

*Disclaimer: This is a Romanian to English translation meant to facilitate the understanding of these Terms of Reference. Should differences appear between the Romanian version and the English version, following translation, the Romanian version shall prevail.*

TERMS OF REFERENCE  
FOR THE COMPETITIVE SELECTION PROCEDURE  
FOR AWARDING THE LICENCES FOR THE USE OF THE RADIO  
FREQUENCY SPECTRUM IN DIGITAL TERRESTRIAL TELEVISION SYSTEM

December  
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## Chapter 1 – Introduction

### 1.1. Legal framework applicable to the selection procedure

The legislation applicable to the awarding of the licences for the use of the radio frequency spectrum in the terrestrial digital system, hereinafter referred to as *licences*, is represented by:

- § Audiovisual Law no.504/2002<sup>1</sup>, with the subsequent amendments and completions;
- § Government Emergency Ordinance no.111/2011<sup>2</sup> on electronic communications, approved, with amendments and completions, by Law no.140/2012, with the subsequent amendments and completions;
- § Government Emergency Ordinance no.18/2015<sup>3</sup> on the establishment of certain measures required for ensuring transition from analogue terrestrial television to digital terrestrial television and implementing multimedia services on a national level, approved, with amendments and completions, by Law no. 345/2015;
- § Government ordinance no.21/2016<sup>4</sup> for extending certain deadlines provided in Government Emergency Ordinance no.18/2015 on the establishment of certain measures required for ensuring transition from analogue terrestrial television to digital terrestrial television and implementing multimedia services on a national level;
- § Government Emergency Ordinance no. 22/2009<sup>5</sup> on establishing ANCOM, approved by Law no.113/2010, with the subsequent amendments and completions;
- § Government Decision no.403/2013<sup>6</sup> for the approval of the Strategy regarding the digital switchover and the implementation of multimedia services on a national level;
- § Government Decision no. 86/2014<sup>7</sup> on awarding the licences for the use of the radio frequency spectrum in the digital terrestrial television system;
- § Decision of the President of the National Authority for Management and Regulation in Communications no. 562/2014<sup>8</sup> on the selection procedure for the awarding of the licences for the use of radio frequency spectrum in digital terrestrial television system, with the subsequent amendments and completions;
- § Decision of the President of the National Authority for Management and Regulation in Communications no.629/2010<sup>9</sup> on the procedure for authorising the provision of audiovisual programmes.

In accordance with the provisions of Article 59(4) of the Audiovisual Law no.504/2002, with the subsequent amendments and completions, hereinafter referred to as the *Audiovisual Law*, the licences shall be granted by the National Authority for Management and Regulation in Communications, hereinafter referred to as *ANCOM*, to multiplex operators based on a selection procedure, in accordance with the strategy regarding the digital switchover and the implementation of digital multimedia services on a national level.

Moreover, according to the Audiovisual Law, the licence awarding is bound to the payment of a licence fee to the state budget. The manner of conducting the selection procedures and the conditions for awarding the licences are determined by the Government Decision no. 86/2014 on awarding the licences for the use of the radio frequency spectrum in the digital terrestrial television system.

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<sup>1</sup> Published in the Romanian Official Journal, Part I, no. 534 of 22 July 2002.

<sup>2</sup> Published in the Romanian Official Journal, Part I, no. 925 of 27 December 2011.

<sup>3</sup> Published in the Romanian Official Journal, Part I, no. 423 of 15 June 2015.

<sup>4</sup> Published in the Romanian Official Journal, Part I, no. 658 of 29 August 2016.

<sup>5</sup> Published in the Romanian Official Journal, Part I, no. 174 of 19 March 2009

<sup>6</sup> Published in the Romanian Official Journal, Part I, no. 400 of 3 July 2013.

<sup>7</sup> Published in the Romanian Official Journal, Part I, no. 133 of 24 February 2014.

<sup>8</sup> Published in the Romanian Official Journal, Part I, no. 196 of 20 March 2014.

<sup>9</sup> Published in the Romanian Official Journal, Part I, no. 660 of 24 September 2010.

The strategy regarding the digital switchover and the implementation of multimedia services on a national level, approved by the Government Decision no.403/2013, hereinafter referred to as *The Strategy*, establishes that the following licences are available for the selection procedure:

- § one national licence in the UHF (Ultra High Frequency) band, according to the criteria determined under point 3.2.1 of the Strategy;
- § four national licences [three licences in the UHF band and one licence in the VHF (Very High Frequency) band], according to the criteria determined under point 3.2.2 of the Strategy;
- § regional/local licences, according to the provisions under point 3.2.5 of the Strategy, depending on the technical possibilities.

Following the competitive selection procedure organised in the periods 27 March 2014 - 10 June 2014, 2 December 2014 - 11 February 2015, and 18 March – 27 May 2015, the following licences were issued:

- § one national licence in the UHF band, according to the criteria determined under point 3.2.1 of the Strategy;
- § two national licences in the UHF band, according to the criteria determined under point 3.2.2 of the Strategy;
- § 13 regional licences and one local licence according to the criteria determined under points 3.1.4 and 3.2.5 of the Strategy.

Taking into account the results of the selection procedures mentioned in the previous paragraph, during the present selection procedure, the following multiplexes are available:

- § two national licences (one in the UHF and one in the VHF), according to the criteria determined under point 3.2.2 of the Strategy;
- § 26 regional licences and 18 local licences according to the provisions of points 3.1.4 and 3.2.5 of the Strategy.

According to Article 59(7) of the Audiovisual Law, the technical, administrative and/or financial pre-qualification criteria, as well as the obligations that must be undertaken by the persons who obtain the licences for the use of the radio frequency spectrum in a digital terrestrial television system shall be established by the Terms of Reference elaborated with a view to organising the selection procedure, a document that takes into account the strategy.

The selection procedure to be organised is a competitive one and represents the procedure by which the right of use of the radio frequency spectrum is granted to the winners of an auction, as a result of the bidding of a maximum amount for the licence fee, having the minimum amount established by Government Decision as a starting point, while ensuring the fulfilment of certain technical, administrative or financial pre-qualification criteria, as applicable.

The validity of the rights to be granted by the selection procedure is subject to the provisions of Article 61<sup>1</sup> of the Audiovisual Law.

## 1.2. Definitions and terminological clarifications

Within this document:

- § *"Commission"* – is the auction commission designated by decision of the ANCOM president;
- § *"participant"* – is the applicant or the bidder in the selection procedure;
- § *"digital terrestrial television"* – is the television system by which the television programmes are transmitted to the users by terrestrial radio means under the form of a multiplex, in accordance with a digital television standard;
- § *"digital multiplex"* – is a group of radiobroadcasting and television programme services, additional multimedia services and other associated identification data transmitted from the transmitters to the end-users by terrestrial radio means, using digital modulation within the limits of a standard television channel/frequency block;
- § *"multiplex with a national coverage"* – is a digital multiplex transmitted through an electronic communications network with national coverage;
- § *"multiplex with a regional coverage"* – is a digital multiplex transmitted through an electronic communications network covering one of the allotment areas;
- § *"multiplex with a local coverage"* – is a digital multiplex transmitted through an electronic communications network covering one locality.
- § *"free to air"* – is a non-encrypted programme transmission, respectively the free reception of these programmes;
- § the syntagms *"acquire/get/purchase/win/be awarded multiplexes/spectrum"* are used exclusively for the fluency of expression, with regard to the awarding of the rights for the use of the radio frequency spectrum included in the multiplexes envisaged by the selection procedure, and represent a simple language convention, without reference to other legal operations related to the respective radio spectrum;
- § *"DVB-T"* – Digital Video Broadcasting-Terrestrial;
- § *"DVB-T2"* – Digital Video Broadcasting-Terrestrial Second Generation;
- § *"T-DAB"* – Terrestrial Digital Audio Broadcasting;
- § *"VHF band"* – the 174-230 MHz band;
- § *"UHF band"* – the 470-862 MHz band;
- § *"RRC06"* – is the Regional Radiocommunicaton Conference organised with a view to planning the digital terrestrial television in parts of Region 1 and Region 3 of the International Telecommunication Union, in the VHF and UHF frequency bands;
- § *"The Geneva 2006 Agreement"* – is the agreement signed by the countries participating in RRC06;
- § *"The RRC06 Plan"* – is the frequency plan for digital television associated to the Geneva 2006 Agreement;
- § *"allotment"* – one of the 36 areas into which the territory of Romania was split for the purpose of achieving the RRC06 Plan;
- § *"NTFA"* – National Table for Frequency Allocations;
- § *"ITU"* – International Telecommunication Union.

## Chapter 2 – Object of the selection procedure

### 2.1. General aspects

Following the RRC06, Romania signed, alongside other states from Europe, Africa and the Middle East, the Geneva 2006 Agreement. A frequency plan for digital terrestrial television in the bands currently used for by the analogue terrestrial television service VHF and UHF has been negotiated and agreed upon.

According to the Geneva 2006 Agreement, the digital switch-over process was completed on 17 June 2015.

The RRC06 Plan, adopted following the conference, includes 6 (six) national digital terrestrial television coverages in the UHF band and 1 (one) in the VHF band, as well as a series of regional coverages. Each national coverage includes a number of 36 allotments determined taking into account the geographical configuration, as well as the demographic and administrative distribution on the territory of Romania.

After the RRC06, at the level of the European Union, there was adopted Decision no. 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (RSPP), a document which contains a five-year policy programme for planning and harmonising the usage of the radio frequency spectrum within the European Union. The RSPP defines, according to the first recital in the above-mentioned decision, the policy key actions and the goals for the strategic planning and harmonisation of the radio spectrum usage in accordance with the Directives<sup>10</sup> that apply to the electronic communications networks and services and support the goals and key actions outlined in the Commission Communication on the Europe 2020 Strategy, in the Commission Communication on "A Digital Agenda for Europe", and is included among the 50 priority actions of the Commission Communication "Towards a Single Market Act".

According to the RSPP, all the Member States had to take, until 1 January 2013, the necessary steps in order to allow the usage of the 800 MHz [790-862 MHz (channels 61-69)] band for broadband wireless services (the First Digital Dividend). Through this measure, approximately 1.5 of the 6 UHF coverages provided in the RRC06 Plan could no longer be used.

At the 2012 World Radiocommunication Conference (WRC-12), the agenda of the next World Radiocommunication Conference was established to include an item proposing that the 694-790 MHz band (channels 49-60) could be used for the same type of services as the 790-862 MHz band, as the European trends go towards giving up the use of this band for digital terrestrial television. The implementation of the Second Digital Dividend in the 694-790 MHz band involves freeing more than 2 digital terrestrial coverages in the UHF band.

For the purpose of ensuring a reasonable number of national coverages in the UHF band, ANCOM initiated, subsequently to WRC-12, a process of replanning and coordinating with the neighbouring countries the use of the channels in the 470-694 MHz band (channels 21-48). An important share of these radio channels have already been coordinated, others are in process of coordination. Therefore, until the completion of the coordination process, channels in the 694-790 MHz band will also be used and subsequently replaced according to the coordination results.

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<sup>10</sup> Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services, Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services and Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities and 2002/20/EC on the authorisation of electronic communications networks and services.



## 2.2. Digital television multiplexes

Through this selection procedure, the following licences will be granted:

- § 2 national licences (one in the UHF and one in the VHF band) and
- § 26 regional licences and 18 local licences, according to the provisions under 3.1.4 and 3.2.5 in the Strategy.

The licences under this selection procedure allow the use of the radio frequency spectrum with a view to operating:

- § two national digital terrestrial television multiplexes. Each of the two licences grants the right to use certain radio frequencies with a view to operating a digital terrestrial television multiplex, through allotment at a national level;
- § regional/local multiplexes.

The two national licences available within the procedure are encoded as follows:

- 1) Multiplex no.3 (UHF) – MUX 3;
- 2) Multiplex no.5 (VHF) – MUX 5.

The allotment of the channels for the national digital terrestrial television multiplexes under this selection procedure is presented in Table 1 below.

Table 1 – Structure and channels of national digital television multiplexes

No.	Allotment	MUX 3 Chan.	MUX 5 Chan.	Remarks
1	ROU001- CONSTANȚA	48	10	
2	ROU002 –CĂLĂRAȘI	47	7	
3	ROU003 – BUCHAREST	32	8	
4	ROU004 –ALEXANDRIA	35	6	
5	ROU006 – CRAIOVA	39	8	
6	ROU007 – CALAFAT	35	5	
7	ROU008 – REȘIȚA	38	9	
8	ROU009 - DR. TURNU SEVERIN	47	6	
9	ROU010 - PETROȘANI	38	9	
10	ROU011 - RÂMNICU VÂLCEA	26	5	
11	ROU012 - PLOIEȘTI	39	10	
12	ROU013 – BUZĂU	27	5	
13	ROU014 – GALAȚI	26	6	
14	ROU015 - TULCEA	32	9	
15	ROU017 - BRAȘOV	42	6	
16	ROU018 – SIBIU	47	7	
17	ROU019 – DEVA	41	10	
18	ROU020 – FĂGET	26	5	
19	ROU021 - TIMIȘOARA	35	8	
20	ROU022 – ARAD	35	8	
21	ROU023 – ORADEA	27	5	
22	ROU024 – BIHOR	31	7	
23	ROU025 - CLUJ- NAPOCA	22	9	
24	ROU026 - TÂRGU MUREȘ	27	5	
25	ROU027 – GHEORGHENI	45	8	
26	ROU028 - PIATRA NEAMȚ	27	10	
27	ROU029 – BACĂU	35	5	

28	ROU030 – IAȘI	44	9	
29	ROU031 - BOTOȘANI	35	6	
30	ROU032 – SUCEAVA	21	7	
31	ROU033 – BISTRIȚA	46	6	
32	ROU034 – SIGHET	26	5	
33	ROU035 – ZALĂU	35	8	
34	ROU036 - SATU MARE	47	8	
35	ROU039 – FOCȘANI	32	9	
36	ROU040 - COMĂNEȘTI	37	7	

The geographic coordinates, the shape and the map location of the allotments in the table above are presented in Annex no.5.

The location on the map of the areas specified in the table above is presented in image 1.

The allotment of the channels for the regional digital terrestrial television multiplexes under this selection procedure is presented in Table 2 below.

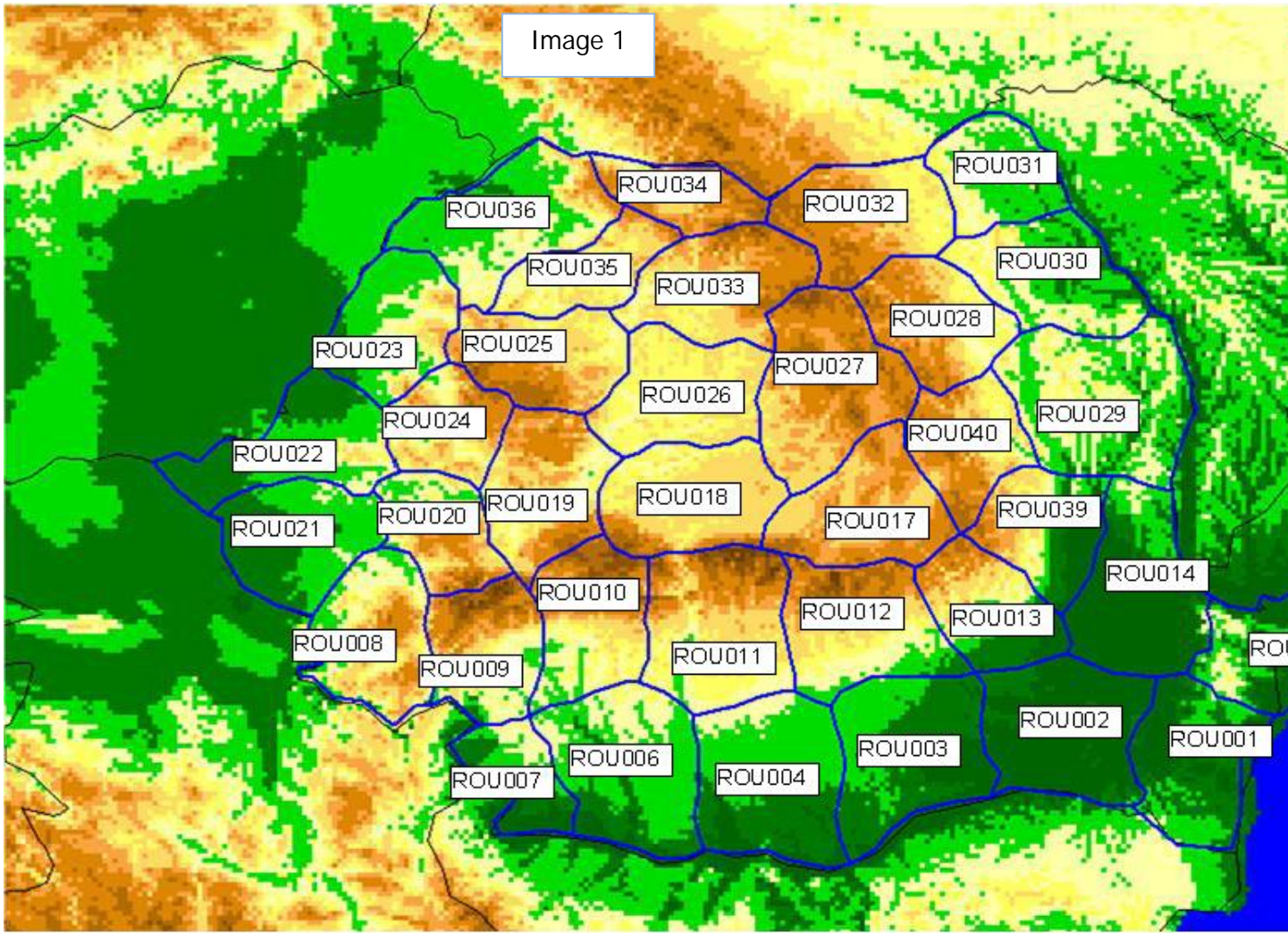
Table 2 – Regional digital television multiplexes

No.	Allotment	REG1 Channel	REG2 Channel	REG3 Channel
1.	ROU001 - CONSTANȚA	25	23	37
2.	ROU002 – CĂLĂRAȘI	42		
3.	ROU004 - ALEXANDRIA	47		
4.	ROU006 – CRAIOVA	44		
5.	ROU008 – REȘIȚA	48		
6.	ROU009 - DR. TURNU SEVERIN	42		
7.	ROU010 – PETROȘANI	48		
8.	ROU011 - RÂMNICU VÂLCEA	45		
9.	ROU014 – GALAȚI	43		
10.	ROU017 - BRAȘOV	31		
11.	ROU018 – SIBIU	30		
12.	ROU019 – DEVA	35	34	
13.	ROU021 - TIMIȘOARA	27		
14.	ROU023 - ORADEA	48		
15.	ROU025 - CLUJ-NAPOCA	29		
16.	ROU026 - TÂRGU MUREȘ	38		
17.	ROU027 - GHEORGHENI	44		
18.	ROU034 - SIGHET	44	45	
19.	ROU035 – ZALĂU	41		
20.	ROU039 - FOCȘANI	30		
21.	ROU040 - COMĂNEȘTI	46	47	

The allocation of channels for the local digital terrestrial television multiplexes under the selection procedure is presented in Table 3.

Table 3 – Regional digital television multiplexes

No.	Allotment	Transmitter	Channel	ERP (dBW)	Polarisation
1	ROU001- CONSTANȚA	Constanța	24	33	V
2		Constanța	28	33	V
3		Constanța	34	37	V
4	ROU006 – CRAIOVA	Craiova	43	33	V
5	ROU011 - RĂMNICU VĂLCEA	Pitești	40	37	V
6	ROU014 – GALAȚI	Galați	31	33	V
7	ROU017 – BRAȘOV	Brașov	26	35	V
8	ROU021 - TIMIȘOARA	Timișoara	40	33	V
9		Timișoara	46	33	V
10	ROU022 – ARAD	Arad	42	37	V
11	ROU025 – CLUJ-NAPOCA	Cluj-Napoca	44	33	V
12	ROU026 - TÂRGU MUREȘ	Târgu Mureș	41	33	V
13	ROU029 – BACĂU	Bârlad	22	33	V
15		Vaslui	38	33	V
16	ROU030 – IAȘI	Iași	48	37	V
17	ROU032 - SUCEAVA	Suceava	22	37	V
18	ROU035 - ZALĂU	Zalău	32	33	V
19	ROU036 – SATU MARE	Baia Mare	29	33	V



### 2.3. General conditions for the implementation of the digital terrestrial television multiplexes

The multiplexes available within the procedure (the two national licences and the other regional/local licences) will enable the provision of publicly available electronic communications services consisting of transmitting television programme services.

The multiplex capacity may be also used for the transmission of broadcasting-related services, such as subtitling, EPG (Electronic Programme Guide), digital audio broadcasting and teletext. Where part of the multiplex capacity is not used for broadcasting services, it may be used for data transmission and Internet access services, without exceeding 20% of the total multiplex capacity.

All the channels in Table 1 are coordinated with the neighbouring countries within the frame of the RRC06 conference or subsequent to it and may be implemented with immediate effect.

