

## Public hearing on 9 January 2025 (BK1-22/001 proceedings)

### Overview – determinations under consideration for a President's Chamber decision

#### First stage of action: interim decision

#### I. Not ordering award proceedings at the present time

Re-assignment of the current spectrum usage rights for mobile/fixed communications networks (MFCN) in the bands at 800 MHz, 1800 MHz and 2600 MHz that will expire on 31 December 2025 will initially not be preceded by award proceedings as provided for by section 91(9) and section 100 of the Telecommunications Act (TKG).

#### II. Extending current usage rights

The current usage rights for the paired spectrum in the bands at 800 MHz, 1800 MHz and 2600 MHz that will expire on 31 December 2025 will be re-assigned on application by the assignment holders until 31 December 2030 and the usage rights for the paired spectrum in the sub-bands at 1760-1785 MHz and 1855-1880 MHz that will expire on 31 December 2033 will be re-assigned on application until 31 December 2036, provided that the statutory preconditions for assignment are met.

The aim is to harmonise the duration of the usage rights and make the spectrum available for use after the end of 2030 in larger competitive proceedings together with the usage rights that will expire in 2033 and 2036 and any other usage rights that will become available.

#### III. Determinations for the extension

##### III. 1 Determination of the usage for the spectrum rights to be extended in compliance with the Spectrum Plan

1. The spectrum to be awarded may be used for MFCN in compliance with the Spectrum Plan.
2. The spectrum at 800 MHz, 1800 MHz and 2600 MHz will be available for use across the country.

##### III. 2 Spectrum usage conditions, including the degree of coverage with the spectrum usage

1. The usage conditions in this decision and in Annex 2 apply to the use of the spectrum at 800 MHz. The usage conditions in this decision and in Annex 3 apply to the use of the spectrum at 1800 MHz. The usage conditions in this decision and in Annex 4 apply to the use of the spectrum at 2600 MHz.

This spectrum can be used other than in accordance with these usage conditions on the basis of relevant agreements under arrangements between the various (MFCN) assignment holders up to the expiry of the assignments. Such agreements must be notified to the Bundesnetzagentur before operation. Any agreements that deviate from the arrangements made within the framework of border coordination are subject to approval by the competent regulatory authorities.

The spectrum usage conditions can be modified by the Bundesnetzagentur at a later date, particularly if this is necessary to secure efficient and interference-free spectrum use or as a result of international harmonisation agreements or national legislation.

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2. The current usage rights for the paired spectrum in the bands at 800 MHz, 1800 MHz and 2600 MHz that will expire on 31 December 2025 will be extended on application until 31 December 2030 and the usage rights for the paired spectrum in the sub-bands at 1760-1785 MHz and 1855-1880 MHz that will expire on 31 December 2033 will be extended on application until 31 December 2036.

#### 3. Coverage obligation with respect to surface area

Each assignment holder must provide coverage with a downlink transmission rate of at least 50 Mbps for at least 99.5% of the surface area across the country as from 1 January 2030.

#### 4. Coverage obligation with respect to households

Each assignment holder must provide coverage with a downlink transmission rate of at least 100 Mbps for at least 99% of households in thinly populated municipalities in each federal state as from 1 January 2029.

#### 5. Coverage obligation with respect to federal roads

Each assignment holder must provide coverage with a downlink transmission rate of at least 100 Mbps for all federal roads from 1 January 2029 to ensure end-to-end, uninterrupted access to wireless voice and broadband data services along transport routes.

#### 6. Coverage obligation with respect to regional roads and inland waterways

Each assignment holder must provide coverage with a downlink transmission rate of at least 50 Mbps for all regional roads and inland waterways of the federal core network from 1 January 2029 to ensure end-to-end, uninterrupted access to wireless voice and broadband data services along transport routes.

#### 7. Coverage obligation with respect to district roads

Each assignment holder must provide coverage with a downlink transmission rate of at least 50 Mbps for all district roads from 1 January 2030 to ensure end-to-end, uninterrupted access to wireless voice and broadband data services along transport routes.

#### 8. Cooperation obligation with respect to rail routes

Each assignment holder is required to cooperate in jointly establishing infrastructure for the provision of telecommunications services using very high capacity wireless networks along rail routes.

In addition, assignment holders are required to enter into negotiations with railway infrastructure undertakings on jointly using infrastructure for the provision of

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telecommunications services using very high capacity wireless networks along rail routes.

#### 9. Service providers

Each assignment holder must engage in negotiations with suitable service providers and MVNOs on sharing wireless capacity. Negotiations should be non-discriminatory and should not restrict the capacity to be provided to certain services, wireless technologies or applications.

The President's Chamber will lay down the standard for negotiations in the form of detailed provisions (guidelines) aimed at promoting effective negotiations between assignment holders and service providers/MVNOs.

