frequency allocation procedure in accordance with Art. 55 Par. 8 TKG 2003.

2. The second part of the frequency allocation procedure will be carried out in the form of an auction.

1.3 Allocation procedure schedule

The table below contains the most important dates in the allocation procedure.

Activity	Date
Publication of invitation to tender	June 26, 2008
Questions for the Telekom-Control Commission: Deadline for receipt of questions Questions to be answered by	August 11, 2008 / 12:00 noon (CET) August 19, 2008
End of tender submission period	September 1, 2008 / 12:00 noon (CET)
Announcement of decision	Scheduled for September 16, 2008
Date of frequency allocations	Within 14 days of decision date

TABLE 1: ALLOCATION PROCEDURE SCHEDULE

2 Frequency allocation procedure

2.1 Steps in the allocation procedure

As mentioned in Section 1.2, the frequency allocation procedure is divided into two stages. In the first stage, the regulatory authority will check whether the applications fulfill the criteria stipulated in Art. 55 Par. 2 No. 2 TKG 2003 (in accordance with Art. 55 Par. 1 and Par. 2 No. 2 TKG 2003). Those applicants who do not fulfill the prerequisites pursuant to Art. 55 Par. 2 No. 2 TKG 2003 will be excluded from the frequency allocation procedure pursuant to Art. 55 Par. 8 TKG 2003.

The second stage of the frequency allocation procedure will be carried out in the form of a sealed-bid auction. In this auction procedure, applicants are required to submit their bids along with their applications (cf. Section 2.7).

2.2 Object of the auction

The following frequency packet will be auctioned off in this procedure:

Frequency packet*	Bandwidth	Number of GSM duplex channels
A	2 x 0.8 MHz	4

TABLE 2: OBJECT OF THE AUCTION

Further information on the terms and conditions of use can be found in Section 3.

2.3 Applications

All applicants are required to submit the application form (see Annex D). Each applicant's bid in the auction procedure is to be submitted along with the respective application.

2.4 Bank guarantee

All applicants are to secure their bids by means of an abstract bank guarantee payable at first demand from a bank in good credit standing.

The amount of the bank guarantee should be equal to the bid submitted. Bids which are not fully secured by a bank guarantee will not be considered valid.

The bank guarantee's sole purpose provision must be the official allocation of frequencies to the applicant in the course of this tender procedure. The guarantee must name the Federal Government of the Republic of Austria as beneficiary and be valid from September 1, 2008 (at the latest) until at least December 31, 2008. An original of the bank guarantee is to be enclosed with the application.

Once the procedure has been completed, bank guarantees will be returned to those applicants to whom the requested frequency packets were not allocated. As for the applicant who does acquire frequencies in this procedure, the bank guarantee will be returned once the frequency license fee has been paid in full.

2.5 Minimum bid in the auction

Under Art. 55 Par. 4 TKG 2003, the tender documentation can also include information on the minimum frequency license fee to be offered.

This information is to be based on the amount of the frequency allocation fees which are likely to be charged for the frequencies allocated. Under the Telecommunications Fees Ordinance (Federal Law Gazette II No. 29/1998 as last amended by Federal Law Gazette II No. 82/2008), the frequency allocation fees amount to EUR 998.69 for every 25 kHz (or part thereof) of spectrum allocated in telephone networks under Art. 3 No. 18 TKG 2003 for the provision of public mobile radio communications services, and for the allocation of frequencies in radio communications networks under Art. 7 by the Telecommunications Authority (Art. 54 Par. 3 No. 3 TKG 2003) for deployment throughout Austria. On the basis of the fees set in the Mobile Fees Ordinance, the minimum bid for the frequency packet is shown below (in EUR):

Frequency packet	Minimum bid (EUR)
A	63,000.00

TABLE 3: MINIMUM BID AMOUNT

2.6 Terms of participation

The applicant must be a physical person or legal entity who/which is fully capable of entering into legally binding contracts as specified in Art. 9 of the Austrian General Administrative Procedures Act (AVG). Applicants must have their main place of residence (for legal entities: place of incorporation) in a country belonging to the European Economic Area.

