

fastFT 5G networks

Deutsche Telekom, Telefónica and Vodafone fail to halt German 5G auction

Operators had argued that conditions imposed by regulators are too onerous



The 5G spectrum auction will begin next week © Bloomberg

Tobias Buck in Berlin MARCH 15, 2019

A trio of telecoms operators have failed in their attempt to stop Germany's keenly awaited auction of 5G spectrum by arguing that the conditions imposed by regulators were too onerous.

The auction will go ahead next week as planned after an administrative court in Cologne dismissed an appeal by [Deutsche Telekom](#), [Telefónica](#) and [Vodafone](#). "The auction of frequencies for the new 5G mobile phone generation can begin," the court said in a statement.

The three operators had argued against the obligation to provide 98 per cent of all German households with fast internet — defined as at least 100 megabits per second — by 2022. The demand was part of the conditions set by the federal network agency, or [Bundesnetzagentur](#), the regulator in charge of the auction. Bidders will also have to agree the same level of service along all of Germany's motorways, principal highways and the rail network.

Another area of controversy was the network agency's demand that the eventual winners of the auction must share their network with competitors as part of a "national roaming" provision, in exchange for a fee.

With only days to go until the formal opening of the bidding process on March 19, the court ruled that these and other conditions were not unjustified, and that the agency was within its rights to make them part of the auction. The court also argued that a speedy start of the auction process was in the public interest.

Friday's ruling removes the final obstacle to an auction that has attracted intense political scrutiny. Berlin hopes that the bidding process will not only raise significant funds for the government but will also allow Europe's largest economy to bring its creaking [digital infrastructure](#) up to the highest standards.

For German business, the introduction of the latest generation of wireless technology is also of vital importance: 5G is seen as crucial for the development of new technologies that are of acute interest to industry, such as autonomous driving and the "internet of things".

At the same time, the 5G auction has raised significant security concerns, mostly centred on the role of Chinese equipment provider Huawei. Telecoms operators are [keen to use the Chinese group](#) as a supplier for their 5G network, despite warnings from the US that Huawei's close links with the Chinese state could pose a security threat.

Telefónica said in a statement that it was "aware" of Friday's ruling but that it remained "absolutely necessary . . . to provide legal certainty prior to the start of the auction". The Spanish group pointed out that Friday's decision was merely an interim judgment, and that the operators' claim could still be upheld later.

"[This] could lead to a case where an auction that already took place based on these rulings would have to be declared void. In our view, this could do far more harm to network roll-out than a slight delay of the auction itself to allow a redesign of the auction rules to ensure investment incentives."

Telefónica added that it would take part in the bidding process next week all the same. “We are going into the auction with confidence and expect a positive result for the company in this auction,” it said.

Vodafone said it was “evaluating the decision and have no further comment at this point”.

Additional reporting by Nic Fildes in London

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