
STATUTORY INSTRUMENTS

2006 No. 338

The Wireless Telegraphy (Licence Award) Regulations 2006

PART 6

ACTIVITY RULES

Forfeit of deposit and exclusion from award process

31. If, in relation to an applicant who is qualified to bid or a bidder, OFCOM are satisfied that any of the events set out in regulation 32 are occurring (or have occurred) and that the occurrence would materially affect the outcome of the award process —

- (a) the initial deposit, or the bid deposit where a bid deposit has been paid, shall be forfeited by, and not refunded to, the applicant or bidder concerned; and
- (b) that applicant or bidder may also be excluded by OFCOM from the award process by OFCOM giving that applicant or bidder notice in writing.

Events

32. The events referred to in regulation 31, in relation to an applicant or bidder, are —

- (a) the submission to OFCOM of any information in connection with the award process which is false or misleading;
- (b) any member of that applicant's or bidder's bidder group is colluding (or attempting to collude) with another person to distort the outcome of the award process;
- (c) any member of that applicant's or bidder's bidder group is acting in a way which is likely to distort the outcome of the award process;
- (d) any member of that applicant's or bidder's bidder group, or any person to whom confidential information has been disclosed, is disclosing, or attempting to disclose, or inciting another person to disclose, any confidential information, whether directly or indirectly, to any person except where the disclosure —
 - (i) is to a member of that applicant's or bidder's bidder group;
 - (ii) is to OFCOM; or
 - (iii) is for the purpose of raising finance for a bid and is to a provider of finance.
- (e) any member of that applicant's or bidder's bidder group is obtaining or attempting to obtain confidential information relating to another applicant or bidder;
- (f) any member of that applicant's or bidder's bidder group is receiving or is attempting to receive services in relation to the award process from any person who has provided or is providing services to OFCOM in relation to the award process;
- (g) any person who is a director or employee of a member of that applicant's or bidder's bidder group and also a director or employee of a member of another bidder group is —

- (i) taking part in the preparation of both bidder groups for participation in the award process; or
- (ii) receiving confidential information relating to both bidder groups;
- (h) a member of that applicant's or bidder's bidder group is or becomes a member of another applicant's or bidder's bidder group;
- (i) a change is occurring in the membership of that applicant's or bidder's bidder group from that notified to OFCOM in its application except as a result of —
 - (i) a person ceasing to be a member of that bidder group;
 - (ii) a person joining that bidder group under the procedure in regulation 6(2);
 - (iii) a person becoming an associate through merger or acquisition activity provided that such activity is not for a purpose related to the award process.