The channels assigned for allotments in tables 1 and 2 will be used for establishing national and, respectively, regional electronic communications networks with a view to providing television programme services in digital terrestrial format. The number and the location of the transmitters corresponding to each allotment will be chosen so as to ensure effective radio coverage of the area within the respective allotment. The effective assignments containing the technical requirements of the transmitters corresponding to each allotment will be proposed by the licence holder, while ensuring the radio compatibility between the transmitters of the network, and will be verified in accordance with the provisions of the Decision of the President of the National Authority for Management and Regulation in Communications no. 629/2010 on the procedure for the authorisation of the provision of audiovisual services.

Channels in Table 3 are assigned for local stations, with specified localities within the range of which the station is to be installed, as well as the maximum ERP.

The specific conditions for the use of the channels assigned to each local, regional or national multiplex will be specified after the licence has been awarded, in the assignment authorisations that are annexes to the respective licence.

## Chapter 3 – Legal regime of the rights of use

### 3.1. Licence duration

The right of use will be granted for a 10-year period according to Article 61<sup>1</sup>(1) of the Audiovisual Law. The licence may be extended under the legal conditions.

### 3.2. Rights granted under licence

According to the provisions of the Audiovisual Law, through the licence, a person authorised in accordance with the provisions of Article 6 of the Government Emergency Ordinance no. 111/2011 on electronic communications is granted the right to use the radio frequency spectrum for a determined period in the digital terrestrial system, for the purpose of providing public electronic communication networks and publicly available electronic communications services, in compliance with certain technical parameters.

The holders of the licences to be granted following the selection procedure will be able to instal, operate, control and make available to third parties a public electronic communications network, as well as the corresponding infrastructure, in order to provide - in digital terrestrial system - publicly available electronic communications services consisting of transmitting television programme services corresponding to the digital audiovisual licences awarded by the National Audiovisual Council, according to the legal provisions, as well as other related services, using the radio frequencies for which they acquire rights of use following the procedure.

The holders will have the obligation to exercise their rights arising from the licence under such conditions as to ensure the effective, rational and efficient use of the radio spectrum and prevent harmful interferences.

The adoption of a good engineering system in the installation, operation and control of the electronic communications network represents a necessary condition, meant to ensure higher service quality, as well as a minimum potential of harmful interference with other radiocommunication systems that operate in frequency bands according to the NTFA.

### 3.3. Obligations imposed under licence

#### *3.3.1. Radio coverage obligations*

##### 3.3.1.1. Coverage obligations for MUX 3 and MUX5

With a view to the efficient and effective use of the allotted radio spectrum, within two years from the date of communicating the licence/licences, each of the networks corresponding to MUX 3 and MUX 5 will have to be operational with at least 36 transmitters - one in each allotment.

##### 3.3.1.2. Coverage obligations for regional and local licences

With a view to the efficient and effective use of the allotted radio spectrum, each of the networks corresponding to the regional/local licences will have to be operational with at least one transmitter in each allotment, within one year from the date of communicating the licence/licences.

3.3.2. Obligations regarding compliance with certain technical and operational conditions for the use of the radio spectrum

3.3.2.1 Channel arrangement in the VHF and UHF bands

The arrangement and numbering of the digital television channels in the VHF and UHF bands are presented in Table 4 and, respectively, Table 5.

Table 4 – Channel arrangement in the VHF band

Channel number	Channel limits (MHz)
5	174-181
6	181-188
7	188-195
8	195-202
9	202-209
10	209-216
11	216-223
12	223-230

Table 5 – Channel arrangement in the UHF band

Channel number	Channel limits (MHz)	Channel number	Channel limits (MHz)	Channel number	Channel limits (MHz)
21	470-478	38	606-614	55	742-750
22	478-486	39	614-622	56	750-758
23	486-494	40	622-630	57	758-766
24	494-502	41	630-638	58	766-774
25	502-510	42	638-646	59	774-782
26	510-518	43	646-654	60	782-790
27	518-526	44	654-662	61	790-798
28	526-534	45	662-670	62	798-806
29	534-542	46	670-678	63	806-814
30	542-550	47	678-686	64	814-822
31	550-558	48	686-694	65	822-830
32	558-566	49	694-702	66	830-838
33	566-574	50	702-710	67	838-846
34	574-582	51	710-718	68	846-854
35	582-590	52	718-726	69	854-862
36	590-598	53	726-734		
37	598-606	54	734-742		

3.3.2.2 Terrestrial television system

The television standard used both in the VHF band and in the UHF band will be DVB-T2 (Digital Video Broadcasting Terrestrial Second Generation), adopted through the standard ETSI EN 302 755 v1.3.1 (04.2013) "Digital Video Broadcasting (DVB); Frame Structure channel coding and modulation for a second generation digital terrestrial television system (DVB-T2)".

The encoding standard will be MPEG 4, according to the standard ISO/IEC 14496 "Information Technology – Coding of audio-visual objects".

During RRC06, the DVB-T and T-DAB systems were established as the ones envisaged by the RRC06 Plan, the signatory countries of the Geneva 2006 Agreement accepting these systems as the only ones for which the plan and its entries could be amended. Therefore, Article 4 of the Geneva 2006 Agreement, establishing the procedures for amending the RRC06 Plan and for the



coordination with other services with primary status in these frequency bands, was laid down with special consideration of the above-mentioned systems.

Nevertheless, Article 5 of the Geneva 2006 Agreement allows that, if an administration intends to implement a plan entry with another digital system (e.g. DVB-T2 or other preferred digital system), it may do so in compliance with the provisions of Article 5.1.3 of the Agreement, which provides:

*" A digital entry in the Plan may also be notified with characteristics different from those appearing in the Plan, for transmissions in the broadcasting service or in other primary terrestrial services operating in conformity with the Radio Regulations, provided that the peak power density in any 4 kHz of the above-mentioned notified assignments shall not exceed the spectral power density in the same 4 kHz of the digital entry in the Plan. Such use shall not claim more protection than that afforded to the above-mentioned digital entry."*

For the implementation of the DVB-T2 system it is essential that the DVB-T assignments and allotments in the RRC06 Plan be used, in order to avoid a re-planning process and the hindering of the DVB-T2 system introduction.

Following the above-mentioned requirements, one of the conditions for using the DVB-T2 system is that the emission systems using the specifications of the DVB-T2 standard should observe the interference levels and the spectrum mask such as defined during GE06 and should not produce greater interferences than the DVB-T system.

In comparison with the DVB-T system, as planned in RRC06, the DVB-T2 system:

- § has the same (or better) values of the protection ratios and comparable values of the minimum usable field strength for various implementation options;
- § can use the same polarisation as the digital entries in the Plan;
- § can provide the same coverage area using the same or a lower radiated power;
- § holds the same (or lower) level of the spectrum power density for system options that occupy the same band and use the same (or higher) number of OFDM (FFT no.) carriers, for the same values of the radiated power.

Therefore, the protection ratios, as well as the calculation methods for the electromagnetic fields at the border of each allotment must correspond to the ones provided in the Geneva 2006 Agreement.

The DVB-T2 system allows sufficient flexibility as regards the number of system variants equivalent to the DVB-T system variants, as to maintaining the same service area and providing the possibility to use assignments that comply with the provisions of Article 5.1.3 of the Geneva 2006 Agreement. As well, the spectrum mask of the DVB-T2 signal must match the one provided in diagram 3-3 and table 3-11 of the Geneva 2006 Agreement. Nevertheless, there are certain DVB-T2 system variants with an extended number of carriers for the 7 MHz band that are not compatible with the "plan entry" concept in Article 5.1.3 of the Agreement.

The DVB-T2 system variants compatible with the RRC06 Plan are presented in Tables 6 and 7.

Table 6 – DVB-T2 system variants compatible in VHF (7 MHz channelling)

Modulation	Number of carriers	Encoding rate	Guard interval
QPSK or 16-QAM or 64-QAM or 256-QAM	2k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/32, 1/16, 1/8, 1/4
	4k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/32, 1/16, 1/8, 1/4
	8k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128, 1/4
	16k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128, 1/4
	32k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128

Table 7 – DVB-T2 system variants compatible in UHF (8 MHz channelling)

Modulation	Number of carriers	Encoding rate	Guard interval
QPSK or 16-QAM or 64-QAM or 256-QAM	2k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/32, 1/16, 1/8, 1/4
	4k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/32, 1/16, 1/8, 1/4
	8k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128, 1/4
	16k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128, 1/4
	32k	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128
	8k extended	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128, 1/4
	16k extended	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128, 1/4
	32k extended	1/2, 3/5, 2/3, 3/4, 4/5, 5/6	1/128, 1/32, 1/16, 19/256, 1/8, 19/128

Another parameter that must be taken into account in establishing the DVB-T2 system variant is the pilot pattern (PP).

The DVB-T2 system variants that may be implemented are obtained by combining the parameters in Table 6 and, respectively Table 7, as well as by choosing a corresponding pilot pattern (matrix). The pilot signals are carriers that do not contain concrete data, but are used for information regarding the channel estimate, equalization, error correction and synchronisation, while DVB-T2 receivers use these pilot signals to perform channel measurements and to estimate the channel response for each OFDM cell, so that the distortions of the received signal should be corrected to a certain extent.

Within the DVB-T2 system, there are 8 pilot patterns available, from PP1 to PP8. Due to the fact that the pilot patterns are suitable to certain radio channel types, the range of these patterns offers, in the network planning, a greater freedom of choice with respect to the transmission manner and the pilot pattern depending on the desired type of transmission channel or type of reception.

In choosing the pilot matrix, the winners of the selection procedure will take into consideration the following key factors:

- § Doppler Performances: pattern types with a higher repeating sequence, where the pilot signals repeat each second OFDM symbol, offer a good Doppler performance; for the networks where the Doppler factor is essential (networks designed for mobile and nomadic reception), PP2, PP4 or PP6 are best suited;
- § Capacity: the less dense the pilot signal networks, the greater the data transmission capacity; although the trend goes toward having a greater capacity, a reduction in the pilot signals will affect other network performances (e.g. Doppler);
- § The number of FFT carriers and the guard interval: not all the pilot patterns may be used for any combination between the number of carriers and the guard interval; the usable patterns are presented in Table 8;
- § The carrier-to-noise ratio (C/N): the carrier-to-noise ratio depends on the pilot pattern; thus, the denser the pilot signal network used by the carrier, the higher the carrier-to-noise ratio needed; where the carrier-to-noise ratio is a key factor, matrixes with a lower density of pilot signals must be chosen, such as PP6 or PP7.

A PP1 pattern offers greater carrier resilience to self-interference, whereas PP6 and PP7 are the most vulnerable to self-interference.

Table 8 – Pilot patterns that may be used for a certain combination between the number of carriers (FFT) and the guard interval

FFT size	Guard interval						
	1/128	1/32	1/16	19/256	1/8	19/128	1/4
32k	PP7	PP4 PP6	PP2 PP8 PP4	PP2 PP8 PP4	PP2 PP8	PP2 PP8	<i>n/a</i>
16k	PP7	PP7 PP4 PP6	PP2 PP8 PP4 PP5	PP2 PP8 PP4 PP5	PP2 PP3 PP8	PP2 PP3 PP8	PP1 PP8
8k	PP7	PP7 PP4	PP8 PP4 PP5	PP8 PP4 PP5	PP2 PP3 PP8	PP2 PP3 PP8	PP1 PP8
4k, 2k	<i>n/a</i>	PP7 PP4	PP4 PP5	<i>n/a</i>	PP2 PP3	<i>n/a</i>	PP1
1k	<i>n/a</i>	<i>n/a</i>	PP4 PP5	<i>n/a</i>	PP2 PP3	<i>n/a</i>	PP1

### 3.3.2.3 Types of reception

The digital terrestrial television network may be implemented for various types of reception, using a corresponding DVB-T2 system variant, namely a combination of the parameters in the Tables 6, 7 and 8.

#### 3.3.2.3.1. Fixed reception

The fixed reception is defined as reception that uses a directive antenna mounted on top of buildings. In the calculation of the electromagnetic field for the fixed reception, an antenna height of 10 m above the ground will be considered.

#### 3.3.2.3.2. Portable reception

Portable reception is defined as stationary reception or reception in slow motion (walking). Portable reception may be of two types:

§ Class A: outdoor portable reception:

- ü with an external antenna or a receiver-integrated antenna
- ü at an antenna height of at least 1.5 m above the ground at slow motion speeds or at a standstill.

§ Class B: indoor portable reception:

- ü with an external antenna or a receiver-integrated antenna
- ü at an antenna height of at least 1.5 m above the ground at slow motion speeds or at a standstill
- ü on the groundfloor, in rooms with a window on an external wall.

In this type of reception, the portable receiver is considered to be steady during reception, while large objects around keep their position.

#### 3.3.2.3.3. Mobile reception

Mobile reception is defined as reception by a moving receiver with an antenna height of no less than 1.5 m above the ground. Moving speeds may range from that of a walking person to that of a car on a highway or that of fast trains.

#### 3.3.2.3.4 Handheld reception

##### 3.3.2.3.4.1 Portable handheld reception

Portable handheld reception is defined as reception at a standstill or in slow motion (walking). Compared to the portable reception defined under 2.2.3.3.2, the reception antenna gain differs. Portable handheld reception may be categorized into two classes:

- § Class H-A: outdoor portable handheld reception:
  - ü with an external antenna or a receiver-integrated antenna;
  - ü at an antenna height of at least 1.5 m above the ground at slow motion speeds or at a standstill.
- § Class H-B: indoor portable handheld reception:
  - ü with an external antenna or a receiver-integrated antenna;
  - ü at an antenna height of at least 1.5 m above the ground at slow motion speeds or at a standstill;
  - ü on the groundfloor, in rooms with a window on an external wall.

##### 3.3.2.3.4.2 Mobile handheld reception

Mobile handheld reception may be categorized into two classes:

- § Class H-C: handheld reception inside a moving vehicle:
  - ü with the receiver antenna connected to the vehicle external antenna;
  - ü at an antenna height of at least 1.5 m above the ground at high speeds.
- § Class H-D: handheld reception inside a moving vehicle:
  - ü without a connection between the receiver antenna and the vehicle external antenna;
  - ü with an external antenna or a receiver-integrated antenna;
  - ü at an antenna height of at least 1.5 m above the ground at high speeds.

#### 3.3.2.4. Network types

##### 3.3.2.4.1. Multifrequency network (MFN)

A network of transmitters using several transmission channels.

##### 3.3.2.4.2. Single-frequency network (SFN)

A network of synchronized transmitters radiating identical signals in the same transmission channel.

##### 3.3.2.5. Polarisation

The RRC06 plan, for the segment dedicated to Romania, has been elaborated taking into account that the assignments within the allocations will have vertical polarisation, in order to facilitate the implementation of digital multiplexes also in case of portable/mobile reception.

Nevertheless, national and regional multiplexes may be implemented also for the fixed reception, using the horizontal polarisation for assignments, which requires a case-by-case analysis of each situation and the possibility of imposing power restrictions, with a view to ensuring compatibility with the co-channel allotments in the country or in the neighbouring countries.

##### 3.3.2.6. The field values used for the implementation of digital terrestrial television networks (according to the ITU-R BT.2254/2012 Report).

Taking into account the many DVB-T2 system variants, obtained from combining the parameters of this television standard, data regarding the field values used in planning the network for each of the variants are difficult to provide.

Based on the reception type, there is a set of recommended system variants (Table 8), so as to ensure both the network resilience and an increased capacity of the transmitted data.

Table 9 – Reception types, DVB-T2 system variants, carrier-to-noise ratio (C/N)

Reception type	Recommended DVB-T2 option	C/N (dB)
Fixed	256-QAM, FEC 2/3, 32k, PP7(MFN) / PP2(SFN)	20
Outdoor portable/urban (Class A)	64-QAM, FEC 2/3, 32k, PP4	17.9
Indoor portable/urban (Class B)	64-QAM, FEC 2/3, 16k, PP1	18.3
Mobile/rural	16-QAM, FEC 1/2, 8k, PP1	10.2
Outdoor portable handheld (Class H-A)	16-QAM, FEC 1/2, 16k, PP3	9.8
Outdoor portable handheld (Class H-D)	16-QAM, FEC 1/2, 8k, PP2	10.2

Tables 10 and 11 illustrate the field strength values for planning networks based on the reception type for the VHF and UHF bands.

Table 10 – DVB-T2 in VHF

Reception type / Parameter	Fixed	Outdoor portable/urban	Indoor portable/urban	Outdoor portable handheld	Mobile handheld with an integrated antenna (class H-D)
Required carrier-to-noise ratio C/N (dB)	20	17.9	18.3	9.8	10.2
System variant	256-QAM, FEC 2/3, 32k, PP7(MFN)/PP2(SFN)	64-QAM, FEC 2/3, 32k, PP4	64-QAM, FEC 2/3, 16k, PP1	16-QAM, FEC 1/2, 16k, PP3	16-QAM, FEC 1/2, 8k, PP2
Data capacity (Mbit/s)	30-35	22-25	19-24	10-13	10-12
Probability of covered locations (%)	70	70	70	70	90
Minimum usable field <sup>1)</sup> (dBmV/m)	41.3	52.4	62.4	51.1	64.1
Probability of covered locations (%)	95	95	95	95	99
Minimum usable field <sup>1)</sup> (dBmV/m)	47.4	58.5	69.2	57.2	70.3

The values in Table 10 are established for the 200 MHz frequency and for a 7 MHz bandwidth.

<sup>1)</sup> These values are determined for a receiver antenna height of 10 m for the fixed reception and of 1.5 m for the other reception types.

Table 11 – DVB-T2 in UHF

Reception type Parameter	Fixed reception	Outdoor portable/urban	Indoor portable/urban	Mobile/rural	Outdoor portable handheld	Mobile handheld with an integrated antenna (class H-D)
Required carrier-to-noise ratio C/N (dB)	20	17.9	18.3	10.2	9.8	10.2
System variant	256-QAM, FEC 2/3, 32k, PP7 (MFN) / PP2 (SFN)	64-QAM, FEC 2/3, 32k, PP4	64-QAM, FEC 2/3, 16k, PP1	16-QAM, FEC 1/2, 8k, PP1	16-QAM, FEC 1/2, 16k, PP3	16-QAM, FEC 1/2, 8k, PP2
Data capacity (Mbit/s)	35-40	26-29	23-28	11-14	12-15	11-14
Probability of covered locations (%)	70	70	70	90	70	90
Minimum usable field <sup>1)</sup> (dBmV/m)	48.2	54.1	66.8	49.5	54.2	67.5
Probability of covered locations (%)	95	95	95	99	95	99
Minimum usable field <sup>1)</sup> (dBmV/m)	54.3	60.2	75.9	55.2	60.6	73.7

<sup>1)</sup> These values are determined for a receiver antenna height of 10 m for the fixed reception and of 1.5 m for the other reception types.

The values in Table 11 are established for the 650 MHz frequency and for an 8 MHz bandwidth. With a view to calculating the electromagnetic field for a different frequency, a correction factor differentiated by reception type shall be used. Thus, the correction factor for the fixed reception is  $C=20\log_{10}(f/650)$ , while for the mobile reception the correction factor is  $C=30\log_{10}(f/650)$ .

With a view to ensuring the compatibility of neighbouring allotments using the same channel, at any point on the allotment contour, compliance with a maximum field strength level of 70 dBmV/m, in the VHF band, respectively 80 dBmV/m, in the UHF band for the national multiplexes and 60 dBmV/m, in the UHF band, for the regional multiplexes, will be taken into account when planning the assignments. The maximum effective radiated power of a transmitter cannot exceed 50 kW, both for the national and for the regional multiplexes.

Under exceptional circumstances, grounded through the technical documentation submitted to ANCOM with a view to obtaining assignment authorisations, ANCOM may approve the usage of an effective radiated power above 50 kW, on the condition of observing the conformity with the GEO6 plan and, implicitly, the compatibility with the allotments in the neighbouring countries, as well as with the allotments in other multiplexers of other owners than the one of the concerned multiplex.

### 3.3.2.7. Technical conditions for the use of the radio spectrum in border areas

In border areas, the assigned radio frequencies will be used only based on the coordination with the communication administrations of the neighbouring countries, in compliance with the requirements resulting from the enforcement of the international agreements in which Romania is a party or from the international regulations regarding the coordination of radio frequencies applicable to the assigned spectrum.

ANCOM will analyse the licence holder's assignment proposals and, where coordination is needed, it will request the agreement of the neighbouring country involved. The coordination will be performed during a process of at least 3 months. Until the coordination process is completed and ANCOM's approval obtained, the licence holder will not be empowered to implement the proposed assignments.

The procedures of coordination with the neighbouring countries and of notifying the ITU on the amendments to the RRC06 Plan are those provided in the Geneva 2006 Agreement, pursuant to article 5.1.3.

### *3.3.3. Obtaining the frequency assignment authorisations*

A licence holder has the obligation to obtain the frequency assignment authorisation/authorisations, hereinafter referred to as FAA, in accordance with the legal provisions in force.

On the date of publishing the Terms of Reference, the procedure for obtaining an FAA is regulated by Articles 26-27 of the ANCOM President's Decision no. 629/2010.

