



COVER SHEET

UNOFFICIAL ENGLISH TRANSLATION

Directive
From the Telecommunications Authority of the Faroe Islands
on
the Administration and Allotment of Radio Spectrum
(Frequency Administration Directive)

Telecommunications Authority of the Faroe Islands

July 2017

v. 1.1

This is an unofficial translation of
Kunngerð frá Fjarskiftiseftirlitinum um fyrisiting og tillutan av frekvensum (Frekvensfyrisitingarkunngerðin),
of the Telecommunications Authority of the Faroe Islands.
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Directive
from the Telecommunications Authority of the Faroe Islands
on
the Administration and Allotment of Radio Spectrum
(Frequency Administration Directive)

Pursuant to authority granted in § 42 and § 45, para. 3 of Parliamentary Act No. 72, dated 22 May 2015, on Telecommunications, the following is hereby stipulated:

*Granting of a license
as each application is received*

§ 1

1. The Telecommunications Authority [hereinafter, the Authority] grants licenses for the usage of radio spectrum as each application is received.

2. If the Authority receives one or more applications for licenses to use radio spectrum that is governed by a previously granted license, but there exists no Frequency Shortage pursuant to § 1, para. 6, the Authority shall give the incumbent licensee notice that the Authority has received an application for said radio spectrum. The incumbent licensee may, within the deadline established by the Authority, apply for a renewal of the current license. If the incumbent licensee applies within the established deadline, the application will be deemed to have been received at the same time as the other application(s) were received, pursuant to § 2, para. 1.

3. The Authority shall disregard any applications for the licensing of radio spectrum

that is governed by a previously granted license, if the Authority receives an application more than two (2) years prior to the date the existing incumbent license shall expire.

4. The Authority shall disregard any application for the use of radio spectrum that is available for licensing, if the Authority receives an application six (6) months prior to respective applicant desiring a license.

5. The Authority may postpone the granting of a license, pursuant to § 1, para. 1, to determine whether a Frequency Shortage exists, pursuant to § 1, para. 6.

6. A Frequency Shortage exists when the Authority determines that there is more than one applicant to an individual frequency or multiple frequencies within the same geographical area, and the Authority cannot grant licenses to all the applicants, including by referring to other frequencies available comparable with the frequencies applied for.

*Relevant considerations regarding
the allotment of radio spectrum*

§ 2.

1. If the Authority receives more than one application on the same day for the use of the same radio spectrum, and there exists no Frequency Shortage, pursuant to § 1, para. 6, the Authority shall give due regard to the factors referenced below as part of the evaluation of which application(s) shall be approved:

- 1) Important societal considerations, pursuant to § 2, para. 2.
- 2) Incumbent frequency licensee.
- 3) Promotion of effective competition.
- 4) Most rational use of frequency resources.

2. In this Directive, to give due regard to important societal considerations shall mean to give due regard to those issues that have importance for society as a whole, including, but not limited to, the expansion of vital services or important societal considerations that market forces are not able to resolve on their own accord. Important societal considerations could be, e.g., media policy including initiatives designed for the public benefit and emergency response services.

3. The Authority shall inform applicants, who are not granted a usage license pursuant to § 2, para. 1 of frequencies that may be used instead.

Frequency Shortage Assessment

§ 3.

1. The Authority may undertake a Frequency Shortage Assessment of relevant radio spectrum to investigate the potential for or existence of Frequency Shortage, pursuant to § 1, para. 6.

2. In this Directive, a “Frequency Shortage Assessment” shall mean the public offering by the Authority to interested applicants the right to apply for a license for the use of specific frequencies, such that the Authority can reliably determine if and to what extent a Frequency Shortage exists.

3. Based upon the results of the Frequency Shortage Assessment, pursuant to § 3,

para. 1, interested parties may apply to the Authority for a license.

4. In connection with the Frequency Shortage Assessment of the relevant spectrum, the Authority shall stipulate:

- 1) what information the application, pursuant to § 3, para. 3, shall provide, and
- 2) the application deadline.

5. Any application seeking the licensing of frequency use received prior to the effective date of the Frequency Shortage Assessment shall not be considered in connection with the Frequency Shortage Assessment and the Authority shall give notice to the respective applicant(s) to reapply, pursuant to § 3, para. 3.

6. The Authority shall reject any applications that do not meet the stipulated requirements referenced in § 3, para. 4.

7. In the event that the Authority determines at the conclusion of a Frequency Shortage Assessment that no Frequency Shortage exists, pursuant to § 1, para. 6, the Authority shall grant a license for the use of the frequencies referenced in the Frequency Shortage Assessment to the applicant(s) who have submitted an application to the Authority.

