

GRANTING A LICENSE FOR THE PROVISION OF RADIO SERVICES THROUGH TERRESTRIAL ANALOGUE BROADCASTING SYSTEMS

I. Legal basis

- Article 116 et seq. of the Radio and Television Act (RTVA);
- Rules of the tenders organised by the CEM for the awarding of licenses to radio operators which distribute their programmes through terrestrial analogue broadcasting systems.

II. Administrative arrangements, requirements and documents needed

The Council for Electronic Media (CEM) will take a decision to launch one or more tenders ('the Decision') depending on the availability of radio frequency spectra as reported by the Communications Regulation Commission (CRC). The Decision will be published in the State Gazette (the Bulgarian Official Journal).

Potential bidders can then purchase the tender dossier and documents within the time-limit set in the Decision.

The bidders can then submit applications for admission to the tender using a **standard template**. The following documents should be provided together with the application:

1. The transferee's Articles of Association;
2. Certificate of commercial registration or documents certifying the establishment of the legal entity, issued not earlier than one month before the date on which the application is submitted;
3. Certificate of good standing or an equivalent document (for foreign entities), issued not earlier than one month before the date on which the application is submitted;
4. Proposed method for the distribution of the programmes;
5. Declaration pursuant to Article 108 of the RTVA;
6. Declaration confirming that the circumstances referred to in Article 105(4) of the RTVA are not in place;
7. Evidence of the candidate's financial capacity to carry out the proposed operations;
8. Design, concept, profile and scheme of the programme, list of additional radio and TV services;
9. Tentative contracts with rightholders for the use of copyrighted works in the programme and for the use of neighbouring rights in respect of the distribution of foreign programmes;
10. Documents which demonstrate the origin of the candidate's capital in the three years preceding the date on which the documents are submitted, including certified financial statements;
11. Documents which explain the structure of the transferee's capital and the allocation of the capital among the various owners;
12. List of the media operators in which the bidder is a shareholders or partner;
13. Paper-based and electronic versions of the logo of the programme (if any);
14. Tentative technical project for the use of existing and/or new electronic communication networks for terrestrial analogue broadcasting, in line with the tender dossier;
15. Draft version of the business plan for carrying out the operations;

16. Declaration by which the bidder undertakes to respect the confidentiality of the information provided in the tender dossier;
17. Proof of purchase and payment of the tenders dossier;
18. Fee for the examination of the documents.
19. Other documents of relevance to the particular tender.

The bidders should submit their applications for admission to the tender and all the annexed documents either in person or through appropriately authorised representatives within the time-limit set in the Decision for launching the tender.

The application form is available on the CEM website (www.cem.bg), section *Licensing and registration*, subsection *Licensing documents for analogue broadcasting services*.

The CEM will not require the presentation of any information or documents which are already in the possession of CEM or other authorities. Instead, CEM will obtain them on an *ex-officio* basis for the purposes of the related procedure.

After the time-limit for the submission of applications, a Technical Committee will vet the documents.

If any inconsistencies or deficiencies in the documents are found, the CEM will instruct in writing the applicant to rectify such inconsistencies or deficiencies within seven days. The seven-day period will commence on the date on which CEM's notice is delivered. The notice will be delivered in accordance with the process set out in the Code of Administrative Procedure.

Where the deficiencies or inconsistencies are not rectified within the seven-day period, the affected documentation will not be considered.

The CEM will set up an Expert Committee (EC) for the tender on the basis of Article 116c(1) of the RTVA. The EC will be composed of three members from the Council for Electronic Media and two members from the Communications Regulation Commission.

The Expert Committee will evaluate and rate all bidders whose documents have been admitted for assessment. The Expert Committee will then calculate individual ratings for all bidders which have been admitted to the tender and have earned a rating of at least 25 (twenty-five) points, and will produce a report.

The CEM will rank the bidders on the basis of the tender documents, the evaluation criteria, the report from the Expert Committee and the rating which reflects how closely the tender requirements have been met.

On the basis of the ranking, CEM will adopt a decision to award to the bidder ranked first a license for radio operations and a permit from the Communications Regulation Commission for the use of a scarce resource – namely specified bandwidth of the radio spectrum — for the purposes of carrying out electronic communications through existing and/or new electronic communication networks for analogue terrestrial broadcasting ('the Award Decision').

The CEM will accordingly notify the CRC within three days from the entry of the Award Decision into force.

The CEM will grant a license for radio or TV operations within 10 days from the entry of the Award Decision into force.

The ranking of the bidders and the Award Decision will be published on the CEM website and communicated to the parties concerned through a licensed postal operator.

The awarded licensee can choose how to receive the license — personally at the CEM Head Office: Sofia, 69 Shipchenski Prohod Boulevard, Floor 6; through a licensed postal operator or by electronic means.

The Award Decision can be appealed at the Administrative Court of Sofia District within 14 days of the announcement that the Decision has been issued. The appeal has to be submitted through the Council for Electronic Media.

III. Fees

Potential bidders need to purchase the dossier and documentation for the tender in which they wish to bid. The price is determined by a CEM decision (minutes of meeting) and published on the CEM website.

There are fees for the examination of the documents and for the issuance of the license. These fees are set out in Article 4 of the Tariff of Fees for Radio and TV Operations.

The fees can be paid either by a bank transfer or at CEM's cash office at Sofia, 69 Shipchenski Prohod Boulevard, Floor 6.

Details of the bank account:

IBAN BG49 BNBG 9661 3000 1788 01

BIC BNBGBGSD

Bulgarian National Bank (BNB), Head Office

IV. Validity period

The validity of the licenses granted is 15 years.

The permit granted by the CRC and the related license granted by the CEM have the same validity periods.