

DTT frequencies to be allocated

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On November 14 2012 the Communications Authority (AGCOM) launched a public consultation on the scheme of the new regulation for the allocation of available digital terrestrial television (DTT) frequencies (internal digital dividend). The term to submit contributions expired on December 17 2012. The new regulation will govern the allocation of six DTT multiplexes after the cancellation of the 'beauty contest' (a comparative evaluation process) in the first quarter of 2012. Decree-Law 16/2012 cancelled the beauty contest after several critics questioned the choice of formula, which provided for a free-of-charge assignment of the frequencies. The upcoming regulation is intended to ensure compliance with the international obligation to allocate certain frequencies to broadband services within the next few years.

The decree-law stated that the frequencies will be allocated by means of a competitive auction. The new procedure provides for the assignment of six multiplexes: three with frequencies under 700 megahertz (MHz) (ie, sets L1, L2 and L3) and three with frequencies over 700 MHz (ie, sets U1, U2 and U3).

The U multiplexes, having better coverage over the Italian territory, are more attractive for operators. However, they will be assigned only for the next five years, since they must be reallocated to mobile broadband services after 2017.

On the contrary, the L1, L2 and L3 sets will be assigned exclusively to DTT broadcasting for the next 20 years. According to Section 7(6) of the scheme, the three L sets of frequencies will not be transferable for the first three years after allocation, even by means of trading, leasing or changes in control of the relevant companies.

Furthermore, the scheme includes provisions to ensure effective competitive conditions and pluralism in the allocation procedure of the frequencies.

The scheme provides that any television operator will not hold more than five multiplexes as a result of the tender procedure; this does not prevent operators from buying additional multiplexes after the auction concludes.

In addition, the scheme establishes the following limits:

- Newcomers and operators holding no more than one multiplex may compete for the allocation of multiplexes L1, L2 and L3 (multiplex L2, covering 82% of the Italian territory, is reserved for them).
- Operators holding two multiplexes may compete only for the allocation of two L multiplexes – L1, covering 90% of the population, and L3, covering 78% of the population.
- Sky may run only for the allocation of the L1 multiplex.

All operators may compete for the assignment of the U1, U2 and U3 multiplexes, although with consideration for the limit of five multiplexes.

After the public consultation closed in mid-December, the final version of the scheme (with minor changes incorporating comments of the operators that participated in the consultation) was sent to the European Commission, which will deliver its opinion within 30 days. However, as the content of the scheme was previously negotiated between AGCOM and the commission, it is likely that the opinion will come quickly. After the final approval of the regulation, the Ministry of Economic Development will launch the auction.

AGCOM intends to move forward quickly with the auction, because once the new DTT multiplexes are allocated, the commission will finally close the infringement procedure pending against Italy since 2005. However, since the ministry will be the authority in charge of launching and managing the auction and assigning the frequencies, the upcoming general election in February could trigger some delay.