The frequency assignments for the transmitters in the network, as well as the technical parameters defining the service area associated to the assigned frequencies and the characteristics of the radio signals transmitted within the network, are included in the frequency assignment authorisations.

For the national and regional multiplexes, the licence holder will propose the actual assignments for each transmitter in the electronic communications network, within the limits of the allotments and under the technical operational conditions provided in the licence. The assignments will be chosen so as to ensure the best coverage of an allotment, without exceeding the field strength levels established by these Terms of Reference. A licence holder may complain about harmful interferences only within and on the perimeter of the allotment for which it has been licenced.

Taking into account the technical conditions considered in the establishment of the RRC06 plan, with a view to observing the compatibility between co-channel allotments, the assignments will be so designed as to avoid the use of sites with increased effective height, which could be accepted only in certain cases following the analysis of the technical proposals submitted to ANCOM, based on the channel configuration in the neighbouring allotments and in the neighbouring countries.

### *3.3.4. Obtaining the technical authorisation*

The transmitter/transmitters can be effectively used only upon obtaining the technical authorisation/authorisations, hereinafter referred to as TA, in accordance with the legal provisions in force.

On the date of publishing the Terms of Reference, the procedure of obtaining the technical authorisation is regulated by Articles 33-35 in the ANCOM President's Decision no. 629/2010.

### 3.4. Transfer of the usage rights

The rights to be granted through the selection procedure may be transferred, under the legal provisions, only upon obtaining ANCOM's prior approval, the consultative advice of the National Audiovisual Council and only upon the new holder's commitment to fulfilling all the obligations associated to the licence.

The legal provisions that currently regulate the transfer of the frequency usage rights are the following:

- § Article 66(2) of the Audiovisual Law;
- § Chapter IV – "Transfer of the frequency usage rights" in the ANCOM President's Decision no. 629/2010.

### 3.5. Amounts to be paid by the licence holders

The winners of the selection procedure organised with a view to awarding the rights for the use of the radio frequency spectrum will take into account the following:

- § the payment of the licence fee established following the selection procedure under the terms of Article 59(5) of the Audiovisual Law and of the Government Decision no. 86/2014 on granting the licences for the use of the radio frequency spectrum in the digital terrestrial television system;
- § the payment of the spectrum usage tariff, charged annually pursuant to the provisions of Article 62 of the Audiovisual Law, as well as of the ANCOM President's Decision no. 551/2012 on establishing the spectrum usage tariff, with the subsequent amendments and completions.



### 3.6. Assessment methodology and obligation compliance control

In assessing the coverage conditions, only the coverage of the transmitters for which the technical authorisation was obtained under the legal provisions will be taken in consideration.

In order to fulfil the coverage obligation provided under 3.3.1.1, the licence winner/winners will have to install – within two years from the date of communicating the licence/licences - at least one transmitter in each allotment area, which must be in operation and hold a valid TA.

The transmitter will be installed in a location within the allotment and will function on the channel allotted for the respective area, observing the parameters in the assignment authorisation issued by ANCOM.

In pursuit of the coverage obligations provided under 3.3.1.2, the licence winner/winners will have to install the transmitters corresponding to their regional/local licences so that these should be in operation and hold a valid TA, within one year from the date of communicating the licence/licences.

The coverage measurements provided under 3.3.1.1 and 3.3.1.2 will be carried out in a fixed, mobile or combined regime, based on the system parameters chosen for implementation by each multiplex operator. The assessment of the verified parameters and the measurements will be conducted in accordance with the provisions of the relevant international standards (ETSI 302755, ETSI 302296, ETSI 101290, ITU-R SM.1875-1, ITU-R SM 1708-1 etc.).

The coverage will be verified taking into consideration the following:

- 1) the coverage of each allotment within a multiplex will be verified;
- 2) the verified surface will be the one assessed in the technical documentation submitted by the holder for each allotment;
- 3) at least the following parameters will be verified and measured:
  - § type of modulation;
  - § number of carriers (FFT);
  - § coding rate;
  - § guard interval;
  - § pilot pattern (PPT);
  - § centre frequency of the transmission channel;
  - § effective radiated power;
  - § polarisation;
  - § signal level in test points (dBuV/m);
  - § Modulation Error Ratio (MER);
  - § Bit Error Ratio (BER).

### 3.7. Licence amendment and withdrawal of the usage rights

The licences awarded following the selection procedure may be amended under the provisions of Articles 28-29 of the ANCOM President's Decision no. 629/2010.

ANCOM will amend or revoke the licences, as the case may be, also following the occurrence of one of the following situations:

- § transfer of rights;
- § withdrawal of rights, as applicable, under the provisions of the Audiovisual Law;
- § amendment of the technical conditions provided in the licence following the conclusion/completion of the international frequency coordination process.

"Serious infringement" of the obligations provided in the licence will be deemed the failure to comply with the coverage obligations laid down in these Terms of Reference. These obligations will be provided also in the licences under this procedure.

The usage right conferred by the licence ceases in the situations under the provisions of Article 42 of the ANCOM President's Decision no. 629/2010.

## Chapter 4 – Selection procedure

### 4.1. Multiplexes available and applicable restrictions

#### 4.1.1. Description of the multiplexes offered within the procedure

The following multiplexes will be auctioned out:

- a) two digital terrestrial television multiplexes will be auctioned out, 1 (one) of which in UHF and 1 (one) in VHF, itemised by 2 categories: B and C
- b) 26 regional multiplexes and 18 local multiplexes, itemised by 37 categories: from E to K.

Television programme services provision can start once the licence/licences for the use of radio frequencies in digital terrestrial system together with the frequency assignment authorisation/authorisations and with the technical authorisation/authorisations are issued.

Table 12 – Digital television multiplexes available

No.	Category	MUX/Allotment/Assignment	Scope	No. of multiplexes	
1	B	MUX3	NAȚIONAL - UHF	1	
2	C	MUX5	NAȚIONAL - VHF	1	
3	E	E1	ROU001 - CONSTANȚA	REGIONAL	3
4		E3	ROU006 - CRAIOVA	REGIONAL	1
5		E5	ROU014 - GALAȚI	REGIONAL	1
6		E6	ROU017 - BRAȘOV	REGIONAL	1
7		E7	ROU021 - TIMIȘOARA	REGIONAL	1
8		E8	ROU023 - ORADEA	REGIONAL	1
9		E9	ROU025 - CLUJ- NAPOCA	REGIONAL	1
10		F	F1	ROU008 - RESIȚA	REGIONAL
11	F2		ROU010 - PETROȘANI	REGIONAL	1
12	F3		ROU011 - RÂMNICU VÂLCEA	REGIONAL	1
13	F5		ROU018 - SIBIU	REGIONAL	1
14	F6		ROU019 - DEVA	REGIONAL	2
15	F7		ROU026 - TÂRGU MUREȘ	REGIONAL	1
16	F8		ROU027 – GHEORGHENI	REGIONAL	1
17	F12		ROU034 – SIGHET	REGIONAL	2
18	F13		ROU039 - FOCSANI	REGIONAL	1
19	F14		ROU009 – DROBETA-TURNU SEVERIN	REGIONAL	1
20	G	G1	ROU002 - CĂLĂRAȘI	REGIONAL	1
21		G2	ROU004 - ALEXANDRIA	REGIONAL	1
22		G4	ROU035 – ZALĂU	REGIONAL	1
23		G5	ROU040 - COMĂNEȘTI	REGIONAL	2
24	H	H1	CONSTANȚA	LOCAL	3
25		H2	CRAIOVA	LOCAL	1

26	H3	GALAȚI	LOCAL	1	
27	H4	BRAȘOV	LOCAL	1	
28	H5	TIMIȘOARA	LOCAL	2	
29	H6	ARAD	LOCAL	1	
30	H7	CLUJ-NAPOCA	LOCAL	1	
31	H8	IAȘI	LOCAL	1	
32	I	I1	PITEȘTI	LOCAL	1
33		I2	TÂRGU MUREȘ	LOCAL	1
34		I4	VASLUI	LOCAL	1
35		I5	SUCEAVA	LOCAL	1
36		I6	BAIA MARE	LOCAL	1
37	J	ZALĂU	LOCAL	1	
38	K	BĂRLAD	LOCAL	1	

#### 4.1.2. Reserve price (minimum licence fee) and eligibility points

Each multiplex has an associated reserve price (minimum licence fee) and a number of eligibility points.

The reserve price is equal to the minimum licence fee for each multiplex.

The eligibility points are "quotations" of the multiplexes submitted to the selection procedure, counting as a "trading stock" in acquiring the rights of use corresponding to the respective multiplexes. The bidders "purchase", once with the submission of the initial bid form and of the participation bond, a certain budget of eligibility points, corresponding to the maximum number of multiplexes for which a bidder participates in the auction.

Eligibility is, therefore, a qualification pre-requisite for acquiring the rights of use one/several multiplex/multiplexes and may vary during the auction, according to the activity rules (Section 5.3.5). The eligibility of a bidder in a certain round means the number of eligibility points available to the respective bidder in the respective round, defining the respective bidder's qualification for acquiring the spectrum quantity corresponding to the respective number of points, should the auction be closed in the respective round.

Table 13 – Reserve prices and eligibility points for the national multiplexes available in the selection procedure

Category	Band	Reserve price (licence fee)	Eligibility points
B	UHF	EUR 300,000	300
C	VHF	EUR 300,000	300

Table 14 – Reserve prices and eligibility points  
for the regional/local multiplexes available in the selection procedure

Category	Region/locality	Reserve price (licence fee)	Eligibility points
E	Regional multiplex allotted for areas ROU001 - Constanța, ROU006 - Craiova, ROU014 - Galați, ROU017 - Brașov, ROU021 - Timișoara, ROU023 - Oradea and ROU025 - Cluj-Napoca	10,000	10
F	Regional multiplex allotted for areas ROU008 - Reșița, ROU009 - Drobeta Turnu Severin, ROU010 - Petroșani, ROU011 - Râmnicu Vâlcea, ROU018 - Sibiu, ROU019 - Deva, ROU026 - Târgu Mureș, ROU027 - Gheorgheni, ROU034 - Sighet and ROU039 - Focșani	8,000	8
G	Regional multiplex allotted for areas ROU002 - Călărași, ROU004 - Alexandria, ROU035 – Zalău and ROU040 - Comănești	4,200	4
H	Multiplex allotted for a locality that is a county capital in areas ROU001 - Constanța, ROU006 - Craiova, ROU014 - Galați, ROU017 - Brașov, ROU021 - Timișoara, ROU022 - Arad, ROU025 - Cluj-Napoca and ROU030 - Iași	8,000	8
I	Multiplex allotted for a locality that is a county capital in areas ROU011 - Râmnicu Vâlcea, ROU026 - Târgu Mureș, ROU029 - Bacău, ROU032 - Suceava, and ROU036 - Satu Mare	6,000	6
J	Multiplex allotted for a locality that is a county capital in ROU035 – Zalău	2,000	2
K	Multiplex allotted for a locality that is not a county capital in area ROU029 – Bacău (station name Bârlad)	1,000	1

#### 4.1.3. Limitations regarding the acquiring of usage rights

The usage rights that a bidder may acquire following the selection procedure are not limited.

## 4.2. Overview of the procedure

### 4.2.1. *Launching the procedure*

The selection procedure is launched by publishing an auction announcement on ANCOM's website ([www.ancom.org.ro](http://www.ancom.org.ro)). The form and content of the announcement are established by ANCOM.

### 4.2.2. *Stages of the procedure*

The competitive selection procedure is structured by the following stages:

- § Application stage;
- § Qualification stage;
- § Establishing the first set of winning bids
- § Auction stage;
- § Licence awarding/issuance.

### 4.2.3. Calendar of the procedure

An approximate calendar of the selection procedure is outlined in Table 15 below.

Table 15 – Approximate calendar of the selection procedure

ANCOM may extend the deadlines provided in this table depending on necessities or these may be hastened where the term reserved for an ANCOM action can be shortened. The time intervals reserved for a bidder's action cannot be shortened.

No.	Activity	Date/Period	Date
1	Publish the auction notice (start the procedure) and Terms of Reference (final version)	15.12.2016	15.12.2016
2	Deadline for submitting clarification requests	16.01.2017	16.01.2017
3	Publish the answers to the clarification requests	5 working days from each request	23.01.2017
4	Deadline for receiving the applications (including the participation bond)	27.01.2017	27.01.2017
5	Announce the qualified/unqualified applications	2 workins days from the deadline for submitting applications	31.01.2017
6	Submit complaints	5 working days from the announcement regarding the qualification	07.02.2017
7	Solve complaints	3 working days from the complaint submission	10.02.2017
8	Announce the winning bids following the stage of establishing the first set of winning bids	1 working day from the complaint solving date	13.02.2017
9	Announce that: i) the organisation of the auction stage is required (the categories for which the auction stage is required shall be mentioned); ii) the organisation of the auction stage is not required (the categories for which the auction stage is not required shall be mentioned).	13.02.2017	13.02.2017
10	Organise the rounds (auction stage)	16.02.2017	16.02.2017
11	Complete the rounds	Y	-
12	Announce the results of the procedure	3 days from the completion of the rounds	-
13	Payment of the licence fee resulted from the procedure	No later than 90 calendar days from the result announcement	-
14	Awarding/handing out the licences	Following payment of the licence fee	-

#### 4.3. Rules regarding participation in the selection procedure

Only the persons that purchased these Terms of Reference can participate in the selection procedure. The price of the Terms of Reference is RON4,000. The Terms of Reference may be obtained from the ANCOM headquarters in 2 Delea Nouă Street, Bucharest, Sector 3, or, upon the buyer's request, may be sent to the respective buyer as hardcopy or in electronic format, upon presentation by the interested person of the following:

§ a document proving the payment of a non-refundable amount of RON4,000, representing the corresponding value of the Terms of Reference, either at the ANCOM pay desk in 2 Delea Nouă Street, Sector 3, or in the ANCOM account no. RO60TREZ70020F365000xxxx opened with the Activity of Treasury and Public Accountancy of Bucharest, fiscal code 14751237, whereas the payment order must specify ANCOM as the *Beneficiary* and that the payment represents the corresponding value of the Terms of Reference;

§ the mandate, in original, of the person delegated to take the Terms of Reference.

Where the corresponding value of the Terms of Reference is paid from outside Romania, the interested persons may pay the amount specified in the previous paragraph, in euro, at the exchange rate communicated by the National Bank of Romania, valid on the day of payment, into the account no. RO86RNCB0082044181470003 opened with the Romanian Commercial Bank – Unirea Branch.

By submitting the application form, the participant unconditionally and irrevocably accepts the rules regarding the participation in the selection procedure provided in Sections 4.3.1 to 4.3.5, as well as the sanctions applicable in the event of breaching these rules, provided for in Section 4.3.6.

##### 4.3.1. Rules regarding the participants' independence

The following cannot participate in the selection procedure:

- (i) with independent bids, persons who are part of one and the same enterprise group;
- (ii) both with independent bids, and as part of an association established with a view to participating in the selection procedure, persons who are part of one and the same enterprise group;
- (iii) persons who are part of one and the same enterprise group in two or several associations established with a view to participating in the selection procedure.

With a view to enforcing this rule, the concept of "applicant's/bidder's group" has the meaning established, for the purposes of verifying the economic concentrations, in the Instructions on the concepts of economic concentration, involved company, full operation and turnover issued by the Competition Council, implemented by Order of the Competition Council's president no. 386/2010.

In this respect, the "applicant's/bidder's group" concept is defined as including the following entities:

- a) the applicant/bidder;
- b) the companies in which the applicant/bidder directly or indirectly:
  - (i) holds more than half of the social capital or of the operating capital; or
  - (ii) has the competence to exercise more than half of the voting rights; or
  - (iii) has the competence to name more than half of the members of the supervisory board or of the management board; or
  - (iv) has the competence to name more than half of the members of the bodies which legally act on behalf of the respective companies or has the right to lead the activities of the respective companies;



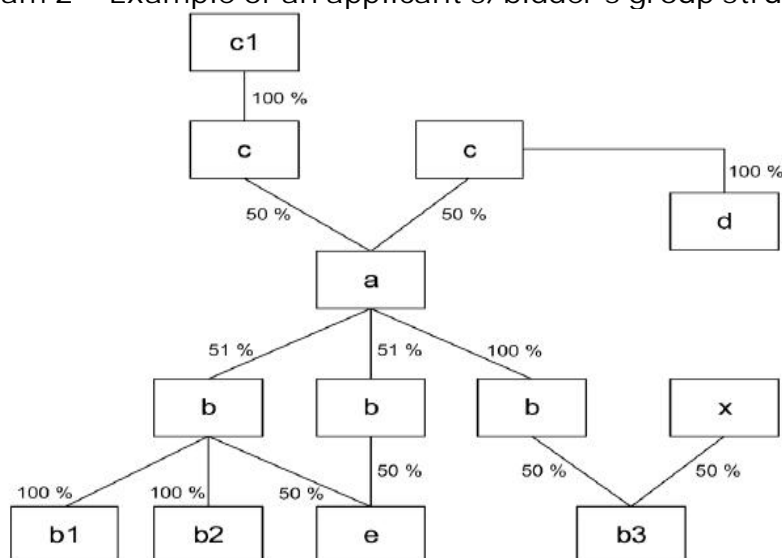
- c) the companies that hold, within the applicant/bidder, the rights or competences specified under letter b);
- d) the companies part of which is a person holding, within the applicant/bidder, the rights or competences enlisted under letter b);
- e) the companies part of which are two or more of the persons provided under letters a) to d), holding together the rights or competences under letter b).

The competences regarding the exercise of the voting rights or the appointment of certain members, mentioned under letter b), may result from a *de jure* situation (constitutive act, contractual agreements etc.) or *de facto* (the competences are exercised *de facto*, in the absence of certain provisions). The exercise of competences due to a *de facto* situation will be determined pursuant to the specifications of the Guidelines on the concepts of economic concentration, full function, undertakings concerned and calculation of turnover, enforced by the Competition Council President's Order no. 386/2010 for the enforcement of the Guidelines on economic concentration concepts.

The right to lead the company activity may result, among others, from holding the voting rights (standalone or in combination with contractual agreements, such as the shareholders' agreement) which allows for establishing the strategy for a company, based on certain rightful stable elements. The right to lead also includes situations where an applicant/bidder holds, jointly with third parties, the right to manage the activity of a (joint stock) company.

The diagram below contains a graphic example of the concept of "applicant's/bidder's group".

Diagram 2 – Example of an applicant's/bidder's group structure



Legend of the represented categories:

- a = applicant/bidder;
- b = applicant's/bidder's subsidiaries;
  - b1, b2 = subsidiaries of the companies in category "b";
  - b3 = companies jointly held by the "b" category companies with third parties;
- c = the applicant's/bidder's parent companies;
- c1 = the parent companies of the companies in category "c";
- d = other subsidiaries of the companies in category "c";
- e = companies jointly owned by two or several companies in a group;
- x = third party.

#### 4.3.2. Rules relating to tacit collusion

The conclusion of, or the attempt to conclude, any agreements between the participants in relation to the selection procedure, during the procedure or previously to the procedure being held, is forbidden.

The scope of this interdiction covers the agreements between the applicants/bidders themselves and the agreements involving members of the different applicants'/bidders' groups.

#### 4.3.3. Confidentiality rules

The participants are forbidden to disclose confidential information to other participants or to third parties, during the procedure or previously to the procedure being held.

The scope of this interdiction covers:

- a) not only the deed of the applicant/bidder itself, but of the other companies in its group as well;
- b) the disclosure of information to the applicant/bidder itself and to other companies of that applicant's/bidder's group.

The scope of this interdiction does not include the disclosure of information to the companies of the same group, to the applicant's/bidder's employees, to its lawyers or to its consultants.

With a view to enforcing this rule, "confidential information" will mean information of any kind which concerns, directly or indirectly, the strategy of a participant within the selection procedure or any bid which a participant submitted or intends to submit within the procedure, regardless of the support of such information.

#### 4.3.4. Rules of conduct

During the selection procedure, the participants will refrain from any action that may affect the procedure or its results, including, for example:

- a) attempts at influencing the Commission members, at hindering in any way the Commission decisions or at influencing or hindering the actions of other participants in the procedure;
- b) attempts at contacting the Commission members in any other way or on any other issues than those provided in Sections 5.1.4, 5.1.5 and 5.1.7, from the moment of opening the envelopes with the application files until the licence awarding moment;
- c) all behaviour representing a threat or a menace to the other participants or to the Commission members, irrespective of the purpose of such behaviour;
- d) endeavours to contact the other bidders, directly or indirectly, in any of the areas available to them or located on the selection procedure site;
- e) disturbing the smooth progress of the bidding rounds etc.

#### 4.3.5. Rules regarding the provision of information to the Commission

At any moment during the selection procedure, the Commission may request the participants any specifications, documents or information, while indicating the term within which such an input must be provided, with a view to establishing or clarifying the *de facto* situation that:

- a) grounds or grounded an applicant's qualification; or
- b) could drive to assessing one or several participants' breach of the rules provided in Sections 4.3.1 to 4.3.4 above.

The participants must comply with the information requests addressed by the Commission, within the term established by it.