2.6.1 Changes in ownership structure

The regulatory authority must be informed of any changes in the person submitting an application, or any and all – direct or indirect – substantial changes in the stakes held in a company submitting an application at any point in this procedure.

2.7 Auction procedure

In the auction, only bids from applicants who are not excluded from the frequency allocation procedure in accordance with Art. 55 Par. 8 TKG 2003 will be taken into consideration.

The frequencies will be allocated to the highest bidder.

In cases where the same high bid is submitted by more than one applicant, the allocation decision will be made by random drawing.

The Telekom-Control Commission plans to publish the results of the auction on RTR's web site (www.rtr.at) in September 2008.

2.8 Frequency allocation

Frequencies will be allocated by the Telekom-Control Commission within 14 days after publication of the auction results.

3 Frequency spectrum

3.1 Spectrum to be allocated

In the course of the frequency allocation procedure, the regulatory authority will allocate the frequency channels in the 914 – 915 / 959 – 960 MHz range which have been assigned to the regulatory authority by the Austrian Federal Minister of Transport, Innovation and Technology in accordance with Art. 51 Par. 3 TKG 2003.

One frequency packet will be allocated (see Table 4).

Frequency packet	Channel No.	Number of channels	Size
Buffer channel	120		
A	121-124	4	2 x 0.8 MHz

TABLE 4: FREQUENCY PACKETS

The frequency channels and assigned frequency ranges correspond to the Absolute Radio Frequency Channel Number (ARFCN) definition in the ETSI Standard TS 100 910, "Digital cellular telecommunications system (Phase 2+); Radio transmission and reception" (3GPP TS 05.05, Version 8.16.0, Release 1999), Chapter 2: "Frequency bands and channel arrangement."

The frequency packet is separated by a buffer channel (cf. Table 4), the purpose of which is to prevent radio interference between operators; buffer channels are not usually allocated. In cases where a single applicant is allocated adjacent frequency packets, the buffer channel between them (shown in Table 4) will be allocated to the applicant as well. This will also be the case where an operator was allocated one of the packets at an earlier point in time.

3.1.1 Terms of use

The frequency channels to be awarded in the course of this procedure are intended for the operation/provision of public communications networks and services pursuant to Art. 15 TKG 2003 in the GSM frequency ranges. The radio interface is to be implemented in accordance with the GSM standard and all applicable ETSI standards.

(1) General information

At present, there is no preferential frequency partitioning (or no need for such partitioning internationally) for the former CT1 frequency range (914 – 915 / 959 – 960 MHz). ECC Recommendation (05)08 (see Annex B) forms an integral part of the terms of use. The recommendation document provides a basis for putting GSM base stations into operation without coordination as long as certain general limits are observed. If those general limits are exceeded, the Telecommunications Authority must coordinate the base stations in question with other countries.

The Harmonised Calculation Method (HCM) described in the HCM Agreement (Vilnius 2005) is to be applied in the calculation of field strength limits at national borders as described in Section 2.1; therefore, this method also forms an integral part of the terms of use. This calculation program is available on the web site of the lead administration for the "HCM Agreement" (Vilnius 2005; i.e., the general coordination agreement with neighboring administrations) at <http://ba.bmwa.bund.de>. The topographical data necessary to use the HCM program (STM3_HCM_E...) and the "HCM Agreement (Vilnius 2005)" have also been published on that site.

(2) Maximum permitted field strength values and coordination obligations

The following arrangements apply near the borders to neighboring countries and at high-altitude locations:

(2.1) Base stations can be put into operation without coordination if their field strength does not exceed the limit of
 $E_{\max} = 19\text{dB}\mu\text{V}/\text{m}$
at a height of 3 m above ground level at the national border.

(2.2) For cases in which the maximum field strength under (2.1) above is exceeded, the base stations can only be put into operation after successful coordination, a process which is carried out by the Telecommunications Authority.

