

The Radio and Television Board

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Summary of the Radio and Television Board's tender of countrywide digital terrestrial TV multiplexes (DTT)

The Danish Ministry of Culture has issued Executive Order no. 1441 of 8 December 2017 on The Radio and Television Board's tender of digital terrestrial TV multiplexes (hereafter referred to as "the Executive Order"). In accordance with § 1 of the Executive Order, The Radio and Television Board is offering minimum four countrywide DTT multiplexes collected under one gatekeeper. The Radio and Television Board will issue a licence for the distribution of television programmes, etc. to the gatekeeper, who is found in a "beauty contest".

The complete tender documents are available for download on the Danish Agency of Culture and Palaces' website under the "DTT Udbud" (DDT Tender) point.

The Radio and Television Board hereby calls for applications for the competition with a deadline of Monday 5 March 2018 at 12:00.

The Radio and Television Board expects to publish the winner of the gatekeeper licence no later than 31 May 2018. The Radio and Television Board expects the licence to be issued soon hereafter. The licence will expire 30 June 2030.

The Radio and Television Board reserves the right to make any changes to the terms stated in the tender documents including changes in the time schedule and changes due to changes of the Executive Order. The Radio and Television Board also reserves the right to annul the invitation to tender if no suitable applications are submitted. Finally, a reservation is made for any errors in the tender documents.

Any changes in the tender documents etc. will be published on [the Danish Agency for Culture and Palaces' website](#).

Tender documents

The Radio and Television Board is inviting beauty contest tenders for a gatekeeper for minimum four countrywide multiplexes for the distribution of television programmes, etc.

Participation in the tender process will be based on the submission of an electronic application which must comply with the requirements set out in the tender documents and must include the documentation and information, etc. set out, including a demand guarantee or a deposit of the amount required.

Section 6.2. of the tender documents contains a description of how the Danish Radio and Television Board will assess applications received. The section contains information on the evaluation criteria and the relative weight attached to the criteria.

This section contains a brief description of the background to the tender and the contents of the subsequent sections on the application process (including which information applications must contain), evaluation (i.e. the evaluation of applications by the Radio and Television Board) and the licence terms.

Background

The current licence for the distribution of the countrywide multiplexes is held by BOXER TV A/S and will expire 4 April 2020.

The parties behind the Media Agreement 2015-2018 have decided that tenders are to be invited for the countrywide multiplexes.

Pursuant to section 3(3) of the Danish Radio and Television Broadcasting Act, cf. Consolidated Act no. 255 of 20 March 2014, the Danish Minister of Culture has issued Executive order no. 1441 of 8 December 2017 about the invitation to tender for a licence for distribution in countrywide DTT multiplexes. It is noted, that the Executive Order enters into force 1 January 2018.

The Executive Order is based on the prerequisite that I/S DIGI-TV still distribute unencrypted digital television in one of the available multiplexes.

The Radio and Television Board invites tenders for a gatekeeper of minimum four countrywide DTT multiplexes located in the spectrum 470-694 MHz (UHF) for the distribution of television programmes, etc. The multiplexes offered appear in Appendix 5. An example of a plan for the channels for the multiplexes appears in Appendix 6.

The licence comes into effect on the date it is issued. The licence will expire 30 June 2030.

The gatekeeper shall begin the distribution no later than 4 April 2020.

The gatekeeper shall establish, build up, drive and finance the broadcasting network from which the digital distribution shall take place. This can be based on agreements with other enterprises, among these the current gatekeepers.

As a precondition for using the countrywide multiplexes, the gatekeeper must have a frequency licence issued by the Danish Energy Agency.

From the issuing of the licence to the beginning of the licence period, i.e. from the beginning of the distribution no later than 4 April 2020, the gatekeeper must cover expenses from changes to the existing broadcasting networks that the current gatekeepers use to the extent that the changes result from the plan for the channels included in the licence.

Requirements for the content of the broadcasting time will not be issued, except for the fact that the distribution enterprise must include at least three channels from neighbouring countries and with a few exceptions, the same content must be provided in all parts of the country.