Taking into account the importance of ensuring the fairness of the selection procedure, the deadlines allowed by the Commission may be very short, in order to enable keeping, or the prompt resuming, of the normal procedure progress and/or to prevent the destruction of evidence, especially where there are signs of breach of the regulations provided in Sections 4.3.1 to 4.3.5.

Moreover, the participants have the obligation to provide, in the above-mentioned application file, as well as at any moment during the procedure, true, accurate and complete information. Where, subsequent to an applicant's qualification, the information grounding the qualification is modified, the respective applicant/bidder as well as any other participant in the procedure that is aware of the respective modification has the obligation to timely inform the Commission thereon. The Commission has the obligation to analyse the modifications occurred and to review the qualification decision, if the respective modifications change the *de facto* situation, based on which the qualification decision was taken, to such an extent that the qualification criteria are no longer fulfilled.

#### *4.3.6. Applicable sanctions*

Where, during the selection procedure, the rules provided in Sections 4.3.1 to 4.3.5 are found to be infringed, the Commission will proceed to disqualifying from the procedure all the participants involved and to enforcing the participation bond/bonds submitted by them. The situation where infringement of the regulations provided in Section 4.3.1 is assessed during the qualification stage will be excepted. In this situation, the rules provided in Section 4.6.2. apply.

Where an infringement of the above-mentioned regulations is found after the licence awarding, ANCOM may revoke the licences granted to the participants involved and/or may enforce the participation bonds submitted by them, as applicable.

## 4.4. Participation bond

### 4.4.1. Bond format

The participation bond will be set up as a letter of bank guarantee issued by a banking company and will be presented, in original, as part of the application file, in the amount provided in Section 4.4.2 and for the period specified in Section 4.4.3. During the selection procedure, the Commission may request the amount of the participation bond to be increased under the terms provided in Section 4.4.2.

The bond must be irrevocable.

The letter of bank guarantee must provide that payment is to be performed instantly, respectively upon ANCOM's first and simple request, based on the Authority's statement regarding the bidder's assessment as liable for one of the bond execution situations mentioned in Section 4.4.4.

The participation bond may consist of several letters of bank guarantee, which may be issued by different banking companies, each of these letters having to comply with all the format conditions stipulated within this Section.

The participation bond will be set up in the format presented in Annex 4.

### 4.4.2. Amount of the bond

The amount of the bond is 50% of the price of the initial bid, determined according to Section 4.5.3.

The participation bond will be included in the application form and will be submitted as part of the application file.

During the selection procedure, where the bid price exceeds 300% of the initial bid, the Commission may request the amount of the participation bond in the application file to be increased, so that the total amount of the submitted bond/bonds should be at least 50% of the price bid at that time. In such situation, the letter of bank guarantee must fulfil all the requirements specified under 4.4.1, respectively 4.4.3.

### 4.4.3. Bond validity

The participation bond will be valid at least from the date of submitting the application file until 31 July 2017<sup>11</sup>.

### 4.4.4. Bond execution

The purpose of the participation bonds is to protect ANCOM in case of the participants' misbehaviour during the procedure and to ensure in particular that:

- a) for the rights of use of the radio frequencies awarded following the selection procedure, the licence fee (resulted following the selection procedure) owed by the winning bidders is paid and the corresponding licences are issued;
- b) the applicants/bidders observe the rules regarding the participation in the selection procedure.

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<sup>11</sup> ANCOM may request the bidders to extend the validity of the letter of bank guarantee, if the period for conducting the rounds exceeds 31 July 2017.

The deadline for submitting the letters of bank guarantee, the validity of which has been extended according to the previous paragraph, cannot exceed 15 calendar days from the date of ANCOM's request.

The participation bond is executed, upon ANCOM's first and simple request, in one of the following situations:

- a) where the winning bidder does not pay the price owed as a licence fee on the deadline, under the legal conditions;
- b) where the winning bidder gives up the right to be granted/awarded the licence for the use of the radio spectrum in DTT system;
- c) where an applicant/bidder breaches the rules regarding the participation in the selection procedure established in sections 4.3.1 to 4.3.5 of these Terms of Reference.

#### *4.4.5. Bond return*

The participation bond is returned to the participants in the selection procedure, to the extent that no withholdings from the bond have been performed, according to Section 4.4.4, as follows:

- a) to the applicants that did not qualify to the subsequent stages of the selection procedure, within 30 days from communicating the applicant's rejection;
- b) to the bidders that did not acquire rights of use of the radio spectrum following the procedure, within 30 days from the date of the Commission's communication regarding the closure of the auction stage;
- c) to the bidders that gained rights of use of the radio spectrum following the procedure, within 30 days from the date of granting/awarding the licences;
- d) in case of cancellation of the selection procedure in accordance with the provisions of Section 6.3, the participation bond will be returned to all the applicants/bidders within 30 days from the date of communicating the cancellation of the selection procedure.

The participation bond will be returned by handing back the letter of bank guarantee in original, along with the ANCOM letter to the issuing bank, by which the Authority gives its cancellation consent.

## 4.5. Application submission stage

### 4.5.1. Application file

During this stage, the interested persons must submit to ANCOM an application file. Once the file submitted, the person concerned becomes an *applicant*, a quality which the respective person keeps until the decision on the admission to the superior stages of the selection procedure (when the applicant becomes a *bidder*) is communicated, or until the decision on the rejection of the application (when the respective person is eliminated from the procedure) is communicated.

The application file must contain the following documents:

- a) documents presenting the applicant's standing;
- b) the application file (the initial bid);
- c) the participation bond.

These documents will be presented in detail in Sections 4.5.2 to 4.5.5 below.

### 4.5.2. Documents presenting the applicant's standing

The application file will contain the following documents presenting the applicant's standing:

- a) the authenticated power of attorney granted to at most 2 natural persons acting on behalf of the applicant, which is to certify that these persons are authorised to engage the applicant during the selection procedure and is to show the limits of the respective power of attorney granted to each of these persons, without a limitation as to the joint signature of the mandated persons; the authenticated power of attorney is not necessary for the person mandated to legally represent the applicant;
- b) the acknowledging certificate (in original) issued by the National Trade Register Office (or other similar body from abroad) at most 30 days before the date of submitting the application file, which shows at least:
  - (i) the legal identification attributes;
  - (ii) the company life duration;
  - (iii) the main and secondary (if applicable) object of activity;
  - (iv) the value and structure of the social capital;
  - (v) the administrators/managers (in unitary system)/members of the Surveillance Council and members of the Directorate (in dual system), identification data and duration of the company representative's mandate;
  - (vi) the non-existence of a dissolution procedure either voluntary, juridical or following the enforcement of the insolvency procedures;
  - (vii) the status of the company;
- c) the applicant's constitutive act (company contract and/or statutes), in a consolidated updated form (including all changes to date);
- d) the structure of the applicant's group, valid at the date of submitting the application file, which must include the names and addresses of all the companies listed at letters a) to e) in Section 4.3.1, as well as the connections between them;
- e) the certificate of fiscal acknowledgement of the compliance with the exigible payment obligations to the state budget, to the social insurance and special funds budgets of the taxes, contributions and other revenues, issued according to the legal regulations in force (in original);
- f) the financial statements for the last 3 years, approved under the law, according to the accounting standard applied;
- g) the statement of the applicant's legal representative regarding the capacity as a participant in the selection procedure (in original) (Annex 1).

For the foreign legal persons, the above documents will be legalised and authenticated according to the provisions of the Hague Convention of 5 October 1961 abolishing the requirement of

legalisation for foreign public documents for the signatory states, or according to the international law rules applicable to the other states, in a legalised translation into Romanian.

Special conditions for foreign legal persons:

- § if the national legislation and the institutional system in the bidder's native country allow the precise fulfilment of the requirement, the bidder will provide the requested information in the imposed form;
- § if the national legislation and the institutional system in the bidder's native country allow for obtaining this information from one or several relevant authorities, without the possibility to present it in a single document, the requirement will be deemed fulfilled upon the submission of several documents;
- § if the national legislation and the institutional system in the bidder's native country do not allow for obtaining certain information from a relevant authority, this information will be presented in the constitutive act, where such information is comprised within this act, or by means of equivalent documents to those requested, upheld by a legal opinion elaborated by a form of exertion of the lawyer profession in the native country, which would have a professional liability insurance worth more than EUR 20,000,000, addressed to ANCOM, to certify that the submitted document is equivalent to the one requested in the present Section. In this situation, if the national legislation and the institutional system in the bidder's native country do not allow for obtaining certain information from a relevant authority, a statement on own liability concerning the legal impossibility to submit the information requested in the Terms of Reference is required.

As for consortiums, each of the members of the consortium must submit the documents enlisted at letters b) to h) above. The document under letter a) will be submitted by the consortium representative. The document under letter f) will be submitted only where a bidder applies for the national multiplex/multiplexes.

Consortiums must present an association agreement concluded between all the members. This agreement will be presented, in original, in an authentic form and will contain at least the following elements:

- a) the names of the members of the consortium and the share of each of the members within the consortium;
- b) the legal person, member of the consortium, which represents the consortium within the present procedure;
- c) the firm engagement of all the consortium's members in view of submitting a joint bid during the selection procedure and in view of granting unconditional financial and/or technical support to the legal person that will be issued the licence and that represents the consortium;
- d) the validity period of the association agreement; this is not to cease before 31 July 2017<sup>12</sup>.

In the cases where the original documents are not requested, the applicant will present a copy of the documents certified by the applicant for the conformity with the original. The person making the certification for the conformity with the original and acting on behalf of the applicant must be one of the persons mandated to represent the applicant according to letter a) under the first paragraph of this Section.

#### *4.5.3. Application file (the initial bid)*

The frequency assignment application will necessarily be filled in by one of the persons mandated to act on behalf of the applicant according to Section 4.5.2 letter a) or by the applicant's legal representative, in the form provided for in Annex 2 hereto, without deletions and/or additions,

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<sup>12</sup> ANCOM may request an extension of the validity, if the selection procedure exceeds the deadline provided in the association agreement.

except for those imposed by the form of the document, and represents the initial bid of the applicant, should the latter be admitted to the superior stages of the selection procedure.

In view of completing the application, the applicant will select the number of multiplexes it wishes to acquire in each of the B to K categories, using the multiple answer cases available in the table included in the application.

The price of the initial bid is established as follows:

- a) for each category, the number of multiplexes in that category included in the bid will be multiplied by the reserve price for that category (minimum licence fee), specified under Section 4.1.2; and
- b) the values determined according to letter a) will be summed up.

The initial bid must be firm, definitive, irrevocable, unconditional and valid at least until 31 July 2017.

Alternative bids are not accepted.

#### *4.5.4. Letter of bank guarantee*

The application file will contain the letter of bank guarantee, in original, in the form and amount provided for in Section 4.4, according to the model in Annex 4.

During the selection procedure, the Commission may request the amount of the letter of bank guarantee to be increased, under the provisions of Section 4.4.2.

#### *4.5.5. Preparing and submitting the application file*

##### *4.5.5.1. Language of the documents*

All the application documents will be elaborated in Romanian, including the annexes. As far as the annual financial statements of the companies are concerned, the applicants may present an English version, if available, although the provision of a version in Romanian is preferable.

##### *4.5.5.2. Form of the documents*

The representative authorised to engage the applicant has the obligation to number and sign each page of the application file (original and copies), as well as to attach a list of the documents submitted.

As for the documents issued by official institutions/bodies authorised therefor, these will not be signed by the applicant's authorised representative.

The application file will be submitted in original and in two copies as hardcopy, certified by the applicant for conformity with the original, as well as in electronic format, on CD-ROM with full rights for the use of files, in Microsoft Word and/or Microsoft Excel and/or Adobe Acrobat format. The original copy will be signed by the representative authorised to commit the applicant.

If the application file contains confidential information, the contents will be provided in a separate annex, the applicant explicitly signalling that the respective information is confidential. ANCOM will keep confidential this information to the extent the information is not considered public under the law.



#### 4.5.5.3. Envelope sealing and marking

The applicant must seal the original and the copies in separate envelopes, correspondingly marking the envelopes with the wordings "ORIGINAL" and, respectively, "COPY". The envelopes will be introduced in a non-transparent and adequately closed exterior envelope. The exterior envelope must be marked with the inscription "Application file for the participation in the selection procedure for the awarding of the licences for the use of the radio spectrum in digital terrestrial television system", the ANCOM address and the name and address of the applicant. If the exterior envelope is not marked according to the aforementioned provisions, ANCOM is not liable for the mislaid documents or for the delayed reception of the documents.

The applicant will cover all the costs incurred by the elaboration and submission of its application file, and ANCOM will not be in any way liable for the payment of these costs, irrespective of the development or outcome of the selection procedure.

#### 4.5.5.4. Transmission and reception of the application file

The application file will be transmitted by post with advice of delivery or will be submitted in person to the ANCOM headquarters in 2 Delea Noua Street, Sector 3, Bucharest, and must be received by ANCOM until 27.01.2017, 14.30 hours ("deadline for receiving the applications"), Romania's time. The files received by ANCOM after the deadline set for receiving the applications will not be taken into consideration and are to be returned unopened to the address on the envelope. The applicant must take all measures in order to make sure that its file is received by ANCOM no later than the deadline set for receiving the applications, and will assume all the risks related to the transmission of the file, including force majeure.

ANCOM reserves the right to extend the deadline set for receiving the applications and, correspondingly, the date set for opening the envelopes containing the application files, case in which it will communicate the new deadline set for receiving the applications and, respectively, the new date set for opening the envelopes containing the application files, on its website ([www.ancom.org.ro](http://www.ancom.org.ro)), at least 10 days before the initial deadline.

#### 4.5.5.5. Modification of the application file

A bidder has the right to modify or withdraw its application file only prior to the deadline set for receiving the applications and only by written request therefor, signed by one of the persons mentioned under section 4.5.2. letter a) or by the legal representative, and received by ANCOM before the deadline set for receiving the applications. While elaborating and submitting the modified documents, the applicant will need to observe the instructions provided for in Sections 4.5.6.1 to 4.5.6.4, with the amendment that the exterior envelope will necessarily be marked with the wording "MODIFICATIONS". If the applicant withdraws its application file after the deadline set for reception, the participation bond will not be returned.

#### 4.5.5.6. Opening of the envelopes containing the application file

The envelopes containing the application files will be opened by the Commission on the day immediately following the deadline set for their submission.

#### 4.5.5.7. Clarification requests

Only the persons who purchased the Terms of Reference may send clarification requests.

The interested persons may address to ANCOM requests for clarifications, in writing, at ANCOM headquarters in 2 Delea Noua Street, Sector 3, Bucharest, to the Commission's attention, or in electronic format, having included, attached or logically associated, an extended electronic signature based upon a qualified certificate that has not been invalidated or revoked at the respective moment and generated using a secured device for creating electronic signature, to the e-mail address [licitatiedvbt@ancom.org.ro](mailto:licitatiedvbt@ancom.org.ro), until 16.01.2017. ANCOM is to answer the clarification requests until 23.01.2017 at the latest.

In the application file, the applicants will mention a fax number and an e-mail address, where ANCOM's messages may be sent.

ANCOM's fax messages will be deemed transmitted when ANCOM receives the transmission confirmation generated by the fax upon sending the message.

Both the questions received and the answers to these questions will be communicated to all the persons who purchased the Terms of Reference and will be published on the ANCOM website, without revealing the identity of the person who requested the respective clarifications.

#### 4.6. Qualification stage

Within the qualification stage, the Commission evaluates the compliance of the applicants who submitted files during the application submission stage with a set of qualification criteria (Section 4.6.1) and, following evaluation, decides either the admission of the applicant to the superior stages of the selection procedure or the rejection of the application.

##### 4.6.1. Qualification criteria

In order to be admitted to the superior stages of the selection procedure, the applicant must cumulatively fulfil the following qualification criteria:

- a) the applicant must be a Romanian or foreign legal person (commercial company);
- b) the applicant must have submitted all the documents provided in Sections 4.5.2 to 4.5.5, completely and correctly prepared;
- c) the life duration of the applicant company provided in its constitutive act must run at least 10 years from the entry into force of the rights to use the radio spectrum;
- d) the average turnover of the applicant for the last 3 years or from its setting up, if younger than 3 years, must be of minimum EUR2,000,000 – where an applicant applies for the national multiplex/multiplexes;
- e) the applicant must not be in a state of insolvency or liquidation, its business must not be managed by a syndic judge, its entire commercial activities must not be suspended or the applicant must not be in a situation similar to those previously mentioned, regulated by the law;
- f) the applicant must not be subject to a legal procedure initiated upon its own initiative, aimed at being declaring under one of the situations provided for at letter e);
- g) the applicant must have submitted the participation bond (in original) in the form and amount specified under Section 4.4;
- h) the bidder has to have fulfilled its exigible payment obligations to the state budget, to the social insurance budgets and special tax funds, contributions and other revenues, or to ANCOM; the taxes, contributions and other revenues which benefited from payment facilitation (postponements, phasing etc.) granted by the competent bodies are not deemed exigible payment obligations, given the observance of the conditions imposed when the facilitation was granted;
- i) the applicant must not be a member of another applicant's group;
- j) the applicant must have purchased the Terms of Reference.

As for consortiums, each of the consortium members must fulfil all the criteria mentioned above, with the following exceptions:

- § the criterion specified at letter c), which is to be fulfilled by at least one member of the consortium and by the person to whom the licence will be issued; and
- § the criteria specified at letters d), g) and j), which are to be fulfilled by the designated representative of the consortium.

As for criterion specified at letter h), the obligation is deemed fulfilled only by reference to budgets managed by the Romanian authorities.

##### 4.6.2. Assessment of the application files

After the deadline set for receiving the applications, the Commission will evaluate all the submitted application files, based on the qualification criteria (Section 4.6.1), and will decide on the admission of the applicant to the superior stages of the selection procedure or on the rejection of the application.

The Commission may request, at any time during the evaluation of the application files, any specifications, documents and/or additional information and/or clarifying documents, in view of establishing or clarifying the actual situation based on which an applicant's qualification is determined, while the rules under Section 4.3.5 will apply.

If an applicant fails to submit the documents and/or the additional information requested by the Commission – where applicable – within the term and according to the requirements of the Commission, the respective applicant may be excluded from the selection procedure.

As regards the criterion under Section 4.6.1 letter i), if the Commission finds that two or more applicants have a connection as envisaged by this criterion, the Commission informs all the involved applicants on the situation found, requesting them to express in writing, within a certain term, the option for only one of these applications, to be retained within the procedure. Failure to express an option or the expression of several different options triggers the rejection of all envisaged applications. To avoid any doubt, in accordance with the provisions under Section 4.3.1, corroborated with Section 4.3.6, in case the abovementioned situation is discovered after the qualification stage, all the involved bidders will be excluded from the procedure.

#### *4.6.3. Determining and presenting the applicants qualified for the superior stages of the selection procedure*

Following the evaluation of each application file, the Commission may take one of the following decisions:

- a) admit the application, if all the qualification criteria are met; or
- b) reject the application, if at least one of the qualification criteria is not fulfilled.

After completing the evaluation of the application files, the Commission will communicate to each applicant the admission in or the rejection of its application from the procedure.

In the communication on the application admission, the applicant will be informed on the change of its status within the selection procedure into *bidder*.

In the communication on the application rejection, the applicant will be informed that it is eliminated from the procedure, specifying at the same time the reasons which grounded this decision, and that the term within which the participation bond will be returned is to be communicated in accordance with the provisions of Section 4.4.5, letter a).

The Commission will not communicate to the qualified applicants the initial eligibility of the other qualified applicants.

The participation bond will be returned to the applicants who did not qualify to the superior stages of the selection procedure within 30 working days from the date when the application has been rejected. These applicants are further subject to the rules on information confidentiality provided for in Section 4.3.3, for the entire duration of the selection procedure.

#### *4.6.4. Complaints*

Any participant in the procedure may submit a complaint regarding the rejection of its application within 5 working days since the date of receiving the Commission's written communication thereon, in accordance to the provisions of section 4.6.3.

The complaint must be drawn up in written format and submitted to ANCOM's headquarters in 2 Delea Nouă Str., sector 3, Bucharest, by the applicant's mandated representative, upon signature, or sent by the postal service with advice of delivery.

Within 3 working days from the date of submitting the complaints, a commission ("The Complaint Settlement Commission") designated by an ANCOM President's decision - consisting of other persons than those in the Commission - will analyse the submitted complaints. The Complaint Settlement Commission may extend the 3-day term, where the complaint analysis requires processing a large amount of information. Complaints submitted within the due term will be settled by acceptance or rejection, whereas the ones submitted after the due date will be rejected without further analysis. The Complaint Settlement Commission will draw up a minutes approved by the ANCOM president, and will communicate the outcome of the complaint to each complainant, as laid down in the minutes.

The Commission will establish and announce the procedure continuation in accordance with the provisions of section 4.6.4 only upon expiry of the period for submitting complaints set out in this section, whereas where complaints are received within the due term – only after approval of the complaint settlement minutes, according to the provisions of this section.