(3) In order to avoid mutual interference between the adjacent GSM channels of different operators, the operators are to coordinate their radio network planning and/or provide for the appropriate buffer channels.

(4) In order to protect the stationary directional receiver systems of the telecommunications authorities (cf. Annex A), the maximum field strength created by radio transmission systems at the locations indicated must not exceed 105 dB μ V/m (measured with each system-specific bandwidth).

(5) There must be no interference with aircraft navigation systems such as Distance Measuring Equipment (DME) in the adjacent 960 – 1215 MHz frequency range. Should international compatibility studies regarding GSM operation on Channels 120 – 124 require additional usage restrictions in the vicinity of airports, those restrictions will be communicated once the studies are completed. Should interference still arise, the GSM operator will be required to take all necessary measures immediately in order to prevent the interference.

Note:

Data regarding the base stations in operation must be submitted on a quarterly basis to the Austrian Federal Ministry of Transport, Innovation and Technology (Section 3, Department PT3) in the format specified in Annex 2 to the HCM Agreement (Vilnius 2005; see Annex C). Once the frequencies have been allocated by the regulatory authority, Department PT3 will provide the operator with details regarding Annex 2 to the HCM Agreement (Vilnius 2005).

3.2 Duration of use

Under Art. 54 Par. 11 TKG 2003, frequencies can only be allocated for a limited period of time. The time period is to be defined according to reasonable objective and economic criteria. The frequencies in this procedure will be allocated to the operator until **December 31, 2017**.

3.3 Transfer of frequencies

Under Art. 56 Par. 1 TKG 2003, operators are also permitted to transfer frequency usage rights. However, such transfers require prior approval by the regulatory authority. Transfers are to be understood as the sale of frequency usage rights (in part or in full), the leasing of such rights or any other means of granting use rights to another party.

4 Coverage requirements

Should the frequencies be acquired by an applicant who has not previously been allocated frequencies in the GSM-900 or GSM-1800 range, the frequency allocation will be subject to the following conditions:

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

- 5% coverage by December 31, 2009;
- 10% coverage by December 31, 2010.

The "level of coverage" is defined as the percentage of the resident population covered in relation to the total resident population. This level of coverage is to be offered using an independently operated network.

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

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

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

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

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

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

In cases where an operator fails to fulfill the above-mentioned coverage requirements, the operator will be required to pay a penalty of EUR 1,000,000 from December 31, 2008 onward; this amount is based on a coverage level of 0%.

If an operator falls short of the required coverage level, the penalty will be reduced in proportion to the coverage level reached. For example, if an operator falls short of the required coverage level by 10%, the penalty will be 10% of the amount indicated above.

This penalty will be due annually from December 31, 2008 until the operator has reached the required coverage level.

5 Application documents

Under Art. 55 Par. 1 TKG 2003, the regulatory authority is to allocate the frequencies placed under its authority to applicants who fulfill the general prerequisites under Par. 2 No. 2 leg. cit. Applications for frequency allocations are to contain the documents and information listed in the following sections:

5.1 Organizational structure

In order to determine whether applicants fulfill the prerequisites indicated in Art. 55 Par. 2 No. 2 TKG, the Commission will require information on the applicant's organizational structure. This information includes precise indications as to the applicant's legal and financial situation as well as the applicant's ownership structure.

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

5.1.1 Information on the applicant

- a) Name (company), place of incorporation (address), date and place of establishment including a current excerpt from the Commercial Register (or from a comparable register maintained in the applicant's country of incorporation and equivalent to the Austrian Commercial Register);
- b) Type and number of capital shares, nominal value of capital shares as well as voting and dividend rights associated with any and all types of shares;
- c) Subscribed capital per type of capital share, precise information on the stakeholders at the time the application is submitted, as well as any and all foreseeable changes in this respect;
- d) Number, value and rights (including conversion rights) of any and all options, certificates of entitlement, preferred stock or debt capital as well as any other securities issued by the applicant;
- e) A copy of the company's articles of incorporation in their current version;
- f) A description of the applicant's business activities;
- g) The name of the applicant's authorized recipient, who must fulfill the requirements set forth in Art. 9 of the Austrian Service of Documents Act (ZustG), as well as that of an authorized representative (as defined in Art. 10 AVG) along with his/her telephone and fax numbers as well as postal and e-mail addresses (cf. Section 6.3 of this document). These two parties can be the same person;
- h) Any and all other information which, if mentioned or omitted, could substantially influence the Telekom-Control Commission's decision in the review to be carried out prior to the frequency allocation procedure in compliance with Art. 55 Par. 2 No. 2 TKG 2003.

