



Appendix 1

Task description and requirements concerning the deliveries

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Analysis of the correlations between the competitive situation and the level of investment on the Danish broadband market and mobile market

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1. DESCRIPTION OF THE DELIVERIES

1.1 Background

Joint utilization of the outermost part of the broadband network

In March 2018, the Danish government presented a new telecoms proposal, which included a number of concrete initiatives, among other things, to promote well-functioning competition in the Danish telecommunications market. One of the initiatives is about “*joint utilization of the outermost part of the broadband network*”. It should contribute to improve the competitive situation, increase consumer options and possibly stimulate investment.

The fixed broadband market is characterized by few undertakings in different areas are rolling out infrastructure and that the roll-out of new infrastructure, especially new fiber networks, is not nationwide.

The roll-out of networks for high-speed broadband may in the long run lead to the formation of local or regional monopolies in several places in Denmark, i.e. geographic areas without infrastructure-based competition. This applies in particular to areas where there is no economic basis for rolling out parallel high-speed networks. This may limit competition in the fixed broadband market and reduce consumer options.

In relation to operators with significant market power this challenge can be solved within the current regulation, which falls within the competence of the Danish Business Authority which is the independent national regulator. The regulation allows defining national, regional and local markets and if necessary imposing obligations, including in relation to opening up networks to other undertakings.

In addition to this regulation, the challenge can be addressed by opening the outermost part of the networks to other operators through so-called symmetrical access regulation if the competitive situation in a given area requires it. This ensures better conditions for service-based competition on the infrastructure present.

Better utilization of the networks can thus improve the competitive situation and increase consumer options and possibly stimulate investment. However, symmetrical access regulation may also potentially limit the incentive of those undertakings that today invest in telecommunications infrastructure to continue their investments.

In 2016, the European Commission presented a proposal for revision of the telecommunications directives, including the rules that set up the framework for the

sector specific competition regulation of the telecommunications market. On 6 June 2018, a political agreement was reached between the Council and the European Parliament on the new rules.

According to the political agreement, the competition regulation in the telecommunications sector shall continue to be based on a fundamental principle of only regulating markets where competition problems can be identified and in principle only in relation to providers with significant market power. The European Commission's proposal, however, has an increased focus on more general regulation in the form of so-called symmetrical network access regulation, where regulation can be implemented in the form of opening up network to providers other than those with significant market power can be implemented.

Rules on symmetrical access regulation are thus part of the new telecommunications directive, which is to be implemented in Danish legislation.

When introducing symmetrical network access regulation, it is important to ensure a balance between the competition in the broadband market and investment incentives of the undertakings that own the broadband networks that, by way of symmetrical network access regulation, are opened for other undertakings.

Competitive effect of possible increased network sharing in the mobile market

The Danish mobile market consists of four undertakings with own networks; TDC, Telenor, Telia and Hi3G. In practice, however, there are only three physical mobile networks in Denmark, as Telia and Telenor merged their networks in 2012.

The competition in the Danish mobile market is well-functioning, and the market is not regulated by market decisions in the same way as fixed network markets. Internationally, consumer prices are low and the availability of services is high. In the coming years, the 5G-technology is expected to be rolled out. This will require investments, as many more sites are to be established than with the current 3G and 4G networks.

1.2 Deliveries

The task consists of two studies, which are defined in more detail below.

The main elements of the analysis

Analysis A: Joint utilization of the outermost part of the broadband network

The study of the Danish broadband market must contain the following:

- 1) The correlations between the competitive situation and the level of investment on the broadband market must be described. In this connection, it shall in



particular be examined whether competition by virtue of symmetrical access regulation, may affect the investment incentives of the owners of broadband networks which may be subject to new requirements for opening their networks.

- 2) What significance does it have for the competition and investment incentives if the network through symmetrical network access regulation is opened close to the end-user's network termination point or further back in the network? For example, it may be a distribution point or cabinet outside buildings, or the network access may take place further back in the network.
- 3) What other consequences does the introduction of symmetrical network access regulation have for the undertakings that own broadband network?