#### 4.7. Stage of establishing the first set of winning bids

During this stage, the Commission will assess the level of the aggregated (initial) request for multiplexes in each category, based on the application forms submitted by the qualified applicants (bidders), and will make the following decisions:

- a) for the multiplex categories where the aggregated request exceeds the number of available multiplexes, all the multiplexes in these categories will be auctioned out in the primary rounds of the auction stage;
- b) for the multiplex categories where the aggregated request equals the number of available multiplexes, all the applicants that submitted bids for one or several multiplexes in these categories will be declared winners. All the multiplexes in these categories will be auctioned directly in the assignment round of the auction stage, excepting the multiplexes in the categories that comprise one multiplex or the categories where all the multiplexes have been won by one bidder;
- c) for the multiplex categories where the aggregated request is smaller than the number of available multiplexes, all the applicants who submitted bids for one or several multiplexes in these categories will be declared winners. All the multiplexes thus won will be auctioned directly in the assignment round of the auction stage. The difference between the number of multiplexes available and the number of multiplexes won in these categories will be auctioned in the primary rounds of the auction stage.

Following this stage, a first set of winning bids will be determined, respectively the winning bidders, and the price each winner will they have to pay for the rights to use the radio spectrum.

##### *4.7.1. Establishing and announcing the procedure continuation*

After the stage of establishing a first set of winning bids, the Commission may make one of the following decisions:

- a) to organise the primary rounds of the auction stage, for all the categories and number of multiplexes defined according to session 4.7 letters a) and c); in this case, the Commission will communicate to the bidders the categories and the number of multiplexes for which the auction stage is required, as well as the date of starting the primary rounds;
- b) to organise direct the assignment round of the auction stage for the categories of multiplexes defined according to session 4.7 letter b), if there are no categories of multiplexes of the type referred to in section 4.7 letters a) or c), and for which primary rounds are organised; in this case, the Commission will communicate to all bidders the fact that the assignment round is required, as well as the date of starting the respective round;

## 4.8. Auction stage

The auction stage consists of one or several primary rounds, followed by one assignment round, if necessary.

All bids submitted during the auction stage are bids for categories or packages of multiplexes. This means that a bid submitted in a round may only be a winner in its entirety and bidders cannot win a multiplex for which they did not place a bid.

The maximum amount of multiplexes for which a bidder may place a bid by auction is limited by the total number of eligibility points (Section 4.1.2).

### 4.8.1. Primary rounds

At the beginning of each primary round, the Commission communicates the bidders who are to submit a bid in this round/these rounds the price for a multiplex in each of the B to K categories. In the first primary round, the price for each of the B to K categories will be equal to the reserve price (minimum licence fee) for that category.

The bidder is invited to submit one bid stating the category and number of multiplexes it wishes to bid at the given price, subject to the activity rule described below.

Upon closure of each primary round, demand is aggregated across all bidders and if, in the respective round, demand (represented by the total number of multiplexes requested according to the bids) exceeds the number of multiplexes available in at least one category from B to K, another primary round is scheduled.

In the subsequent round, the Commission will increase the price for multiplexes in category or categories for which the demand exceeds the number of multiplexes available in the previous round. The price will be increased by adding - to the price of the closed round - a bid increment expressed as a percentage of 20% from the reserve price.

Where, at the end of a primary round, the Commission finds that – for a multiplex – the bid price exceeds by 300% the reserve price, it may request the amount of the letter of bank guarantee in the application file (paragraph 3 of Section 4.4.2) to be increased. In such situation, the bidders will have 15 calendar days to submit the required increase, while the selection procedure for the respective category is interrupted. For the rest of the multiplexes available in this auction stage, for which the bid price did not exceed the 300% threshold, the selection procedure will continue.

If, upon the completion of the 15 calendar day term, the bidder/bidders concerned do not submit the letter of bank guarantee with the increased amount, it/they will lose the eligibility points required for bidding in the respective category.

Where a multiplex for which an increase of the amount in the letter of bank guarantee has been requested is the only one available in the primary round and the bidder/bidders fail(s) to submit the respective letter of bank guarantee, the Commission will organize an additional primary round. The starting price in this additional primary round will be – in such a case – the price from the previous primary round established according to the rule in paragraph 3 of Section 5.3.9.

The primary rounds end after a round in which there is no excess demand for multiplexes in any of the categories.

During the primary rounds, bidders are subject certain activity rules meant to prevent the pointless extension of the procedure. As shown before, each multiplex has a number of eligibility points attached (Section 4.1.2). A bidder's activity in a certain round is measured as the sum of eligibility points over all the multiplexes included in its bid in that round. In any round, a bidder's eligibility is equal to that bidder's activity in the previous round, excepting the case when the bidder has not increased the amount in the letter of bank guarantee according to the provisions of paragraph 3 of Section 4.4.2.

Prior to beginning the auction, upon the setup of the participation bond, each bidder holds a budget of eligibility points (initial eligibility), which defines its (maximum) qualification for acquiring the frequency usage rights. A bidder's initial eligibility is determined by the sum of the eligibility points in the multiplexes included in its application. A bidder's activity in the first round cannot exceed its initial eligibility, and its activity in each subsequent round cannot exceed its activity in the previous round. This means that a bidder's eligibility may remain constant or decrease throughout the primary rounds; it cannot increase. Therefore, the bidders are stimulated to bid in every round at a level that would enable them to gain the desired usage rights while preventing them from losing their vocation to acquiring these rights.

The winning bids, respectively the winning bidders (see Section 5.3.6) and the basic prices they must pay (see Section 5.3.7), are determined following the primary rounds.

#### *4.8.2. Assignment round*

The assignment round is organised in the following cases:

- a) after finishing the primary rounds, or
- b) after the stage of establishing the first set of winning bids, where it is not necessary to organise primary rounds.

The purpose of the assignment round is to define how the available multiplexes in categories E1, F6, F12, G5, H1, H5 are to be distributed amongst the winners of the stage of establishing the first set of winning bids, and to determine the additional prices to be paid by these bidders for a specific frequency allocation.

In this regard, each winning bidder has the opportunity to bid the amount it would be willing to pay for a given specific allocation of a multiplex or multiplexes in addition to the overall basic price it has to pay, determined by the initial bid and/or in the primary rounds.

Winners who are indifferent as regards a specific assignment do not have to make any bids. The combination of bids identified with the highest total value is the winning combination, and the bids compounding it are declared winners for the multiplexes in categories E1, F6, F12, G5, H1, and H5.

#### *4.8.3. Determining the winners and the licence fees*

The bidders who won multiplexes in the stage of establishing the first set of winning bids, as well as the bidders that submitted valid bids during the last primary round and the assignment round, if such is the case, are designated as winning bidders. These bidders will obtain the usage rights for the radio frequencies corresponding to the winning bids, upon payment of a licence fee whose amount is established by enforcing the final price determined according to Section 5.5.



## 4.9. Licence awarding stage

### *4.9.1. Announcing the procedure results*

After the round completion, prior to the licence awarding stage, the Commission will communicate each winning bidder:

- a) the final price standing for the licence fee, to be paid by the winning bidder for obtaining the usage rights for the radio frequency it acquired during the procedure, which represents the sum between the basic price determined following the stage of establishing the first set of winning bids and/or the primary rounds and the additional price determined following the assignment round, as the case may be;
- b) the price payment conditions and the conditions relating to the issuance of the licences.

### *4.9.2. Payment of the licence fee*

The licence fee owed by each of the winning bidders following the bids submitted within the selection procedure will be paid within 90 calendar days calculated from the date when the results of the selection procedure are announced<sup>13</sup>.

The bond is returned under the terms specified in Section 4.4.5.

### *4.9.3. Licence award*

The licences are awarded to the winning bidders upon payment of the licence fee.

The supply of the electronic communications networks and services is bound by compliance with the provisions of Article 6 of the Government Emergency Ordinance no. 111/2011.

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<sup>13</sup> Payment terms and conditions are determined by the Government Decision no. 86/2014 on awarding the licences for the use of radio frequencies in digital terrestrial television system.

## Chapter 5 – Auction rules

### 5.1. General rules of the auction stage

#### *5.1.1. Place of the auction*

The auction will take place at the headquarters of ANCOM-Bucharest Regional Division in 4 Lucian Blaga Street, block M110, Sector 3, Bucharest, where each bidder will be provided with a location endowed with telephone and wireless Internet access connection. Also, the bidders will have access, in accordance with the rules under Sections 5.1.3, 5.1.4 and 5.1.6, in the room where the Commission is to activate, located in the proximity of the rooms made available to the bidders.

During the auction, the bidders' representatives will be able to use their own technical means for communication purposes.

The primary rounds and the assignment round may take place during one or several working days, as deemed necessary, between 9.00 hours and 16.00 hours.

Access of the bidders' representatives within the premises of the auction will only be allowed to the persons mandated according to Section 4.5.2. letter a); the maximum number of two mandated persons includes the legal representative, if the latter attends.

#### *5.1.2. Informing the bidders*

The Commission will provide the bidders with several pieces of information before each primary round, at the end of each type of round, as well as at any time the auction process requires it. The general rules on the provision of such information are depicted under this Section, while specific rules are mainly provided under Sections 4.3.5, 5.1.2, 5.3.2, 5.3.8, 5.4.2, 5.4.5 and 5.4.7.

Information is to be made by a representative of the Commission. The information forms will be drawn up in two original copies, signed by the representatives of both parties, and each of these parties is to keep their copy. The form must be signed by only one representative of a bidder. Where no representative of the bidder can be reached until the next round begins or where the representatives of the bidder refuse to sign the information form, the respective bidder will be considered to have waived its participation in the auction and the rules under Section 4.4.4 will be applied.

#### *5.1.3. Submitting the bids*

In view of submitting the bid during a certain round, a representative of each bidder will fill in and sign a specific bid form within the timeframe established for the respective round, except if the bidder makes use of one of its extension rights (Section 5.1.4). The chairman of the Commission (or the member of the Commission replacing the chairman) will enter the receipt of the bid in the synoptic table of the respective round and will endorse the form submitted by the bidder for proof of non-alteration.

The form will be filled in by hand. For validity, the filled-in form will have to bear the original signature of a bidder's representative.

After each round, the chairman of the Commission (or the member of the Commission replacing the chairman) will sign the form submitted by the bidder for proof of non-alteration, will send the bidder the proof of receipt of the form and will enter the receipt of the bids in the synoptic table of the respective round.

The bid forms for each round are to be elaborated by ANCOM and made available to the bidders prior to the launch of each round.

To ensure the possibility of filling in the bid form, the Commission will provide for each bidder sufficient bid forms to allow the submission of the bids during the round that is taking place at that time, and these forms are to be handwritten in blue coloured pen.

The bids shall not be submitted before the expiry of the time allocated for exercising the right of extension under Section 5.1.4.

Before or after submitting the bid, if the Commission is just receiving another bid, the bidder's representative may wait in the location reserved therefor (the room reserved for the Commission) until the other bidders submit their bids.

The receipt of the bid will be noted in the synoptic table of the respective round. After receiving the bid, the Chairman of the Commission (or the member of the Commission replacing the chairman) will sign the form submitted by the bidder for proof of non-alteration and will hand in a copy of the document to the bidder.

Once all bidders submit their bids, the bidders' representatives are invited to leave the room reserved for the Commission, in the event they chose to attend the process.

#### *5.1.4. Extension rights*

During the auction stage, each bidder has at its disposal two extension rights that may be exerted in two distinct rounds, irrespective of their type (primary or assignment).

An extension right confers the bidder additional time for submitting a bid during a certain round. The extension rights are granted to the bidders in order to protect them in the event of certain circumstances which might prevent them from submitting a bid during a certain round.

The extension right may be exerted 10 minutes before the closing of the round at the latest. The non-observance of the established timeframe stands for the refusal of exercising this right for the respective round.

The extension right may be exerted only actively and only if it has not been exerted previously by one of the bidders.

In case of exerting its extension right, the bidder will announce the Commission, during a certain round, on the occurrence of a situation that prevents it from submitting a bid during the respective round, and will require an extension period in order to submit the bid. The extension period is of 30 minutes from the scheduled closing time of the round. The extension may be required only during a certain round, and not during the recess between rounds or at another time.

The extension period has effects on all bidders, regardless of whether they hold or not extension rights at the time when the extension is granted.

On the first day of the auction stage, before launching the primary round, the Commission will hand in to each bidder two customized cards to be used as a means for requesting and granting an extension right.

The extension right is granted when the bidder's representative goes to the room reserved for the Commission and hands in to one of the Commission's members one of the cards it has at its disposal.

After receiving the extension request, a member of the Commission or a representative of ANCOM, a person ensuring logistical support at the auction location, will go to each of the rooms reserved for the bidders and will inform them on the exertion of the extension right.

Only one extension right may be exerted during a certain round, regardless of the bidder who understands to exert this right.

#### *5.1.5. Exceptional circumstances*

In case exceptional circumstances occur during the auction, the Commission may take one of the following decisions:

- a) postpone the scheduling or the closing of a certain round or the announcement of the results of a certain round;
- b) cancel a certain ongoing round or a round whose results have not yet been announced, and reschedule the respective round;
- c) cancel one or several rounds and the bids submitted during these rounds and resume the auction stage from a previous round;
- d) suspend the auction stage, cancel the auction stage and/or restart the auction stage.

The occurrence of an exceptional circumstance is assessed by the Commission. Such circumstances may include, for example, the occurrence of natural catastrophes, demonstrations, strikes, violent conflicts or incidents of any kind, technical faults or any other exceptional events that may disturb or hinder the activities carried out at the ANCOM headquarters, the existence of indications or acknowledgements of breaches of the rules regarding the participation in the selection procedure by one or several bidders, as well as any other exceptional circumstances that may in any way endanger the carrying out of the auction.

The bidders are obliged to immediately announce the Commission on the occurrence or imminence of an exceptional situation, and a representative of the bidder that announced this situation will go therefor to the room reserved for the Commission.

## 5.2. Other rules of the auction stage

### *5.2.1. Security measures*

Only the mandated representatives of the bidders according to Section 4.5.2 letter a) of the Terms of Reference will have access in the location where the auction is held.

The access of the bidders' representatives inside the auction premises is allowed only during the rounds and only after the representatives are identified pursuant to the provisions of the first paragraph. They will be identified based on their identity act.

Where a bidder is legally represented by two or several persons (as resulting from the information available in the certificate referred to in Section 4.5.2 letter b), sub-section (v) of these Terms of Reference), the access inside the premises where the selection procedure is carried out will be permitted to only one of these persons, and the respective person will be expressly nominated by the bidder. The provisions of this paragraph apply in view of reasonably limiting the number of persons who can enter the auction site and the location to be allocated to each bidder.

After verifying the identity of the bidders' mandated representatives, ANCOM will provide each of these persons with a badge. The badges will be worn at sight at the auction site throughout the auction stage.

In the space allocated to each bidder, only the representatives of that bidder will have access. Any intervention on the auxiliary means (e.g. cables, extensions etc.) found and made available in the space allocated for each bidder is forbidden. If needed, only the ANCOM personnel can intervene, upon previously informing the Commission.

The connection of electrical accessories (extension, connector, socket adaptor etc.) to the electricity network serving the premises of the selection procedure is forbidden. In the event the bidders intend to use their equipment, this will be connected directly to the electricity network or to the electrical accessories made available by ANCOM. The rooms intended for bidders will have extensions with minimum 3 ports of shucko-220 V 50 Hz alternative power.

#### *5.2.2. Rules regarding the bidder's communication with the Commission*

In order to ensure the bidders' communication with the Commission, each bidder will designate a person to facilitate this connection.

The bidders will communicate with the Commission by means of the person designated therefor, who will go to the room reserved for the Commission.

The designated person will go to the room reserved for the Commission only for the following purposes:

- a) submit the bid during a certain round;
- b) announce the Commission on the exertion of an extension right;
- c) communicate the explanations, the documents or the information requested by the Commission in accordance with Section 4.3.5 of these Terms of Reference;
- d) inform the Commission on the occurrence of unforeseen circumstances leading to the impossibility of submitting the bid during a certain round.

#### *5.2.3. Rules regarding the Commission's communication with the bidders*

The Commission will communicate with the bidders by means of one of its members, in the space allotted to each bidder.

The Commission member will go to the space allotted to each bidder for the following purposes:

- a) announce them on the exertion of an extension right by one of the bidders;
- b) inform on the occurrence of exceptional circumstances in accordance with the provisions of Section 5.1.7 of these Terms of Reference;
- c) inform each bidder in accordance with the provisions of Sections 4.3.5, 5.1.2, 5.3.2, 5.3.8, 5.4.2, 5.4.5 and 5.4.7 of these Terms of Reference.

The Commission will inform the bidders in accordance with Section 5.1.2 of these Terms of Reference.

#### *5.2.4. Language used*

The language used throughout the selection procedure is Romanian.

### 5.3. Rules for the primary rounds

#### *5.3.1. Scheduling the primary rounds*

The rounds are scheduled by the Commission.

Rounds are exclusively scheduled one by one, and not several rounds simultaneously, considering that, depending on the result, the scheduled round may be the last one of the auction. The Commission sets the beginning date and time of the round as well as its duration (closing date and time). In principle, a round may not last less than 15 minutes and may not exceed two hours.

All rounds will be scheduled to take place between 9.00 and 16.00 hours, on working days. Each bidder must ensure on a daily basis the permanent presence of its representatives at the location chosen for the holding of the auction procedure, starting 9.00 hours and until 16.00 hours or until the receipt of the Commission's notification regarding the completion of the rounds for that respective day. The bidders will be announced about the beginning time of the round at least 15 minutes and at most 30 minutes in advance.

One or several rounds may be scheduled during the same day, and the duration of the recess between rounds is to be established by the Commission (but it cannot be shorter than 30 minutes). The rounds must begin and be completed during the same day, and round interruption by the end of the day and resumption during the next morning are not accepted. At the end of the last round of the day, the Commission will announce the bidders that no other rounds are to be organised during that respective day. Also, in case exceptional circumstances occur and justify the interruption of the auction for the rest of the day or for a longer period of time, the Commission will immediately announce the bidders thereon.

#### *5.3.2. Informing the bidders prior to the primary rounds*

Once the time of starting a round has been announced, the Commission will inform each bidder with respect to:

- a) the duration of the respective round (hours, minutes), specifying its closing time;
- b) the prices for each category, applicable to the respective round;
- c) its eligibility for submitting bids during the respective round (expressed as number of eligibility points); and
- d) the number of remaining extension rights.

#### *5.3.3. Bid prices*

In the first primary round, the price for each of the B to K categories will be equal to the reserve price (minimum licence fee) for the respective category.

In the second primary round, the price for each of the B to K categories will be equal to the reserve price, except for the categories which registered excess demand in the first primary round. For these categories, the Commission will set prices applicable in the second primary round that are to be higher than the reserve prices with a percentage (bid increment) of 20%.

The same rules for setting the prices will apply to the following primary rounds. Thus, in case the demand exceeds the supply in a certain category during a certain round, the price for the respective category will be increased during the next round.

The price will remain unchanged during the next round in the case of those categories for which there is no exceeding demand.

Exceeding demand exists during a certain round when the total number of multiplexes in that category, indicated in the valid bids submitted during the respective round, exceeds the number available in that category.

#### 5.3.4. Bid rules

All multiplexes unawarded after the stage of establishing the first set of winning bids are available for the submission of bids during the primary rounds.

In each round, a bidder may submit only one bid.

Each bid will specify the number of multiplexes in each category the bidder wishes to acquire at the price communicated at the beginning of the round. A bid may include any combination of multiplexes from any category.

In order to submit a bid, the bidders select the number of multiplexes they wish to acquire in each of the categories, using the dedicated bid form.

The bidders may choose to submit a "zero" bid, which does not include any multiplex within the B to K categories. In such case, the available amount of the eligibility points for the respective bidder will be set to "zero". Should a bidder not submit a bid during a round or during the extension period granted to that bidder (see Section 5.1.4), the Commission will record a zero bid for that bidder *ex officio*.

Where a bidder submitted a "zero" bid or did not submit any bids in a certain round, the amount of the eligibility points is zero. In this situation, the bidder cannot participate in further rounds.

The price of the bid is determined as follows:

- a) for each category, the number of multiplexes in that category that have been included in the bid will be multiplied by the price communicated by the Commission for that category; and
- b) the values determined according to letter a) will be summed up for all the multiplex categories.

The bid will be submitted according to the rules set out under Section 5.1.3.

Each submitted bid will be considered valid and represents a firm, final, irrevocable and unconditional commitment to acquire the multiplex or the batch of multiplexes specified in the respective bid, at the bid price determined in accordance with the rules set out in this Section.

A bid remains valid until:

- a) it is replaced by a higher bid for the same multiplex or package of multiplexes, submitted by the same bidder during one of the subsequent rounds; or
- b) it is cancelled as a result of the Commission cancelling one or several rounds and the bids submitted during those rounds; or
- c) the winning bidders are granted licences for the rights of use gained as a result of the selection procedure.

#### 5.3.5. Activity rules

The activity associated with a bid submission represents the total amount of eligibility points for all the multiplexes included in the bid and is calculated as follows:

- a) for each category between B and K, the number of multiplexes in that category, included in the bid, will be multiplied by the eligibility points per multiplex for that category; and
- b) the values determined according to letter a) will be summed up for all the multiplex categories.

