

1800 MHz Auction

**Award of frequencies in the frequency bands
1720.1-1785.0 MHz and 1815.1-1880.0 MHz**

Information Memorandum

Annex H

Disclosure of Ownership Structure

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Denmark

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Annex H: Disclosure of Ownership Structure

According to the Danish Energy Agency's decision of 28 June 2016 the application shall include information regarding ownership structure. This annex firstly defines the format for the disclosure of ownership structure with general instructions on how various relations are to be illustrated and information are to be given (section 1). It then provides an illustrated explanation of how to complete this disclosure with a more detailed explanation of the specific disclosure requirements (section 2).

1 Format for Disclosure of Ownership Structure

Enclose a separate sheet(s) with the application, showing a detailed, complete and clear overview of the holding structure of the bidder, using instructions set out below.

The bidder should be represented by an ellipse. Other entities should be represented by rectangles (see Figure 1). Each shape should contain the name of the person or entity that it represents.



Figure 1: Shapes to be used for disclosure of ownership structure

(a) Connected Persons and Associated Persons – Direct Ownership Relationships to the Bidder

Entities who have direct ownership relationships to the bidder should be shown as a solid line joining the two parties, with the percentage ownership between the two parties indicated alongside. Lines should either be horizontal or vertical, and **not** diagonal (see Figure 2).

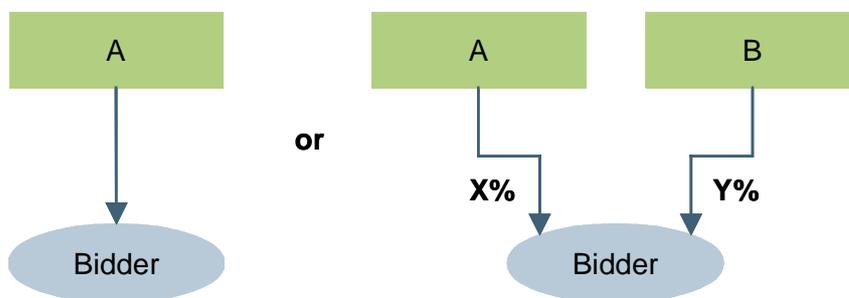


Figure 2: Solid lines should be used to show ownership relationships

Other forms of control or influence, such as right to nominate the majority of directors or control through shareholders' agreement should be shown as a dashed or dotted line, with illustrative text or explanatory footnotes indicating the mechanism of control (see Figure 3).

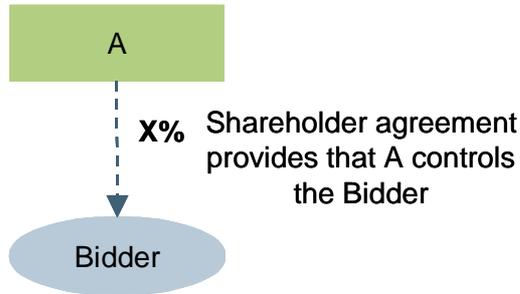


Figure 3: Dashed or dotted lines should be used to show other forms of control or influence

(b) Entities Under the Control of Connected Persons

Where there are other entities under the control of a connected person, the information should be presented as shown in Figure 4. Attach on a separate sheet, a list of entities under the control of this connected person (see next paragraph for the format of the list):

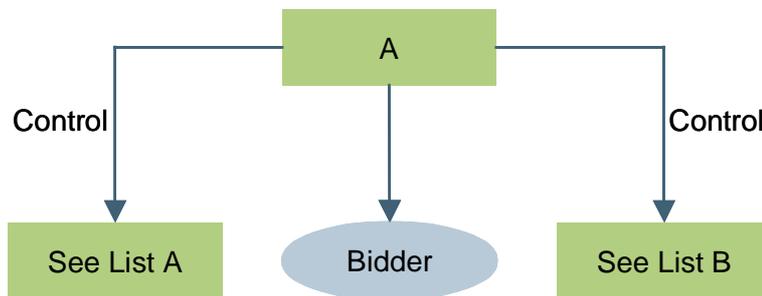


Figure 4: Format for disclosing other entities under the control of a connected person

Each list should have a title in the form of List A, B. The head company or the ultimate owner should be placed at the top of the list and the entities directly controlled by it, listed below, and appropriately indented to show the order of ownership. For example, the format shown in Figure 5 would be appropriate.

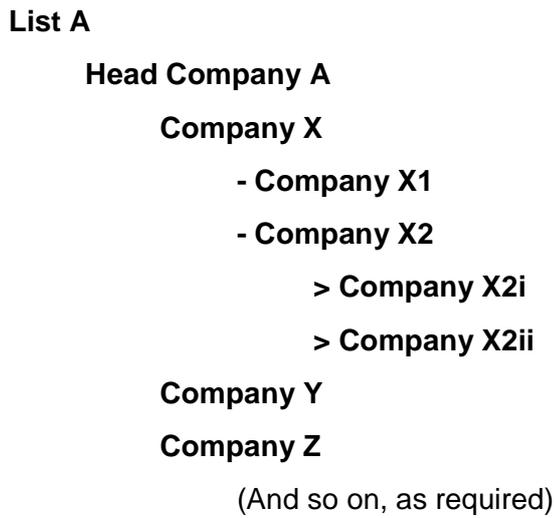


Figure 5: Format for disclosing order of ownership

Bidders should also state if a connected person is a mobile operator in Denmark.