In addition to the above mentioned countrywide multiplexes, the gatekeeper can also decide to put into service a terrestrial digital broadcasting service in the frequency band 174-230 MHz (VHF). The VHF broadcasting resources are shown in Appendix 8.

The distribution licence cannot be granted DR (the Danish Broadcasting Corporation) or syndicates, in which DR attends.

Information meeting, queries and answers

On Monday 15 January 2018 14:30 – 16:00 an information meeting about the tender will take place in the Agency for Culture and Palace, conference room 3 and 4, 5. Floor, H.C. Andersens Boulevard 2, DK-1553 Copenhagen V.

Registration for the information meeting with specification of number of participants can be directed to rtv@slks.dk no later than Thursday 11 January 2018.

In the period from the publication of the tender documents up until Monday 22 January 2018 16:00, there will also be an opportunity to submit queries about the tender documents.

The queries from the information meeting and written queries and their answers will continuously be published on [the Danish Agency for Culture and Palaces website](#).

The queries will be published in anonymized form so that the identity of the questioner will not be explicitly shown.

As far as possible, The Radio and Television Board aim to respond to the queries within two weeks. Due to the Christmas holiday, a longer response period must be expected. However, it is expected that queries put forward up until Monday 22 January 2018 will be answered no later than Monday 5 February 2018. Queries put forward later than Monday 22 January 2018, 16:00 will not be answered.

It is emphasized that all queries shall be put in written form to The Radio and Television Board through the Agency for Culture and Palace to rtv@slks.dk. In the subject field please cite "Query about the tender countrywide multiplexes".

Queries cannot be addressed directly to the Danish Ministry of Culture, the Competition Authority or the Danish Energy Agency.

Application procedure

The application must be submitted via an electronic application form from the website of The Agency for Culture and Palaces. For information to the applicants, a transcript of the application form is attached to Appendix 1 in a pdf-version. In section 5 of the tender documents, the detailed application procedure and the requirements for the content and form of the application are described.

Applications must be received by the Radio and Television Board no later than Monday 5 March 2018 12:00.

Applicants must provide a demand guarantee for DKK 30 million on or before Monday 5 March 2018, 12.00 or deposit the amount in an escrow account.

In the application, the applicants shall:

- Give an account of their, if any, experience of distribution of television, among these pay television services, and give an account of their experience in operating television or customer handling
- Give an account of their experience in establishment and technical operation of a broadcast network
- Give an account of their financial status, cf. appendix 2 in the Executive order regarding key indicators and key figures from the last five years and
- Give an account of the way in which, in their execution of the assignments as gatekeeper, they will promote effective competition on the Danish television market

Furthermore, the applicant must put forward a plan for the structure of the broadcast network, including a draft for channel plan. Additionally, the applicant must propose an estimate of the necessary investments in the broadcast network etc. and the documentation for the funding of these.

By contract, an applicant can base its business on the experience and economy of other businesses. In that case, an account and documentation of this as well as the contract with the business must be attached the application.

Moreover, the applicant shall put forward a proposal for a conflict solving model, a signed preliminary fine agreement, a declaration of ownership and declare their willingness to comply with the terms for the licence.

In section 5 of the tender documents, the additional requirements for the application and the information that must be submitted are described.

In section 6 of the tender documents, the evaluation process of the submitted applications by the Radio and Television Board is described.

The Radio and Television Board reserves the right to annul the invitation to tender if no suitable applications are submitted. In addition, the board can make necessary amendments to the requirements for the licence set out in the tender documents. Finally, a reservation is made for any errors in the tender documents.

If the Board makes any amendments to the tender documents before the deadline for submitting applications, the Board will make a decision on any postponement of the deadline. In all, reference is made to section 15.2. of the tender documents for information hereof.

Evaluation

Upon receipt of applications, the Radio and Television Board will initially go through the applications to ensure that they include the information required as per the tender documents. The Board will then contact the applicants as soon as possible for clarification of any unclear information provided. Normally, it will not be possible to supplement the information provided, but the Radio and Television Board, acting within the framework of the principle of equal treatment, may also request additional information to clarify matters already described in the application. However, the Board may not, in this context ask questions or request additional information concerning the basic elements of the application.