Should the information indicated above not be provided in its entirety, the Telekom-Control Commission will request the missing information as it deems necessary for the purpose of making a decision. In this context, the Telekom-Control Commission may also request additional information for this purpose.

5.2 Technical capabilities, quality of services and coverage requirements

Under Art. 55 Par. 2 No. 2 TKG 2003, there must be no reason to believe that the applicant will fail to provide the planned service, especially with regard to service quality and coverage requirements. In addition, the applicant must possess the technical capabilities necessary to provide such services. The information required in the following sections is intended to aid the regulatory authority in reviewing these prerequisites.

In cases where the applicant has not already operated a public mobile network in Austria, the following information must be provided regarding the construction of the planned network:

(a) Information on planned infrastructure:

- Overview of network construction, including a time schedule
- Locations of essential infrastructural elements of the radio and core network in electronic format (GIS) and map printouts; essential technical features of each infrastructural element (frequency range, capacity, etc.)
- Connections between infrastructural elements (microwave radio links, leased lines, own lines) in electronic format (GIS) and map printouts; capacity of each connection
- Interconnection with other networks (interconnection points, capacity);

(b) Planned levels of population coverage, including a time schedule;

(c) Short description of planned services and service quality.

In cases where the applicant has already operated a public mobile network in Austria, the current balance sheet of the company submitting the application is to be provided.

5.3 Financial strength

Applicants will be required to prove that they have the financial resources necessary to build and operate a radio communications network.

In this context, applicants should pay special attention to the fact that their financial strength and stability must also be in line with the amount of the frequency license fee offered.

With regard to financial strength, application documents are to contain the following information:

5.3.1 Business plan / balance sheet

In cases where applicants have not been allocated frequencies in the 900/1800 MHz range, they will be required to submit a business plan for the business area(s) in which the desired frequencies will be used on the basis of the applicant's strategy, their market assessment and their assessment of business operations in the five (5) years following the frequency allocation.

The business plan can be structured in any way the applicant chooses. However, the most essential costs and revenues should be clearly visible in this structure (see Annex E).

In any case, a bank guarantee (original document) is also to be enclosed with the application. Details on the bank guarantee can be found in Section 2.4.

5.3.2 Financing

Applicants will also be required to provide evidence that they can raise capital in accordance with the business plan provided in the application. For this purpose, the following information is required:

Equity financing: Schedule and sources of equity capital, including planned issues of company capital

Debt financing: Credit lines, available collateral, terms and lenders for all loans in the first four years after frequency allocation

5.4 Declaration of completeness

Properly completed written applications must contain all of the information required in Section 5. In addition, a declaration of completeness (Annex F) is to be enclosed with the application to confirm that it contains complete and accurate indications of all information requested in this tender document as well as all information relevant to the Telekom-Control Commission's evaluation of the objective facts.

6 Practical information

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

6.1 Rights to application documents

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

6.2 Applications for frequency allocation

Please send applications to:

Telekom-Control Commission
Mariahilfer Strasse 77-79
A-1060 Vienna
Austria

The complete application for frequency allocation ("application") must be received by the Telekom-Control Commission in a sealed envelope or package labeled "Application for Frequency Allocation – 900 MHz (F1/07)" by September 1, 2008, at 12:00 noon local time (CET). Applications received after the deadline will not be reviewed.

Applications are to be submitted in German language, in writing (one original) and in electronic format (e.g., Word, Excel; CD-ROM).