(c) Connections Through Ownership by a State

It is not necessary to provide lists of entities who are connected persons in relation to a bidder by virtue of common ownership by a state (see figure 6).

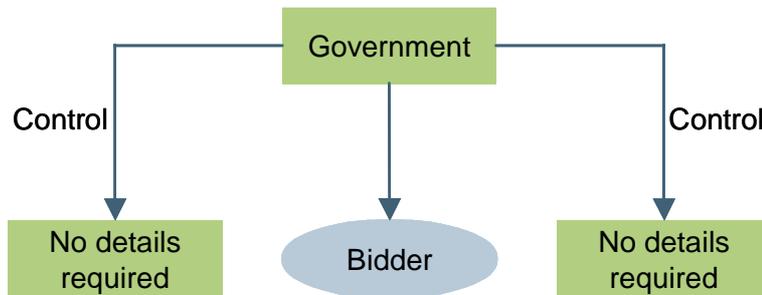


Figure 6: No details are required for entities who are connected persons in relation to the bidder by virtue of common ownership by a state

(d) Associated Persons – Direct Ownership Relationships to the Bidder

Associated persons in relation to the bidder should be disclosed on a separate sheet to the disclosures comprising connected persons. Disclosures on associated persons should be presented in the same manner as in the case of the connected persons shown above.

A bidder is also required to state whether an associated person in relation to the bidder is also an associated person in relation to another bidder.

(e) Relations to Mobile Operators in Denmark

The bidder is also required to attach a description of relations to mobile operators in Denmark (as defined in clause 104 of the Danish Energy Agency's decision) which the bidder may have.

2 Illustrated Explanation of Disclosure Requirements

The purpose of this section is to provide a step-by-step approach that bidders may find helpful in meeting the application requirements in relation to disclosing their ownership structures. It does this by identifying key steps that bidders might go through to identify all the relevant relationships.

The disclosure requirements on ownership structures are set out in clause 37 of the Danish Energy Agency's decision. The bidder must provide, to the best of the bidder's knowledge and belief, a detailed, clear and exhaustive outline of the ownership structure for the bidder including:

- A list of all connected persons and for each of them a statement to explain why the person concerned is a connected person, and if the person is a mobile operator.
- A list of associated persons and for each of them a statement to explain why the person concerned is an associated person, and whether the person is also an associated person in relation to another bidder.

The disclosures should be in the form specified in section 1 above. The illustrations used in this section are comparable to the diagrams that are set out in the instructions in section 1.

Conditional Rights – Calculation of Interest

Clause 96 of the Danish Energy Agency's decision sets out the treatment of conditional rights in relation to the definitions of participation, connected person and control. All conditional rights shall be included whether or not such condition or conditions are subsequently met or waived except in circumstances where:

- Such merger or acquisition is subject to the approval of the Competition Council, a similar public competition authority or the European Commission, or
- such merger or acquisition is opposed by the relevant party's board of directors.

Where an approval has been received and the relevant party's board of directors no longer opposes such merger or acquisition, the conditional rights will be included.

If there are a number of ways in which ownership interest or number of voting rights can be calculated in connection with the evaluation of whether or not control exists, the relevant calculation and evaluation shall be made in a manner that leads to the highest ownership share, the highest number of voting rights and the highest influence respectively. These include subscription options or authorisation to waive any pre-emption right for the purpose of exercising an issue directed towards a certain group of investors.

Step 1 – Identifying Connected Persons with ownership of the Bidder (“uplinks”)

The first step is to identify connected persons as defined in clause 99 (a)-(c) of the Danish Energy Agency’s decision. These provisions effectively capture the “uplinks” from the bidder in the control/ownership structure of the bidder. This section describes each of the subsections and provides illustrative diagrams.

Clause 99 (a) of the Danish Energy Agency’s decision describes connected persons as persons “who control the bidder”. Figure 7 below illustrates some examples of circumstances of control as defined in clause 99 of the Danish Business Authority’s decision.