Applications that do not include the minimum information required by the tender documents, such as documentation of at least two years of experience with technically operating a terrestrial television broadcast network, where there is no on demand guarantee or deposited 30 million DKK or where the applicant does not reply requests by the Board regarding additional information, may be rejected by the Board. Se section 6.1 hereon.

On the basis of an evaluation of the applications, the Board will decide which applicant will be granted the licence.

When the Board is assessing the applications, the applicant's experience with distribution of television and the establishment and technical operation of a terrestrial television broadcast network will be given a weight of 25%. The applicant's business-related competences and financial status, based on the applicant's key indicators from the last five years will be given a weight of 25%. Furthermore, the applicant's account of how the applicant will promote

effective competition on the Danish television market by executing the assignment as gatekeeper will be given a weight of 50%.

In section 6.2 the process by which the Board evaluates the applications is described in further details.

Licence terms

The Executive Order contains a number of minimum requirements for the gatekeeper's distribution operations, among these that the gatekeeper no later than April 4 2020 must begin distribution on assigned broadcast networks. Dispensation can be given exceptionally, and only if special circumstances dictate it.

In order to use the broadcasting rights, it is a precondition that the gatekeeper has frequency licence. Gatekeepers are not to pay a concession fee but a fee for the frequency licence must be paid in compliance with the legislative measures of the frequency legislation.

The gatekeeper must establish and operate the broadcasting network that are used for distribution and defray the expenses for this purpose. With regards to the four broadcasting options in the frequency band 470-694 MHz (UHF) a theoretical calculated coverage of at least 97% of the population must be met.

The distribution enterprise should include at least three neighbouring countries. Provided that the business of distribution occurs in packages, channels from the neighbouring countries must be placed in the cheapest package for the viewer.

The viewers must be offered the same content countrywide. However, this does not apply to regional distribution of programs from the regional TV2-businesses on the main channel of TV 2 DENMARK. The channels of the neighbouring countries can likewise vary from different parts of the country.

Every year, no later than 1 May, the gatekeeper is to submit an account of the previous calendar year that entails information about fulfilment of the licence terms and an annual account of the previous calendar year.

The minimum requirements regarding start of distribution, coverage, channels of neighboring channels etc. do not apply for the above mentioned VHF broadcasting resources.

For further information about the minimum requirements, see section 10.

The licence

The licence will be issued and will come in to effect on the issue date. The licence will apply up to and including 30 June 2030.

By request from the gatekeeper, the Danish Energy Agency issues a frequency licence. An annual frequency fee for the frequency licence shall be paid to the Danish Energy Agency.

The Radio and Television Board will supervise compliance with the terms and conditions of the licence, the rules of the Radio and television Broadcasting Act as well as rules issued pursuant to the Radio and television Broadcasting Act. The Danish Energy Agency will supervise compliance with the terms of the frequency licence and the rules in the frequency legislation.

Schedule, language and definitions

Schedule for the tender

The process for the tender is expected to follow the below-mentioned schedule

Information meeting	Monday 15 January 2018, 14.30-16.00
Deadline for submitting queries to the tender material	Monday 22 January 2018, 16.00
Deadline for answering queries	Monday 5 February 2018, 16.00
Deadline for submitting applications	Monday 5 March 2018, 12.00
Deadline for submitting a demand guarantee	Monday 5 March 2018, 12.00
Publication of applicants	Monday 12 March 2018
The Radio and Television Board's expected assessment of the applications	Tuesday 22 May 2018
Expected publication of the winner of the tender	Tuesday 29 May 2018
Expected issuing and commencement of the distribution licence	Thursday 31 May 2018

Language

All communication and correspondence will throughout the tender process take place in Danish, i.e. things such as applications, bank guarantee or

documentation of depositing and other documents, as well as questions, shall be worded in Danish.

It will, however, be possible for the applicants, in addition to the obligatory information in Danish, to submit supplementary information on technical details and the like in Norwegian, Swedish or English. Answers to queries and all communication from the Board will likewise be in Danish.

Applicants, who do not meet the requirement of the language of the application, will be rejected.