The amendment or withdrawal of applications after the application deadline will not be permitted.

The application should be no longer than 100 pages. However, required enclosures such as annual reports and maps may be attached as necessary. These enclosures will also be accepted in English.

6.3 Authorized recipient

Applicants are required to name an authorized recipient in their applications in accordance with Art. 9 of the Austrian Service of Documents Act (ZustG; cf. Section 5.1.1). An unrestricted authorization of the recipient must be signed by official representatives of the company and included with the application documents. In cases where the recipient is changed, a new unrestricted authorization is to be sent to the Telekom-Control Commission without delay. In order to facilitate correspondence between the authority and the applicant, applicants are advised to nominate an authorized recipient with his/her main residence in Austria for the sake of efficiency in the procedure.

6.4 Clarifications

For the purpose of preparing their applications, interested parties will be allowed to submit questions to the Telekom-Control Commission. The Telekom-Control Commission reserves the right to decide whether questions are answered in each individual case.

Applicants will be allowed to submit questions to the Telekom-Control Commission by e-mail only to rtr@rtr.at until August 11, 2008 at 12:00 noon CET (date and time of receipt). Questions will be answered in writing by August 19, 2008 (date of dispatch).

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

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

6.5 Inquiries and consultants

In this tender procedure, the Telekom-Control Commission may call in consultants in the course of its inquiries and surveys (Art. 55 Par. 11 TKG 2003). This also applies (but in no way exclusively) to inquiries related to the clarification issues mentioned in Section 6.4, inquiries related to the review of eligibility criteria under Art. 55 Par. 2 No. 2 TKG 2003, and support in the course of the auction procedure.

6.6 Inspection of records

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

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

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

Art. 125 TKG 2003 as well as Austrian Administrative Court Ruling 2002/03/0273 of February 25, 2004 shall be applied with regard to company or trade secrets. The applicants undertake to use any information on other applicants obtained in the course of this procedure exclusively for the purposes of the procedure.

6.7 Review and information obligations

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

6.8 Publication

The Telekom-Control Commission intends to announce the results of the auction, including the bids submitted, on the regulatory authority's web site.

6.9 Annulment of the invitation to tender, discontinuation of the procedure

Under Art. 55 Par. 12 TKG 2003, the regulatory authority is authorized to annul the invitation to tender and discontinue the procedure at any stage for important reasons, especially if

1. the regulatory authority identifies collusive behavior among applicants and/or an efficient, fair and non-discriminatory procedure cannot be conducted;
2. none or only one applicant fulfills the requirements under Par. 2;
3. none or only one of the applicants who fulfill the requirements under Par. 2 actually participates in determining the high bid;
4. the procedure results in the applicants requesting (in total) less frequency spectrum than the amount to be allocated.

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

7 Fees

7.1 Frequency license fee

The successful applicant is to effect payment of the frequency license fee determined in the course of the auction within seven days after the official frequency allocation decision takes legal effect.

The frequency license fee does not include value-added tax.

In the case of non-payment (including delayed or incomplete payments) of the frequency license fee, the frequency allocation will be rendered void. Notwithstanding the condition mentioned above, the Federal Republic of Austria shall have the right to use the bank guarantee provided by the applicant in such cases.

7.2 Spectrum fees

In accordance with Art. 82 Par. 2 TKG 2003, spectrum fees for the use of frequencies are also to be paid by the network operators. These fees are defined in the Telecommunications Fees Ordinance (Federal Law Gazette II 29/1998) in its current version. These fees will be prescribed by the Telecommunications Offices when the operation permit is issued.

7.3 Consultancy costs

In the course of the procedure, any and all costs arising from experts or consultants called in by the Telekom-Control Commission at any point in the procedure are to be paid on a *pro rata* basis by those applicants to whom frequencies are allocated (Art. 55 Par. 11 TKG 2003). These costs will be prescribed in the official frequency allocation decision and are to be paid within 14 days of receipt of the official decision.