*Allotment of frequencies
when a Frequency Shortage exists*

§ 4.

1. In the event that the Authority determines that a Frequency Shortage exists, pursuant to § 1, para. 6, the Authority shall decide whether to grant licenses:

- 1) consistent with the procedures stipulated in § 2, para. 1, or
- 2) through auction of frequencies, as stipulated in §§ 5 and 6.

2. If the Authority makes a determination, pursuant to § 4 para. 1, no. 1, the application(s) that is (are) not granted a license shall be disregarded.

Frequency Auction

§ 5.

1. If the Authority determines to grant frequencies, pursuant to § 4, para. 1, no. 2, the Authority may decide,

- 1) if special conditions exist, including important relevant societal conditions relative to the specific spectrum usage, and that should be considered with respect to the auction of frequencies,
- 2) what frequencies shall be included in the auction,
- 3) minimum requirements,
- 4) who may participate in the auction of frequencies, including who may not participate, and
- 5) what considerations should be taken into account regarding the evaluation of the offers that are submitted to the Authority.

2. In this Directive, it shall be understood that with an auction of frequencies, the interested applicant(s), based on their application(s), are deemed to be competing to be granted access to the relevant frequency or frequencies that are being put up for auction by the Authority. A license shall be granted to the applicant that the Authority determines is most qualified to generate the most beneficial use of the specific frequencies, including the potential to successfully implement the possible determinations, pursuant to § 5, para. 1, or the requirements stipulated pursuant to the directives referenced in § 6, para. 2.

§ 6.

1. Regarding the auctioning of frequencies, pursuant to § 4, para. 1, no. 2, the Authority may determine to stipulate certain terms and conditions for the exercise of the auction, including formal requirements and prerequisites governing participation in an auction of frequencies. Said frequency auction shall honour the principles of neutrality, non-discrimination, transparency, and proportionality.

2. When auctioning frequencies pursuant to § 4, para. 1, no. 2, the Authority shall publicly announce what terms and conditions, including the effective term, that are applicable for the frequency license(s) that are granted as part of the frequency auction.

Trial Licenses

§ 7.

1. The Authority may allot frequencies on a trial basis to test a specific technology or service.

2. The Authority may, in connection with the trial allotment of frequencies, grant the use of frequencies that deviates from the Frequency Plan stipulated under § 42 of the Telecommunications Act.

3. The Authority shall stipulate the terms and conditions for the use of trial licenses granted pursuant to § 7, para. 1, including the requirement that the result of said trial usage shall be provided to the Authority.

Effective term of frequency licenses

§ 8.

1. A frequency license shall be granted with a term that covers the remainder of the current calendar year and the next fifteen (15) calendar years, unless the application requested a shorter period of time, confer, however, § 8, para. 2-5. After the term has run, the frequency license shall terminate and be deemed revoked without further notice to the incumbent licensee.

2. A trial license, pursuant to § 7, shall be granted with a term of one (1) year, unless the application requested a shorter period of time.

3. Notwithstanding § 8, para. 1 above, a different term of the frequency license may be stipulated as a condition in an auction, pursuant to §§ 5 and 6.

4. Notwithstanding § 8, para. 1 and 2 above, a frequency license may be granted with a shorter term, if the Frequency Plan, pursuant to § 42 of the Telecommunications Act, stipulates that the frequencies, within a shorter period of time, shall be used for other purposes than the frequency allotment encompasses.

5. Notwithstanding § 8, para. 1, frequencies may be allotted for other effective terms, if it is deemed that important societal circumstances so warrant.

§ 9. A frequency license shall enter into effect on the day it is signed, unless another

effective date is stipulated in the allotment license.

§ 10. When the term of the license expires, the licensee shall submit a new application to the Authority, if the incumbent desires that the frequency license shall continue.

Confidentiality

§ 11.

1. Information about the content and existence of a radio signal that is received by someone other than for whom the information is intended shall not be used, publicly distributed, or disseminated further to unauthorized third parties.

2. The confidentiality stipulated in § 11, para. 1 is not applicable to radio communications that are intended for the general

use of the public, e.g., emergency communications, sailing communications, amateur radio communications, and radio or television broadcasting.

Entry into Effect

§ 12.

1. This Directive shall enter into effect the day after it is promulgated.

2. The provisions of this Directive shall also apply to applications for a license to use frequencies that are received by the Authority prior to or on the Effective Date of this Directive, but for which the decision regarding the license has not been taken.

Telecommunications Authority of the Faroe Islands
this 19 day of July 2017

Jógvan Thomsen

/ Johan Troest Davidsen (sign.)