In each round, a bidder may submit a bid with an activity level lower than or equal to its available eligibility (corresponding to the respective round) for the B to K categories.

The eligibility of a bidder for the first primary round represents its initial eligibility minus the eligibility points corresponding to the multiplexes won following the stage of establishing the first set of winning bids. The initial eligibility represents the sum of the eligibility points for all the multiplexes in the B to K categories included in the application form, submitted by the respective bidder as part of its application file, and it is calculated as follows:

- a) for each of the B to K categories, by multiplying the number of multiplexes specified in the bid form with the eligibility points associated to each multiplex; and
- b) by summing up the values determined according to letter a) for all multiplex categories.

For each of the next rounds, the eligibility of each bidder is equal to the activity of that bidder during the previous round. Thus, after a certain number of successive rounds, a bidder's eligibility may remain constant or may decrease, but it can never increase. However, during the rounds, a bidder's eligibility may fluctuate between the different multiplex categories, considering that, from one round to another, the bidder may change the package of multiplexes included in its bid.

#### *5.3.6. Determining the winning bidders*

The valid bids submitted during the last primary round will be declared winning bids, and their holders will be designated as winning bidders. The winners will be granted the rights to use radio frequencies after the payment of the licence fees.

#### *5.3.7. Determining the basic price*

Each winning bid has an associated basic price. This basic price is the total price for the aggregate of multiplexes in the winning bid.

#### *5.3.8. Completion of the primary rounds*

The primary rounds end after a round where no excess demand exists for multiplexes in any category. From this moment on, the Commission establishes the winning bids, the winning bidders and the basic prices, and announces that the primary rounds have ended.

Moreover, the Commission communicates to each bidder some information on the results of the primary rounds, as follows:

- a) each bidder will be informed on the multiplex/multiplexes won by the respective bidder in each of the categories from B to K;
- b) each winning bidder will be informed on:
  - (i) the basic price corresponding to its winning bid;
  - (ii) the specific basic prices for each of the multiplexes included in its winning bid, which are equal to the prices against which the bidder gained the respective multiplex/multiplexes.

The information under letters a) and b) above will not be communicated to other bidders.



### *5.3.9. Organising an additional primary round*

If, following the primary rounds, there are multiplexes which have not been won by any bidder, or if – in case of exceeding the 300% threshold – the bidders do not increase the amount in the letter of bank guarantee, as provided in paragraph 4 of Section 4.8.1, the Commission may decide to schedule an additional primary round, in view of awarding them.

All bidders that obtained this capacity pursuant to Section 4.6.3. have access to the additional primary round, excepting the bidders that have lost their eligibility points pursuant to paragraph 4 of Section 4.8.1, regardless of their eligibility at the closing of the primary rounds and regardless of whether they acquired or not multiplexes during the previous rounds.

During this round, each multiplex, in each category, will have a minimum price, to be determined according to the following rules:

- a) For each multiplex in the categories E1, F6, F12, G5, H1, H5, the minimum price will be:
  - i) The price of the respective multiplex in the last primary round, if at least one multiplex in the respective category was won in the last primary round;
  - ii) The price of the respective multiplex in the penultimate primary round, if no multiplex in the respective category was won in the last primary round.
- b) For each multiplex in the other categories, the minimum price will be the one corresponding to the respective multiplex in the next-to-last primary round.

If there was only one primary round, the minimum price for each multiplex will be equal to the minimum licence fee.

Each bidder will be able to submit a bid for any of the multiplexes, on condition that this price is higher than or equal to the minimum price corresponding to that multiplex, determined according to the rules mentioned above. If a bidder submits a bid with a price which is not higher than or equal to the minimum price corresponding to that multiplex, that price will be considered as equal to zero. There are no maximum limits as to the bid amount in the additional primary round.

The bidders' information prior to the additional primary round, the auctioning, the bid submission, the establishment of the winners and the establishment of the price following this round are done under the conditions herein that apply to the primary rounds.

## 5.4. Rules for the assignment round

### 5.4.1. *Scheduling the assignment round*

The assignment round is scheduled in the following cases:

- a) after the primary rounds, or
- b) after the stage of establishing the first set of winning bids, if the primary rounds are not necessary,

for the categories with several multiplexes (E1, F6, F12, G5, H1, H5), excepting the categories of which no bidders won multiplexes in the previous rounds or the ones in which a bidder won all of the available multiplexes.

The assignment round is scheduled by the Commission, which sets the beginning date and time of the round as well as its duration (closing date and time). In principle, the duration of the assignment round may not be less than 30 minutes.

The assignment round will be scheduled to take place between 9.00 and 16.00 hours, on a working day. The bidders will be announced on the round date and time with at least one working day in advance.

The assignment round must begin and be completed during the same day, while round interruption by the end of the day and resumption during the next day are not accepted. If exceptional circumstances occur and justify the interruption of the auction for the rest of the day or for a longer period of time, the Commission will immediately announce the bidders thereon.

### 5.4.2. *Informing the bidders prior to the assignment round*

At the same time when the assignment round date and time are announced, the Commission will inform each bidder with respect to:

- a) the duration of the respective round (hours, minutes), specifying its closing time;  
and
- b) if the respective bidder still or no longer has an extension right available after the primary rounds.

### 5.4.3. *Bid prices*

There is no minimum or maximum price limitation as regards the assignment bids. These bids must be expressed in EUR.

### 5.4.4. *Bid rules*

Gaining one or several multiplexes in any of the categories E1, F6, F12, G5, H1, H5 following the stage of establishing the first set of winning bids or in the primary rounds implies the right as well as the obligation of the winning bidder to acquire one of the assignment options presented to that bidder by the Commission for these multiplexes during the assignment round.

In the assignment round, the bidders will submit a bid form, according to the rules depicted in Section 5.1.3.

For each bidder separately, the bid form will encompass a list of assignment options for the multiplexes available to the respective bidder in each of the categories E1, F6, F12, G5, H1, H5, where it won usage rights following the stage of establishing the first set of winning bids and/or in the primary rounds. A member of the Commission will make available the bid form to the bidders at the beginning of the assignment round.

Each bidder may submit one assignment bid for each option listed in its bid form, indicating the amount it is willing to pay in order to acquire the respective assignment option.

Zero bids will be automatically recorded for those assignment options for which no bid is submitted. In case a bidder does not submit a bid form during the allocated timeframe, it shall be considered as submitting a zero bid for each of the assignment options available to the respective bidder.

Each bid submitted during the assignment round represents a firm, final, irrevocable and unconditional commitment to pay the specified price for each assignment option, in view of obtaining the respective specific assignments, as an additional price to the basic price the bidder must pay after the primary rounds.

A bid remains valid until:

- a) it is cancelled as a result of the cancellation by the Commission of the round and of the bids submitted during that round;
- b) the winning bidders are awarded licences for the usage rights gained as a result of the selection procedure.

#### *5.4.5. Determining the winners*

After the completion of the assignment round, the Commission will assess the bids and will establish the winning combination, representing the combination of submitted valid assignment bids that has the highest total value among all possible combinations, if the following conditions are met:

- a) the combination includes only one bid from each bidder;
- b) each bidder is assigned the quantity of multiplexes won following the stage of establishing the first set of winning bids and/or in the primary rounds;
- c) different bidders have not won the same multiplex.

After the assignment round, the Commission will provide the bidder with information on:

- i) the price of its winning bid;
- ii) the specific multiplex/multiplexes resulted following the round.

Each bidder will have a winning assignment bid in any of the categories E1, F6, F12, G5, H1, H5 where it has won usage rights following the stage of establishing the first set of winning bids and/or in the primary rounds. The winning assignment bid may be a zero bid, automatically recorded on behalf of the bidder for an assignment option for which the respective bidder has not submitted an assignment bid.

In case several combinations of assignment bids meeting the above conditions have equal and the highest value, the Commission will select a combination by means of draw.

#### *5.4.6. Determining the additional price*

Each winning bid has associated an additional price. This price corresponds to the assignment option of the winning bid of each bidder and represents the sum to be paid by the holder of the respective bid, in addition to the basic price determined following the stage of establishing the first set of winning bids and/or in the primary rounds, in order to obtain the said assignment.

#### *5.4.7. Completion of the assignment round*

After the completion of the assignment round for each category, the Commission will communicate to each participating bidder some information on the results of the round, as follows:

- a) each bidder will be informed on the assignment obtained within the category;
- b) each winning bidder will be informed on the additional price for the assignment obtained within the category.

Information under letters a) and b) above will not be communicated to other bidders.

## 5.5. Completion of the auction stage

After the completion of the auction stage, the Commission:

- a) will determine the final price each winning bidder must pay for the rights to use the radio frequencies awarded to the respective bidder, representing the sum between the basic price determined based on the specific part of the initial bid declared as winning in the stage of establishing the first set of winning bids and/or in the primary rounds (and which cannot be less than the reserve price for each category) and the additional price determined after the assignment round, if applicable; this final price will be announced at the same time with the results of the procedure;
- b) will inform the bidders that did not gain usage rights during the procedure on the timeframe within which the participation bond is to be returned to them.

## Chapter 6 - Miscellaneous

### 6.1. Advertising the selection procedure

ANCOM may issue any public communication related to the selection procedure, as it deems necessary, without prior notification to the participants in the procedure. ANCOM may use any communications means, as it considers necessary, including written and online mass-media, its webpage ([www.ancom.org.ro](http://www.ancom.org.ro)) etc.

Information publicly communicated by ANCOM may relate, *inter alia*, to:

- a) the identity of the participants and of the winning bidders;
- b) the multiplex/multiplexes for which the bidders have acquired usage rights following the procedure;
- c) the licence fees owed by the winning bidders;
- d) the licences that will be awarded as a result of the selection procedure.

Bidders are required to refrain from all communications related to the selection procedure, during the entire selection process.

### 6.2. Suspension of the selection procedure

In the event of occurrence of exceptional circumstances that may affect the procedure, ANCOM has the right to suspend the selection procedure at any time during its progress. The occurrence of an exceptional circumstance is assessed by the Commission. Such circumstances may include, for example, the occurrence of natural catastrophes, demonstrations, strikes, violent conflicts or incidents of any kind, technical faults or any other exceptional events that may disturb or hinder the holding of the selection procedure, the existence of indications or acknowledgements of breaches of the rules regarding the participation in the selection procedure by one or several bidders, as well as any other exceptional circumstances that may in any way endanger the carrying out of the auction.

In case of suspending the procedure, ANCOM has the obligation to request the applicants/bidders to extend the validity of their bids, as well as of their participation bond, if necessary.

### 6.3. Cancelling the selection procedure

According to the provisions under art. 26 (6) of the GEO 111/2011, ANCOM may cancel the started selection procedure, prior to the deadline for the submission of the last bid during the main stage. The decision to cancel the selection procedure must be objectively justified or must represent a consequence of certain conditions that could not have been known at the time when the selection procedure had been initiated. ANCOM will communicate publicly the reasons for cancelling the selection procedure, within a 30-day timeframe.

## Annexes

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- Annex 1 – Statement on the capacity as a participant in the selection procedure
- Annex 2 – Application form
- Annex 3 – Model of a licence for the use of radio frequencies in digital terrestrial television system
- Annex 4 – Model of a letter of bank guarantee
- Annex 5 – Geographic coordinates and map location of the allotments

[*heading of the individual applicant/associate applicant*]

STATEMENT  
ON THE CAPACITY AS A PARTICIPANT IN THE SELECTION PROCEDURE

To:

National Authority for Management and Regulation in Communications  
2 Delea Noua Street, Sector 3, Bucharest

With reference to:

Participation in the competitive selection procedure in view of awarding the rights to use the radio spectrum in digital terrestrial television system

After examining the provisions of the *Terms of Reference for the competitive selection procedure for awarding the licences for the use of the radio spectrum in digital terrestrial television system*, as well as of the ANCOM President's Decision no. 562/2014 on the organisation of the selection procedure in view of awarding the rights to use radio frequencies in digital terrestrial television system, with the subsequent amendments and completions, I, the undersigned [*name and first name*], legal representative of [*name and headquarters of the individual applicant/associate applicant*], under the sanction of being disqualified from the selection procedure and being aware of the sanctions applicable in case of false statements, declare on my own responsibility the following:

1. In the selection procedure, I participate and submit a bid in my capacity as (tick the corresponding option):

- individual applicant;
- associate applicant in the consortium led by [*name and address of the consortium leader*].

2. I do not submit more than one application, individually and/or in association with other legal person, being aware that breaching this rule triggers the rejection of all applications thus submitted.

3. The applicant on whose behalf I act [tick the corresponding option]:

- is not a member of a group of undertakings;
- is a member of a group of undertakings whose names, addresses and links are presented in the document [*name of the document comprising the structure of the applicant's group*], which I submit as part of the application file.

4. All the documents and information presented and provided as part of the application file are complete, accurate in every detail and concordant with the reality and the auction commission appointed by decision of the president of ANCOM has the right to require any other justifying documents for the purpose of verifying and confirming my statement.

5. I will immediately inform the auction commission appointed by decision of the president of ANCOM if any changes will occur to the present declaration at any time during the selection procedure.

I, the undersigned, hereby authorise any institution, commercial company, bank, and other legal persons to provide information to the authorised representatives of ANCOM on any commercial, technical and financial aspect related to the activity of the applicant I represent.



I also declare that I acknowledged the provisions of Article 326 "False statements" of the Penal Code of Romania, stating that, *"A statement which does not correspond to the truth, delivered to one of the persons provided under Article 175 or to an entity within which they conduct their activity, for the purpose of producing legal effects, on own behalf or on somebody else's behalf, in such a case when, in accordance with the law or the circumstances, the delivered statement serves for generating the respective consequence, shall be sanctioned by 3 months to 2 years imprisonment or by fine"*.

The present statement is valid until [*the date when the bid validity expires*].

Filled in on

[*name of the individual applicant/associate applicant*]

(authorised signature and seal)

[applicant heading]

APPLICATION FORM

To

National Authority for Management and Regulation in Communications  
2 Delea Noua Street, Sector 3, Bucharest

With reference to:

Participation in the competitive selection procedure in view of awarding the rights to use the radio spectrum in digital terrestrial television system

After examining the provisions of the *Terms of Reference for the competitive selection procedure for awarding the licences for the use of the radio spectrum in digital terrestrial television system*, as well as of the ANCOM President's Decision no. 562/2014 on the organisation of the selection procedure in view of awarding the rights to use radio frequencies in digital terrestrial television system, with the subsequent amendments and completions, I, the undersigned [*name and first name*], legal representative of [*name and headquarters of the individual applicant/associate applicant*], hereby firmly, irrevocably and unconditionally undertake:

1. To participate in the selection procedure and observe its rules (including the sanctions applicable in case of breaching the said rules), so as they have been established by the Terms of Reference and the ANCOM Decision, during the entire duration of the procedure, until the licences are awarded, without causing any prejudice to the right of ANCOM to also enforce certain sanctions after the licence award (e.g. licence revoking);

2. To maintain valid the bid for the usage rights over the amounts of radio frequencies in each of the bands indicated in the table below, at the price specified therein (to which the possible additional price communicated by ANCOM following the primary round/s or the assignment round may be added) until [*the date when the bid validity expires*] or until the date of the bid validity advance termination<sup>14</sup>; I thereby acknowledge that: the submission of the present bid does not prejudice my right to subsequently submit a bid for any other category of multiplexes during the primary and/or allocation rounds, provided that the activity and eligibility rules, as well as the rules referring to the limitations as to the gaining of frequency usage rights established in the Terms of Reference and in the Decision of the president of ANCOM.

3. In case the applicant I represent is designated winner as the result of the selection procedure, I will pay within the term and under the conditions established by ANCOM the basic price and, as the case may be, the additional price resulted from the selection procedure, for the usage rights gained, and I will observe the provisions under Chapter 3 of the Terms of Reference and the Decision of the president of ANCOM.

(Note: The applicant will fill in the following tables and will indicate the number of multiplexes for which it submits the initial bid. In case the applicant does not submit a bid for any of the blocks within a certain category, it will cross the respective sections. N.B.! The applicant must select at least one multiplex from at least one of the categories B to K, otherwise the application will be rejected).

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<sup>14</sup> The advance termination bid validity term is the date when:

- a) the offer is replaced by a higher bid for the same batch of multiplexes or by a bid for another batch of multiplexes, submitted by a bidder in the primary or assignment rounds; or
- b) the bid is cancelled following the Commission's cancellation of one or several assignment round(s) and of the bids submitted therein;
- c) the winners are awarded the licences for the usage rights acquired in the selection procedure.

Category	MUX/Allotment/Assignment	No. of multiplexes available	Reserve price/multiplex (EUR)	Initial bid (no. of multiplexes)	Total (EUR)
B	MUX3	1	300,000		
C	MUX5	1	300,000		
E	E1	ROU001 - CONSTANTA	3	10,000	
	E2	ROU005 - BUCHAREST (CAPITAL CITY)	3	10,000	
	E3	ROU006 - CRAIOVA	1	10,000	
	E5	ROU014 - GALATI	1	10,000	
	E6	ROU017 - BRASOV	1	10,000	
	E7	ROU021 - TIMISOARA	1	10,000	
	E8	ROU023 - ORADEA	1	10,000	
	E9	ROU025 - CLUJ-NAPOCA	1	10,000	
	F	F1	ROU008 - RESITA	1	8,000
F2		ROU010 - PETROSANI	1	8,000	
F3		ROU011 - RAMNICU VALCEA	1	8,000	
F5		ROU018 - SIBIU	1	8,000	
F6		ROU019 - DEVA	2	8,000	
F7		ROU026 - TARGU MURES	1	8,000	
F8		ROU027 - GHEORGHENI	1	8,000	
F12		ROU034 - SIGHET	2	8,000	
F13		ROU039 - FOCȘANI	1	8,000	
F14		ROU009 - DROBETA-TURNU SEVERIN	1	8,000	
G		G1	ROU002 - CALARASI	1	4,200
	G2	ROU004 - ALEXANDRIA	1	4,200	
	G4	ROU035 - ZALAU	1	4,200	
	G5	ROU040 - COMĂNEȘTI	2	4,200	
	H	H1	CONSTANTA	3	8,000
H2		CRAIOVA	1	8,000	
H3		GALATI	1	8,000	
H4		BRASOV	1	8,000	
H5		TIMISOARA	2	8,000	
H6		ARAD	1	8,000	
H7		CLUJ-NAPOCA	1	8,000	
H8		IASI	1	8,000	
I	I1	PITEȘTI	1	6,000	
	I2	TARGU MUREȘ	1	6,000	
	I4	VASLUI	1	6,000	
	I5	SUCEAVA	1	6,000	

	I6	BAIA MARE	1	6,000		
	J	ZALĂU	1	2,000		
	K	BĂRLAD	1	1,000		

5. I hereby expressly and unequivocally, irrevocably and unconditionally declare that, in case of any dispute/issue arising in relation with the present selection procedure and the granting of the radio frequency usage rights as a result of the said procedure, I understand to accept that the substantive and procedural rules under the Romanian law and the Romanian Court of Law jurisdiction be applied and I waive the applicability of any foreign jurisdiction that may be competent in solving the respective dispute/issue.

Filled in on .....

[*applicant name*]

.....  
 (authorised signature and seal)  
 .....