Based on competition law and economic theories, the analysis should identify positive and negative correlations between investment and competition through symmetric access regulation.

The output of the task shall be an overall theoretical analysis of positive and negative aspects of the interaction between investments and competition through symmetrical network access regulation. The analysis must be carried out from competition and economic considerations. The analysis should however not be prescriptive/action-oriented in relation to concrete regulation.

Analysis B: Competitive effect of possible increased network sharing on the mobile market

The study of the Danish mobile market must contain the following:

- 1) The correlations between the competitive situation and the level of investment on the mobile market must be described. It shall be examined whether increased competition helps support the need for investments on mobile networks or if it instead inhibits the investment propensity.
- 2) How will a potential increased network sharing between undertakings affect competition in the mobile market?

Organization

In connection with the preparation of the analysis and the final report, tenderer must report to the Danish Energy Agency.

1.3 Main timetable

The task will be announced on 14 November 2018 with a deadline for submission of tenders on 3 December 2018. Following the announcement, questions must be

submitted in writing via e-mail to dig@ens.dk, CC: tsm@ens.dk and pjo@ens.dk no later than 23 November 2018, 12:00 (CET). Questions and answers will be published on www.udbud.dk by 28 November 2018.

The winning tender will be announced in week 50. The signing of the contract will take place immediately thereafter and no later than week 51.

No later than 1 April 2019, a preliminary draft of the report must be available. The draft must contain at least draft conclusions on the main elements of the analysis.

A final report must be submitted to the Danish Energy Agency by 1 May 2019.

2. MINIMUM AND COMPETITIVE REQUIREMENTS

2.1 Minimum requirements

The project value (tender price) must not exceed DKK 800,000 excl. VAT.

The tenderer's offer must include all expenses associated with the assignment.

The tenderer's offer must not exceed 20 A4-pages excl. Appendices. Documents that do not contain tender text but only text supporting the tender, e.g. employee CVs and references are considered as appendices.

2.2 Competitive requirements

1. Price

The price offered is evaluated as specified in Appendix A.

2. Description of the solution

The tenderer's offer must be accompanied by a description of the solution (maximum 4 A4 pages). The tenderer's description of the solution should reflect an understanding in breadth and depth of the task.

Evaluation preference: The evaluation will reflect the extent to which the tenderer in the submitted offer concisely and accurately provides a description of the solution which includes an understanding of the task, so that a better and more specific understanding of the task is assessed higher than a lesser and inaccurate understanding of the task.

3. The team's experience and competencies

The evaluation will reflect the amount and relevance of the allocated consultants' experience with the telecommunications sector, so that more relevant experience is evaluated more positively than less relevant experience.

The tenderer must concisely and accurately describe the team's experience with similar analyses within the described task, the team's knowledge of the telecom sector, including the Danish mobile and broadband market. The tenderer must further substantiate that the experience is relevant.

Evaluation preference: The evaluation will reflect the team's level of competence and the extent to which the tenderer makes it probable that the team's economic, regulatory and technical competencies are relevant so that more relevant competencies are assessed higher than less relevant competencies. Relevant economic and regulatory competences are given more weight than technical competencies.

In addition, the evaluation will reflect the extent to which the tenderer makes it probable that the team has experience relevant to the task and knowledge of the sector so that more relevant experience is assessed higher than less relevant experience. The contracting authority places particular emphasis on the tenderer's experience with and knowledge of the Danish mobile and broadband market. Knowledge and prior experience can be demonstrated by the tenderer informing the Danish Energy Agency of field-relevant studies or analyses that the tenderer has previously prepared. In this connection, the tenderer should submit references to the Danish Energy Agency of relevant employees who have the above mentioned experience.

4. Timetable and activity plan

Alongside the description of the solution, the tenderer should also provide a realistic timetable and activity plan that must contain milestones for the preparation of the report.

Evaluation preference: In assessing this criterion, emphasis is placed on the individual activities being conducted so that it is realistic that they can be carried through without delay in relation to the timetable.