#### 10. National roaming

Each spectrum assignment holder must engage in negotiations on sharing existing nationwide networks (roaming) on request by 1&1 Mobilfunk GmbH. The negotiations should be fair.

This obligation is considered to have been met if one assignment holder grants 1&1 Mobilfunk GmbH national roaming.

If 1&1 Mobilfunk GmbH has not been granted national roaming on request as from 1 January 2026, the President's Chamber reserves the right to order national roaming.

#### 11. Cooperative, shared use of spectrum below 1 GHz

Each holder of an assignment for spectrum at 800 MHz must engage in negotiations on cooperative, shared use of equivalent radio spectrum below 1 GHz corresponding to at least 2 x 5 MHz (paired) in the rollout areas of 1&1 Mobilfunk GmbH on request by 1&1 Mobilfunk GmbH. The negotiations should be fair.

If one assignment holder implements cooperative, shared use of spectrum, this can be credited to the other assignment holders.

If 1&1 Mobilfunk GmbH has not been granted cooperative, shared use of spectrum on request as from 1 January 2026, the President's Chamber reserves the right to order such use.

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#### 12. Leasing of spectrum at 2600 MHz

Telefónica Germany GmbH & Co. OHG is required as from 1 January 2026 to continue leasing 2 x 10 MHz (paired) of spectrum at 2600 MHz for the duration of the extension period on request by 1&1 Mobilfunk GmbH.

#### 13. Cooperation

Each assignment holder must engage in negotiations over cooperation on rolling out and sharing infrastructure and sharing radio spectrum on request by other mobile network operators and in compliance with telecommunications and competition law. The negotiations should be non-discriminatory.

#### 14. Reporting obligation

Each spectrum assignment holder must provide the Bundesnetzagentur once a quarter and on request with a written report on progress in spectrum use, network build, network rollout and rollout plans.

Market players (assignment holders, service providers and MVNOs) must provide the Bundesnetzagentur once a year and on request with a written report on the nature and scope of negotiations on access to wholesale mobile services.

### **Second stage of action: decision on ordering and carrying out competitive proceedings**

#### I. Carrying out competitive proceedings at a later point in time

Subject to a spectrum scarcity and with a view to implementing the regulatory objectives, the President's Chamber has decided to make the spectrum at 800 MHz, 1800 MHz and 2600 MHz available to the market for the period following the expiry of the extension of usage rights in objective, transparent and non-discriminatory proceedings in line with requirements at a later point in time together with the remaining usage rights for spectrum at 700 MHz, 900 MHz, 1500 MHz and 1800 MHz that will expire in 2033 and any other usage rights that will become available.

The aim is to carry out relevant objective, transparent and non-discriminatory proceedings in good time before the spectrum usage rights expire and in accordance with established administrative practice.

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#### II. Key elements

##### 1. Available spectrum

The spectrum to be made jointly available at 700 MHz, 800 MHz, 900 MHz, 1500 MHz, 1800 MHz and 2600 MHz as well as other spectrum possibly becoming available is to be made available for nationwide use for MFCN.

##### 2. Harmonisation of expiry dates

The aim is to harmonise the expiry dates for the above-mentioned usage rights for MFCN. It is planned to assign the spectrum usage rights for a standard limited period of at least 15 years in accordance with the statutory provisions.

##### 3. Improving mobile coverage

###### a) Users' perspective

Coverage obligations are to be based to a greater extent on the quality that users can actually experience. Account will therefore be taken of the key factors influencing coverage from the users' perspective. End-users are to have end-to-end coverage as far as possible, especially in places where people move around and temporarily stay, including in remote areas.

Any future obligation is therefore to require the assignment holders to provide a high-quality, high-performance, nationwide and end-to-end voice and data service for end-users in line with demand.

The aim is to specify minimum end-user download and upload data rates to be provided by the assignment holders.

A future obligation would include minimum usable data rates set in line with demand that end-users in populated and unpopulated areas should be able to expect with a certain degree of probability within a certain timescale.

In addition, coverage and quality requirements for coverage inside buildings and vehicles are to be defined.

###### b) Further instruments to create equivalent standards of living in urban and rural areas in terms of telecommunications services

Innovative instruments such as a negative auction are to be used with a view to improving coverage, in particular in rural areas.

##### 4. Measures aimed at promoting competition

The Chamber will continue to promote competition in accordance with its legal mandate. It will make a new objective and forward-looking assessment of the competitive conditions and take appropriate measures if necessary.

**5. Sustainability and resilience**

Cooperation is to continue to be strengthened and the legal requirements for resilience are to be taken into account in the usage conditions with a view to strengthening the reliable availability of sustainable mobile networks.

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