2 Delea Noua Street, Bucharest 3, Romania  
Phone: +40 372 845 400 / +40 372 845 454. Fax: +40 372 845 402  
E-mail: [ancom@ancom.org.ro](mailto:ancom@ancom.org.ro). Website: [www.ancom.org.ro](http://www.ancom.org.ro)

On grounds of the Decree of the President of Romania no.509/2009 on the appointment of the president of the National Authority for Management and Regulation in Communications,

On grounds of the provisions of art.10 (2) indents 12 and 13, art.11 (1) and (7), art.12 (1) of the Government Emergency Ordinance no. 22/2009 on the establishment of the National Authority for Management and Regulation in Communications, approved by Law no.113/2010, with the subsequent amendments and completions, as well as of art.50 (2), art.59 (2) of the Audiovisual Law no.504/2002, with the subsequent amendments and completions,

Having regard to the provisions of the Government Decision no. 403/2013 for the approval of the Strategy regarding the switchover to the digital terrestrial television and the implementation of multimedia services on a national level,

Having regard to the provisions of the Decision of the president of the National Authority for Management and Regulation in Communications no. 562/2014 on the selection procedure for the awarding of the licences for the use of radio spectrum in digital terrestrial television system, with the subsequent amendments and completions,

Having regard to the provisions of the Decision of the president of the National Authority for Management and Regulation in Communications no. 629/2010 on the procedure for authorising the provision of audiovisual programmes,

The president of the National Authority for Management and Regulation in Communications issues this

LICENCE<sup>15</sup>  
FOR THE USE OF THE RADIO  
SPECTRUM IN DIGITAL TERRESTRIAL TELEVISION SYSTEM  
no. \_\_\_\_\_

Holder: \_\_\_\_\_  
with headquarters in: \_\_\_\_\_  
registered with the Trade Registry Office under no. \_\_\_\_\_,  
unique registration code: \_\_\_\_\_,

is authorised to exercise the right to use the radio frequencies specified in this licence in order to broadcast digital terrestrial television programme services as well as for \_\_\_\_\_

<sup>15</sup> The Licence for the use of radio frequencies to be awarded to the winners of the usage rights will be drawn up by taking into consideration the requirements set under these Terms of Reference. The document "Licence" has a guiding character and is only drawn up for its presentation within the selection procedure, whereas the authorisation act is to contain specific conditions for each MUX.

providing public electronic communications networks and publicly available electronic communications services in the 174-216 MHz band (or 470-790 MHz band<sup>16</sup>), pursuant to the following table<sup>17</sup>:

No.	Name of the allotment area	Chan. MUX X <sup>18</sup>	OBSERVATIONS
1	ROU001 - CONSTANȚA		
2	ROU002 - CĂLĂRAȘI		
3	ROU003 - BUCHAREST		
4	ROU004 - ALEXANDRIA		
5	ROU006 - CRAIOVA		
6	ROU007 – CALAFAT		
7	ROU008 - REȘITA		
8	ROU009 - DR. TURNU SEVERIN		
9	ROU010 - PETROȘANI		
10	ROU011 - RÂMNICU VÂLCEA		
11	ROU012 - PLOIEȘTI		
12	ROU013 - BUZĂU		
13	ROU014 - GALAȚI		
14	ROU015 - TULCEA		
15	ROU017 - BRAȘOV		
16	ROU018 – SIBIU		
17	ROU019 - DEVA		
18	ROU020 - FĂGET		
19	ROU021 - TIMIȘOARA		
20	ROU022 - ARAD		
21	ROU023 - ORADEA		
22	ROU024 - BIHOR		
23	ROU025 - CLUJ- NAPOCA		
24	ROU026 - TÂRGU MUREȘ		
25	ROU027 - GHEORGHENI		
26	ROU028 - PIATRA NEAMȚ		
27	ROU029 - BACĂU		
28	ROU030 - IAȘI		
29	ROU031 - BOTOȘANI		
30	ROU032 - SUCEAVA		
31	ROU034 - SIGHET		
32	ROU035 – ZALĂU		
33	ROU036 - SATU MARE		
34	ROU039 - FOCȘANI		
35	ROU040 - COMĂNEȘTI		

The technical and operational conditions for using radio frequencies are provided in Annex A<sup>19</sup>. The geographical coordinates, form and location on the map of the assignments listed in the table above are provided for in Annex B. Annexes A and B are part of this licence.

<sup>16</sup> The final document will specify the frequency band where the rights of use have been assigned.

<sup>17</sup> For the regional and local multiplexes, the table will be replaced by the data regarding the allotment, respectively the assignment corresponding to the multiplex won following the auction.

<sup>18</sup> MUX 3, MUX 5 or regional/local multiplexes.

<sup>19</sup> The Annexes to the licence will be renumbered in the final version of the authorisation document.

## I. Definitions

1. Throughout this licences for the use of the radio spectrum in digital terrestrial television system, hereinafter called *the Licence*, the relevant definitions provided for in the Radio Regulations adopted by the International Telecommunication Union (ITU), the Audiovisual Law, the electronic communications legislation or the specific legislation adopted thereunder shall apply.

## II. General conditions<sup>20</sup>

1. The holder has the right to transmit only the television programme services authorised under the legal provisions in force.

2. The holder may provide public electronic communications networks, used for the retransmission of audiovisual media programme services, and electronic communications services consisting of retransmission of linear audiovisual media programme services only upon sending the notification pursuant to ANCOM President's Decision no. 987/2012 on the general authorisation regime for the provision of electronic communications networks and services.

3. The holder of the Licence has the obligation to comply with the requirements of the National Table for Frequency Allocation (NTFA) and with the national legislation, as the case may be.

4. The holder has the obligation to exercise its rights deriving from the present Licence under conditions that would ensure the effective, rational and efficient use of the radio frequencies and the prevention of harmful interferences.

5. The holder has the right to install, operate, control and make available to third parties a public electronic communications network, as well as the corresponding infrastructure, in view of providing programme services in digital terrestrial system, as well as public electronic communications networks and publicly available electronic communications services.

6. The frequency assignments for the broadcasting stations composing the network as well as the technical parameters that define the service area associated to the assigned frequencies and the characteristics of the radio signals transmitted within the network are comprised in the assignment authorisations which are an integral part of the present Licence.

7. The broadcasting stations shall be effectively used after obtaining the technical authorisation, according to the legal provisions in force. On the date of obtaining the present Licence, the procedure for obtaining the technical authorisation is regulated by the decision of the ANCOM President no.629/2010 on the authorisation procedure for the provision of audiovisual services.

8. The holder has the obligation to comply with the requirements deriving from the observance of all international agreements concerning the use of radio frequencies to which Romania is a party, including in border areas.

9. In the border areas, the licence holder will use the allocated frequency blocks only on the basis of the coordination with the communications administrations from the neighbouring countries, in compliance with the requirements deriving from the enforcement of the international agreements to which Romania is a party or from the international regulations on frequency coordination applicable to the allocated spectrum. The technical conditions for the use of radio frequencies in border areas are provided for in Section 3.3.2.7. "Technical conditions for the use of frequencies in border areas" of these Terms of Reference for the organisation of the competitive selection procedure in view of awarding the licences for the use of the radio spectrum in digital terrestrial television system, hereinafter referred to as the *Terms of Reference*.

10. The holder has the obligation to comply with the requirements deriving from the achievement of the objectives of European harmonisation and international cooperation in the electronic communications field and which may consist of the modification of the assigned radio frequencies or of the corresponding technical parameters set under the present Licence. The modifications specified at this point will be implemented upon consulting the holder, within a reasonable term and balanced to the qualitative and quantitative nature of changes arisen.

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<sup>20</sup> The reference technical and operational conditions are provided in the Terms of Reference and are to be concretely mentioned depending on the outcomes of the selection procedure (the radio frequency bands to be gained by the interested parties).

11. With a view to prevent or remove the harmful interferences, the holder has the obligation to comply with the technical and operational conditions for the use of radio frequencies established by ANCOM.

12. The holder will take the necessary actions, on its own expense, to remove the harmful interferences that are caused by or may be imputable to the holder, including but not limited to repairs, insertion of certain additional filters, the correction of errors owed to the improper or faulty installation of the network or to the improper operation of the equipment.

13. The equipment within the network will observe the essential requirements and the harmonised European standards applicable in Romania.

### III. Coverage obligations<sup>21</sup>

- a) \_\_\_\_\_;
- b) \_\_\_\_\_;
- c) \_\_\_\_\_.

### IV. Verification of the compliance with the licence obligations<sup>22</sup>

The evaluation methodology and control<sup>23</sup> in order to verify the compliance with the Licence obligations are provided under Section 3.6 of these Terms of Reference

### V. Modification of the radio frequency usage rights

1. The radio frequency usage right may be modified, upon the ANCOM initiative, in the following situations:

- a) observance of the conditions on the effective, rational and efficient use of the radio frequencies;
- b) prevention of harmful interferences;
- c) implementation of the objectives of European harmonisation and international cooperation regarding the use of the radio frequencies;
- d) compliance with the international agreements relating to the use of the radio frequencies to which Romania is a party, following bilateral coordination including Romania and neighbouring countries;
- e) modification of the NTFA.

2. In the situation provided at point 1, ANCOM will inform the holder of the usage rights with regard to the modifications which must be operated and grants the holder a corresponding term in view of implementing these modifications, proportionate to their qualitative or quantitative nature.

3. ANCOM will also modify the Licence as a result of the occurrence of one of the following situations:

- a) transfer of the usage rights;
- b) the modifications of the Licence technical conditions following the closing/completion of the international frequency coordination process;
- c) in the cases provided in arts. 28 to 29 of the Decision of the National Authority for Management and Regulation in Communications no. 629/2010.

### VI. Transfer of the radio frequency usage rights<sup>24</sup>

1. The radio frequency usage rights may be transferred to a third party, under the law, only upon prior approval of ANCOM, with the endorsement of the National Audiovisual Council and with the observance of all the deriving obligations, as well as with the compliance with the conditions and objectives set or considered at the award of the right.

2. If the usage rights are transferred, the change of the usage destination of the frequencies for which the Licence was awarded is not allowed.

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<sup>21</sup> The conditions set in the Terms of Reference will be mentioned, depending on the MUX.

<sup>22</sup> The verification methodology will be provided in the Licence.

<sup>23</sup> The coverage obligations must be fulfilled no later than \_\_\_\_\_, and will be observed throughout the validity period of the rights.

<sup>24</sup> The usage right will be transferred by observing the provisions of art.66 (2) of the Audiovisual Law.



## VII. The spectrum usage tariff

The holder has the obligation to pay, for the entire validity period of the usage rights, the spectrum usage tariff, in the amount and within the terms set according to the normative acts in force.

## VIII. Validity period

The radio frequency usage rights are awarded for a 10-year period according to article 61<sup>1</sup>(1) in the Audiovisual Law. The Licence may be extended, under the law.

## IX. Revoking the radio frequency usage rights

The radio frequency usage right may be revoked in accordance with the procedure established under the law, in the following situations:

- a) for serious or repeated breaches of the obligations under the Licence;
- b) the holder's failure to pay the tariff for the use of the spectrum within 45 days from the due date;
- c) upon the holder's request;
- d) following the withdrawal of the general authorisation regime specific to the electronic communications;
- e) the holder does not submit the proof of payment of a fine to the National Authority for Management and Regulation in Communications within six months from its enforcement.

## XI. Final provisions

1. ANCOM may forbid for a limited period, upon the reasoned request of the competent institutions within the system of national defence, public order and national safety, the partial or total exercise of the usage rights awarded under this Licence where the national safety, public order and national defence impose this measure, as well as where certain engagements assumed under international agreements must be observed.

2. The holder has the obligation to provide ANCOM with all the information and materials the latter requests in view of fulfilling the incumbent duties on the supervision and control of the compliance with the obligations under the present Licence, the legislation in the audiovisual field or the legislation in the electronic communications field.

3. The holder has the obligation to allow the ANCOM control personnel access to any location where equipment, apparatus and electronic communications installations belonging to the network are found, in view of their inspection for the purpose of verifying the compliance with the conditions and obligations set under the Licence or in the legislation in the audiovisual and/or electronic communications field.

4. The non-compliance with the technical and/or operational conditions, as well as with the obligations provided in this Licence, including in its annexes, or the non-observance of any other legal provisions and/or technical regulations applicable to this Licence lead to the enforcement of the sanctions provided for in the legislation in force, which consist of the application of contravention fines, or the revoking of the usage right, as the case may be.

5. The failure to pay in due term the spectrum usage tariff, according to the law, entails the enforcement of delay penalties, and ANCOM may dispose the revoking of the Licence, for exceeding the legal payment term determined under the terms of the normative acts in force.

6. The present Licence does not replace other agreements or approvals that are necessary, according to the national legislation in force, for the carrying out of the holder's activity in Romania during the validity period of the usage rights.

7. The provisions of the present Licence are rightfully completed by the legal provisions in force in the audiovisual and/or electronic communications field.

Technical and operational conditions for the use of radio frequencies<sup>25</sup>

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<sup>25</sup> See Section 3.3.2 of the Terms of Reference.

*[heading of the issuer]*

LETTER OF BANK GUARANTEE

for the participation with a bid in the competitive selection procedure for awarding the licences for the use of the radio spectrum in digital terrestrial television system

To:

National Authority for Management and Regulation in Communications  
2 Delea Noua Street, Sector 3, Bucharest

Regarding the competitive selection procedure for awarding the rights to use the radio spectrum in digital terrestrial television system, we *[name and headquarters of the bank]*, unconditionally and irrevocably commit hereby toward the National Authority for Management and Regulation in Communications (ANCOM) to pay within maximum 10 working days, the amount of

*[amount in letters]* euros (EUR*[amount in figures]*),

upon the first and simple written request of ANCOM, which does not have the obligation to justify the respective request, provided that ANCOM specifies therein that the amount owed to it, and requested by it, is thereby requested because of the existence of one of the situations described below:

- 1) *[name of the applicant]*, if being declared winner of the selection procedure, does not pay in due time the owed final price representing the licence fee;
- (2) *[name of the applicant]*, if being declared winner of the selection procedure, waives the right to be awarded the licence for the use of radio frequencies;
- (3) *[name of the applicant]* breaches the rules concerning the participation in the selection procedure, set out by ANCOM.

This guarantee is valid until \_\_\_\_\_.

This guarantee tool/guarantee letter is governed by the Romanian law.

The Romanian Courts of Law are competent to settle any disputes arising in relation to the present guarantee tool/guarantee letter.

Endorsed by the Issuer \_\_\_\_\_ on *[day/month/year]*.  
(authorised signature)

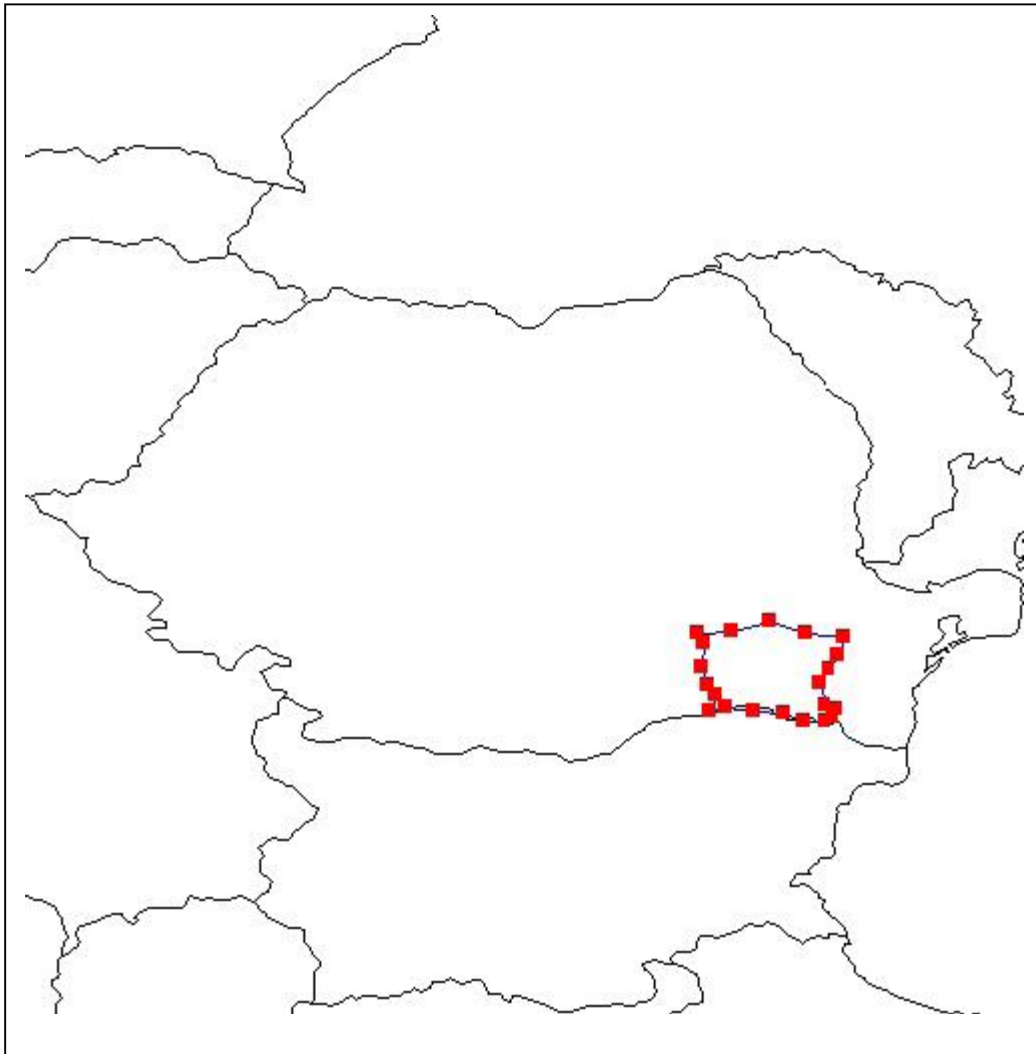
Geographic coordinates and map location of the allotments

Allotment ROU001



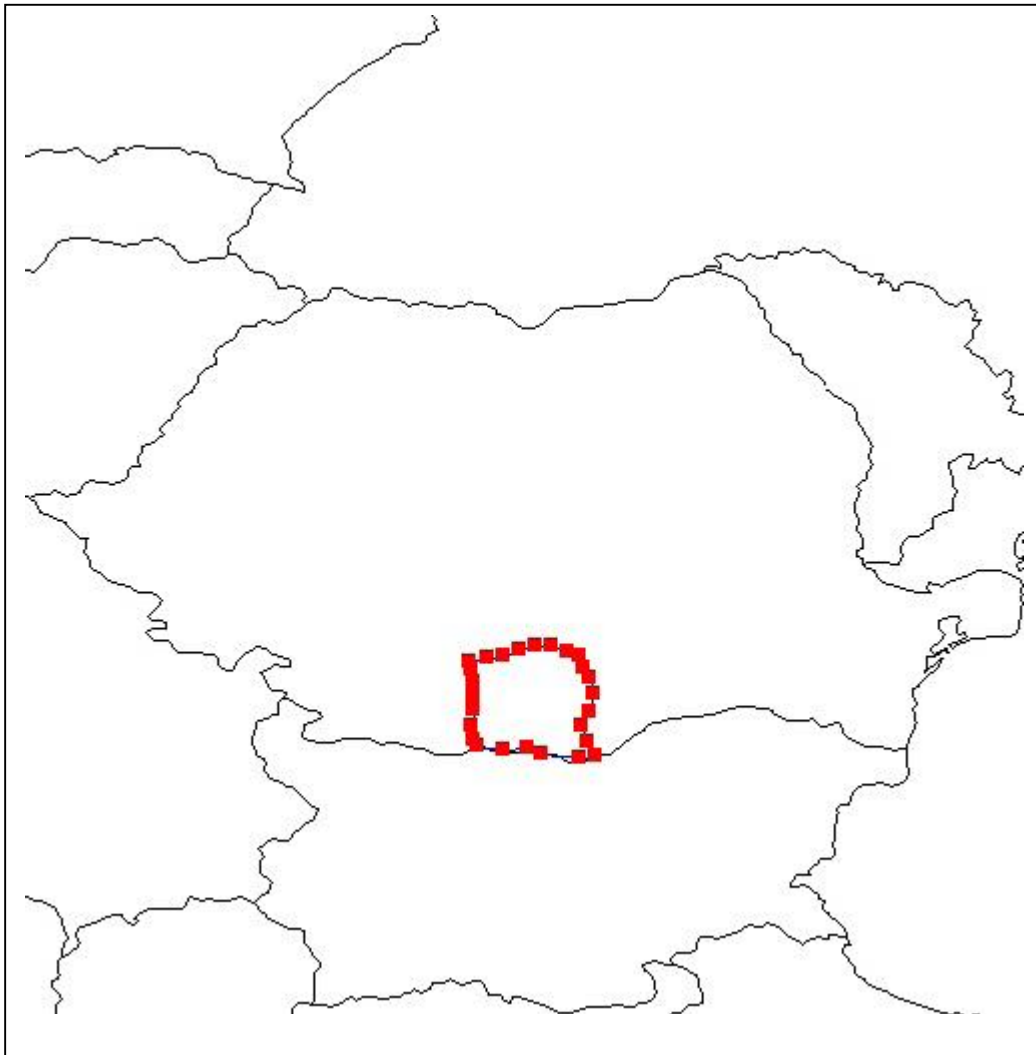
Allotment name	ROU001							
Eligibility points	20							
lat	434600	435854	441159	441923	443426	443600	443900	444200
Lon	0283400	0283853	0283853	0283653	0285349	0284500	0283600	0282700
lat	444500	444800	445034	444718	443742	442951	442121	440922
Lon	0282300	0281500	0281229	0275900	0275625	0275023	0274456	0274823
lat	440632	440223	440012	434712				
Lon	0275459	0275224	0274748	0280648				

Allotment ROU002



Allotment name	ROU002							
Eligibility points	21							
lat	440012	440223	440632	440922	442121	442951	443742	444718
Lon	0274748	0275224	0275459	0274823	0274456	0275023	0275625	0275900
lat	445000	445700	445100	445000	444400	443100	442000	441400
Lon	0273700	0271600	0265500	0263500	0263900	0263800	0264100	0264600
lat	440500	440800	440600	440400	440012			
Lon	0264200	0265100	0270700	0272400	0273600			

Allotment ROU004



Allotment name	ROU004							
Eligibility points	26							
lat	434100	434800	435700	440600	441600	442500	443100	443700
Lon	0253800	0253300	0253000	0253400	0253600	0253400	0253100	0252900
lat	444000	444300	444300	444100	443700	443600	443400	442900
Lon	0252200	0251300	0250400	0245500	0244500	0243600	0242600	0242700
lat	442200	441500	440700	435800	435000	434600	434400	434500
Lon	0242800	0242800	0242900	0242700	0242800	0243100	0244500	0245900
lat	434200	433900						
Lon	0250700	0252900						

Allotment ROU006



Allotment name	ROU006							
Eligibility points	28							
lat	434600	435000	435800	440700	441500	442200	442900	443400
Lon	0243100	0242800	0242700	0242900	0242800	0242800	0242700	0242600
lat	443800	444300	444600	444600	444400	444300	444000	443800
Lon	0242100	0241100	0240100	0235300	0234600	0233900	0233100	0232000
lat	443500	442900	442400	441400	440800	440300	435700	435100
Lon	0230900	0231300	0231800	0232100	0232600	0233200	0233100	0233000
lat	434800	434500	434200	434130				
Lon	0234500	0240000	0241000	0242200				

Allotment ROU008



Allotment name	ROU008							
Eligibility points	24							
lat	443800	444500	445400	450000	450700	451700	452800	453300
Lon	0222300	0222700	0222500	0222400	0222200	0222300	0222000	0221400
lat	453500	453600	453400	453000	452200	451600	451000	450000
Lon	0220800	0220100	0215300	0214800	0213900	0213600	0213100	0212500
lat	445300	445100	444800	444800	444200	444000	443000	443700
Lon	0213500	0212400	0212500	0213100	0213900	0215300	0220800	0221600

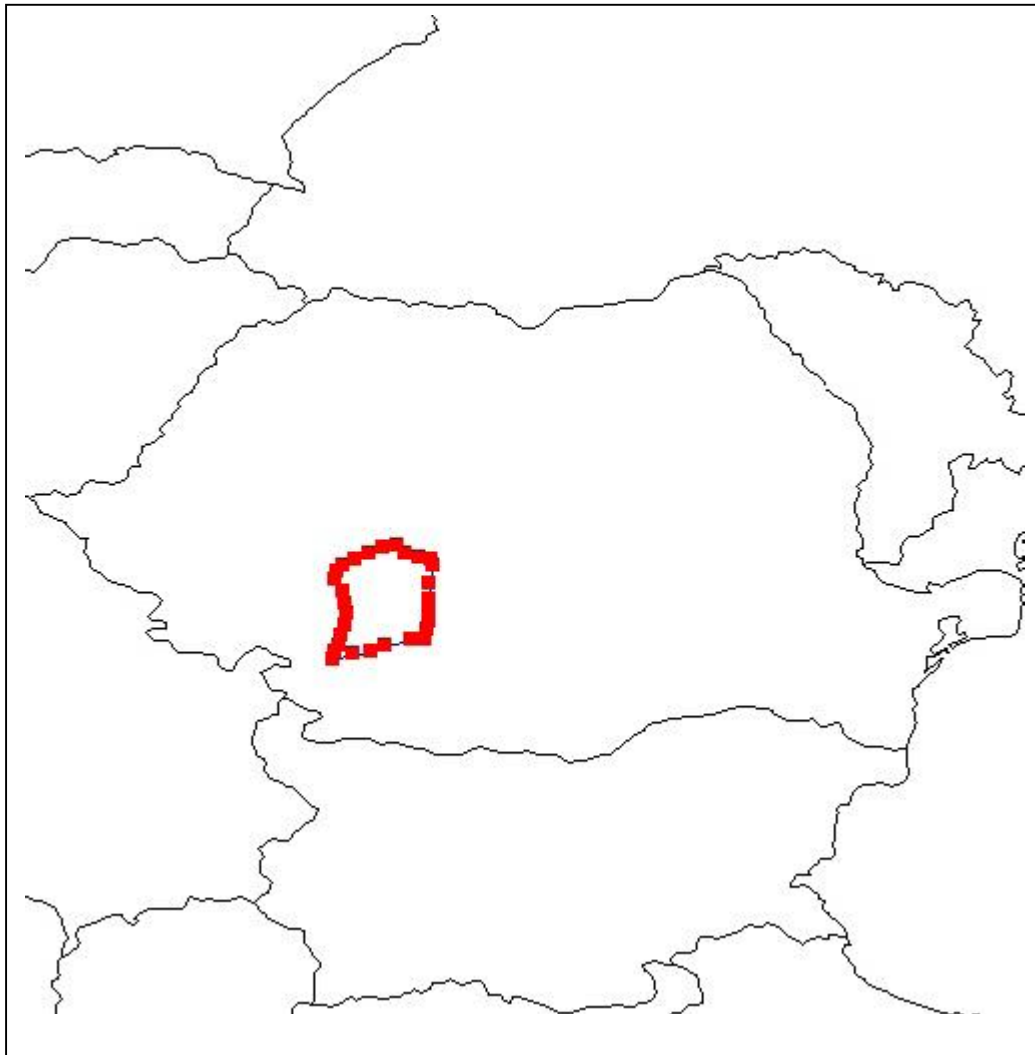


Allotment ROU009



Allotment name	ROU009							
Eligibility points	27							
lat	443500	443900	444300	444900	445400	450100	450700	451400
Lon	0230900	0231000	0231300	0231400	0231600	0231700	0231600	0231500
lat	452000	452600	452400	452300	452000	451900	451800	451700
Lon	0231000	0230300	0225800	0225200	0224600	0223800	0223100	0222300
lat	450700	450000	445400	444500	443800	444100	443100	443000
Lon	0222200	0222400	0222500	0222700	0222300	0223300	0224600	0224900
lat	443100	443200	443300					
Lon	0225600	0230000	0230500					

Allotment ROU010



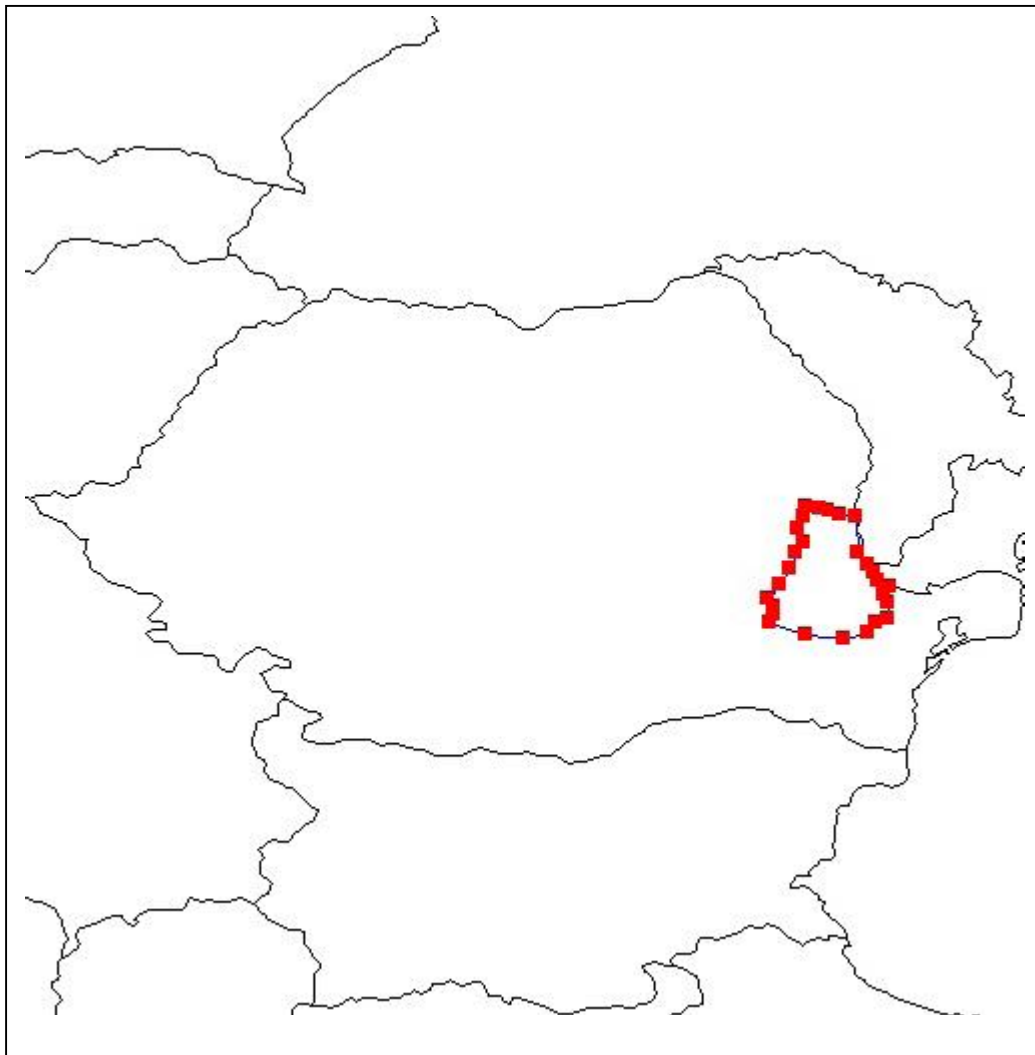
Allotment name	ROU010							
Eligibility points	29							
lat	444600	445200	445600	450300	450900	451800	452800	453200
Lon	0240100	0240200	0240400	0240400	0240300	0240400	0240600	0240500
lat	453230	453500	454000	453800	453500	453200	452800	452500
Lon	0235800	0235000	0234500	0233800	0233000	0232200	0231500	0231100
lat	452000	451400	450700	450100	445400	444900	444300	443900
Lon	0231000	0231500	0231600	0231700	0231600	0231400	0231300	0231000
lat	443500	443800	444000	444300	444600			
Lon	0230900	0232000	0233100	0233900	0235300			

Allotment ROU011



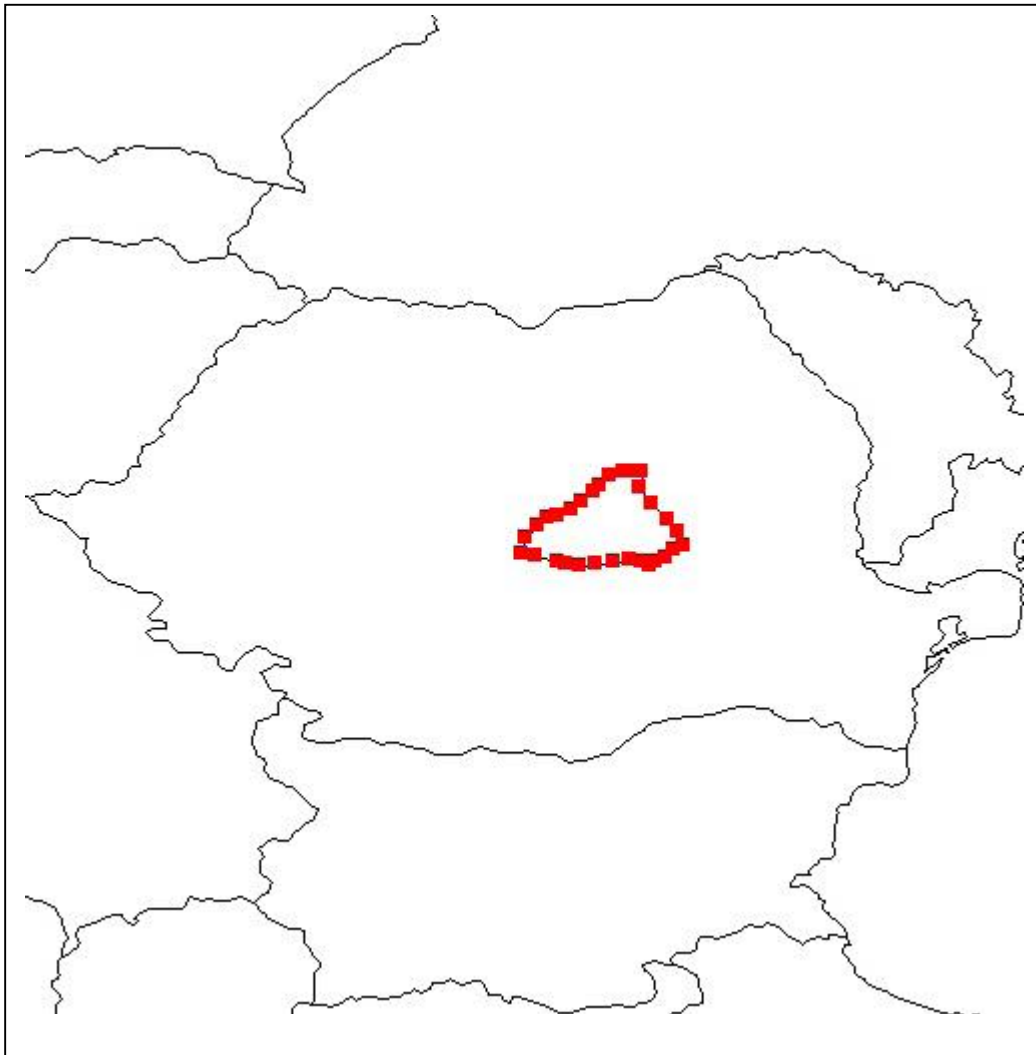
Allotment name	ROU011							
Eligibility points	28							
lat	443400	443600	443700	444100	444300	444300	444900	445500
Lon	0242600	0243600	0244500	0245500	0250400	0251300	0251100	0250900
lat	450300	451100	451800	452700	453400	453500	453700	453500
Lon	0250700	0250600	0250800	0250900	0250400	0245600	0244500	0243400
lat	453300	453400	453200	452800	451800	450900	450300	445600
Lon	0242200	0241100	0240500	0240600	0240400	0240300	0240400	0240400
lat	445200	444600	444300	443800				
Lon	0240200	0240100	0241100	0242100				

Allotment ROU014



Allotment name	ROU014							
Eligibility points	27							
lat	444718	445034	445614	445900	450800	451200	451700	452000
Lon	0275900	0281229	0281756	0282400	0282400	0282200	0282500	0281900
lat	452500	452900	453600	455700	455800	460000	460100	460200
Lon	0281600	0281230	0280700	0280600	0275700	0275000	0274500	0273700
lat	455700	455000	454200	453600	452700	451800	451000	450600
Lon	0273500	0273200	0273500	0273100	0272800	0272200	0271500	0271800
lat	450100	445700	445000					
Lon	0271900	0271600	0273700					

Allotment ROU017



Allotment name	ROU017							
Eligibility points	30							
lat	452800	453000	453300	453700	454000	454700	455400	460300
Lon	0260800	0261200	0261700	0262200	0262800	0262400	0261800	0260900
lat	461200	462100	462200	462100	461900	461400	461000	460400
Lon	0260300	0260400	0260000	0255300	0254600	0254000	0253700	0253000
lat	460000	455700	455500	455100	454400	453500	453400	453100
Lon	0252400	0251600	0251000	0250500	0245800	0245600	0250400	0251600
lat	452900	452800	452900	453000	453130	453000		
Lon	0252100	0252900	0253800	0254800	0255700	0260400		

Allotment ROU018



Allotment name	ROU018							
Eligibility points	29							
lat	453500	454400	455100	455500	455900	460100	460600	461400
Lon	0245600	0245800	0250500	0251000	0250700	0250200	0245800	0245600
lat	461600	461600	461300	461200	461300	461400	461300	461100
Lon	0245200	0244600	0244100	0243000	0242400	0241700	0240800	0240100
lat	460800	460300	455700	455100	454600	454000	453500	453230
Lon	0235300	0234700	0234300	0234100	0234300	0234500	0235000	0235800
lat	453200	453400	453300	453500	453700			
Lon	0240500	0241100	0242200	0243400	0244500			

Allotment ROU019



Allotment name	ROU019							
Eligibility points	30							
lat	452000	452500	452800	453200	453500	453800	454000	454700
Lon	0231000	0231100	0231500	0232200	0233000	0233800	0234500	0234300
lat	455100	455700	460300	460800	461200	461900	462400	462500
Lon	0234100	0234300	0234700	0235300	0234700	0233800	0233500	0232400
lat	462500	462600	462700	462300	461800	461200	460500	460000
Lon	0231500	0231000	0230300	0230000	0225800	0225500	0225200	0224900
lat	455600	454900	454300	453700	453100	452600		
Lon	0224600	0224800	0225100	0225200	0225900	0230300		

Allotment ROU021



Allotment name	ROU021							
Eligibility points	27							
lat	453600	453900	454400	454800	455200	455600	455400	455400
Lon	0220100	0220500	0220600	0220400	0220200	0215800	0215500	0214900
lat	455800	455900	460000	460100	455900	455800	455800	455600
Lon	0214400	0213700	0213200	0212500	0211700	0211100	0210500	0205900
lat	455300	454800	454500	453400	452200	451500	451000	451600
Lon	0204900	0204300	0205000	0205000	0205900	0211500	0213100	0213600
lat	452200	453000	453400					
Lon	0213900	0214800	0215300					



Allotment ROU023



Allotment name	ROU023							
Eligibility points	27							
lat	462600	462800	463100	463500	464000	464300	464900	465400
Lon	0220300	0220600	0221200	0221700	0222400	0223200	0223000	0223200
lat	465600	470300	470900	471300	471700	472100	472400	473300
Lon	0223800	0223800	0223700	0223300	0223100	0222700	0222300	0220800
lat	472300	471700	471100	470400	465600	464900	464300	463800
Lon	0220300	0215300	0215200	0214400	0214100	0213500	0213200	0214000
Lat	463600	463300	462900					
Lon	0214700	0215400	0215900					

Allotment ROU025



Allotment name	ROU025							
Eligibility points	33							
lat	463500	464000	464700	465400	465900	470300	470200	470300
Lon	0235000	0235500	0235700	0235500	0235000	0234700	0234300	0233800
lat	470400	465900	465900	470000	470100	470100	470000	470500
Lon	0233300	0232200	0231500	0230700	0230100	0225400	0224900	0224500
lat	470300	465600	465400	464900	464300	464100	463600	463200
Lon	0223800	0223800	0223200	0223000	0223200	0224000	0224400	0225000
lat	463200	463100	462700	462600	462500	462500	462400	462700
Lon	0225600	0230100	0230300	0231000	0231500	0232400	0233500	0234200
lat	463100							
Lon	0234700							

Allotment ROU026



Allotment name	ROU026							
Eligibility points	33							
lat	461400	461900	462400	463000	463400	464000	464700	464900
Lon	0245600	0245700	0245500	0245400	0245600	0245900	0250200	0245500
lat	465200	465000	464900	465000	465300	465700	465800	465400
Lon	0244700	0243900	0243200	0242600	0241900	0241300	0240300	0235500
lat	464700	464000	463500	463100	462700	462400	461900	461200
Lon	0235700	0235500	0235000	0234700	0234200	0233500	0233800	0234700
lat	460800	461100	461300	461400	461300	461200	461300	461600
Lon	0235300	0240100	0240800	0241700	0242400	0243000	0244100	0244600
lat	461600							
Lon	0245200							

Allotment ROU027



Allotment name	ROU027							
Eligibility points	32							
lat	462800	463500	464200	464600	465100	470100	470900	471100
Lon	0260700	0260900	0260600	0260000	0255000	0254500	0253700	0252200
lat	470900	470500	470100	465200	464700	464000	463400	463000
Lon	0251200	0250400	0245900	0250300	0250200	0245900	0245600	0245400
lat	462400	461900	461400	460600	460100	455900	455500	455700
Lon	0245500	0245700	0245600	0245800	0250200	0250700	0251000	0251600
lat	460000	460400	461000	461400	461900	462100	462200	462100
Lon	0252400	0253000	0253700	0254000	0254600	0255300	0260000	0260400

Allotment ROU034



Allotment name	ROU034							
Eligibility points	18							
lat	473300	474300	474300	474900	475500	475400	475700	475930
Lon	0245900	0250000	0245800	0244700	0243700	0240900	0240100	0233830
lat	475500	475000	474400	474000	473800	473600	473200	472900
Lon	0234000	0234300	0234700	0235400	0240200	0240800	0241900	0242100
lat	473100	473300						
Lon	0243500	0244600						

Allotment ROU035



Allotment name	ROU035							
Eligibility points	29							
lat	470300	470500	470800	471700	472300	472900	473200	473600
Lon	0234700	0235300	0235900	0240100	0241000	0242100	0241900	0240800
lat	473800	474000	473600	473300	472700	472400	472300	472100
Lon	0240200	0235400	0235200	0234600	0233900	0233000	0231900	0231000
lat	471800	471400	470900	470400	470000	470100	470100	470000
Lon	0230300	0225900	0225700	0225300	0224900	0225400	0230100	0230700
lat	465900	465900	470400	470300	470200			
Lon	0231500	0232200	0233300	0233800	0234300			

Allotment ROU039



Allotment name	ROU039							
Eligibility points	24							
lat	451800	452700	453600	454200	455000	455700	460200	460100
Lon	0272200	0272800	0273100	0273500	0273200	0273500	0273700	0273000
lat	460200	460300	460500	460500	460100	455200	454400	454000
Lon	0271900	0271100	0270500	0265600	0264600	0264000	0263500	0262800
lat	453900	453500	453200	452900	452600	452000	451500	451000
Lon	0263300	0263800	0264600	0265300	0265900	0270400	0271100	0271500

Allotment ROU040



Allotment name	ROU040							
Eligibility points	22							
lat	454000	454400	455200	460100	460500	460500	461100	461600
Lon	0262800	0263500	0264000	0264600	0265600	0270500	0270300	0270000
lat	462000	462900	463700	464100	463800	463500	463100	463500
Lon	0265500	0265400	0264700	0264300	0263700	0262700	0261800	0260900
lat	462800	462100	461200	460300	455400	454700		
Lon	0260700	0260400	0260300	0260900	0261800	0262400		