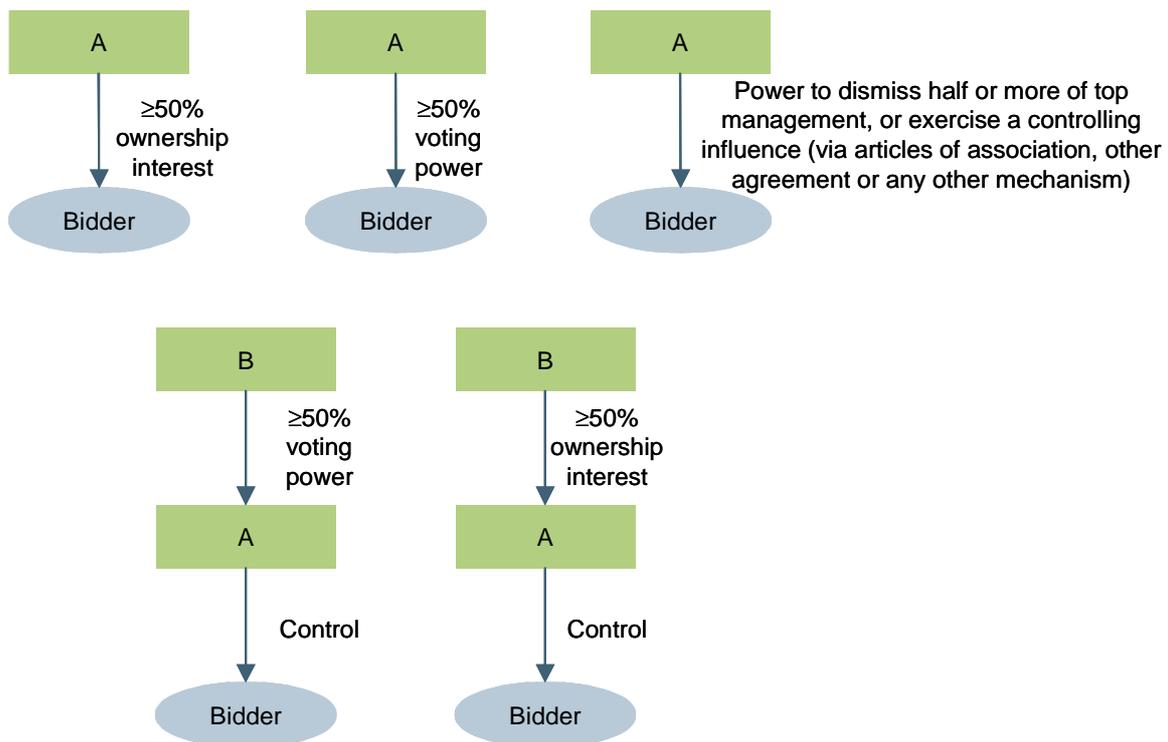


Figure 7: Examples of entities deemed to control the Bidder

Clause 99 (b) of the Danish Business Authority’s decision describes connected persons as persons who hold a participation of 10% or more in the Bidder, and:

- Hold confidential information about the bidder, or

- have an agreement to finance or otherwise assist the bidder in connection with the auction process.

Furthermore, clause 98 (a)-(d) of the Danish Energy Agency’s decision states that participation shall mean:

1. The possession, de facto or formal, by a person of ownership in a legal entity, whether directly or through one or more intermediate legal entities
2. the right to acquire or subscribe for ownership in the legal entity referred to under no. 1 above
3. the right to dispose of the ownership in the legal entity referred to under no. 1 above; or
4. the right to acquire voting rights in relation to the ownership in the legal entity referred to under no. 1 above.

Figure 8 below illustrates some examples of participation that fall within clause 99 (b) of the Danish Energy Agency’s decision. The diagrams assume that entity A has confidential information concerning the bidder or has agreed to finance or support the bidder.

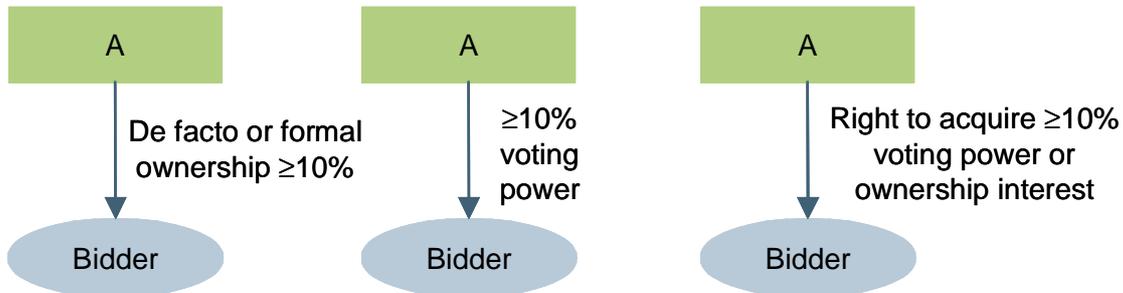


Figure 8: Examples of entities deemed to have participation in the bidder

Clause 98 last paragraph of the Danish Energy Agency’s decision goes on to state that:

“When calculating the participation held by the first person in the second person through one or more intermediate legal entities, the ownership shares held by each link of the chain through which participation has been established shall be multiplied. However, in the event that any link of the chain controls the next link of the chain, the former shall be deemed to have a 100% ownership share.”

In figure 9 below, B will be deemed to have 10% participation in the bidder since the 70% ownership share of the bidder by A will be deemed to be 100% ownership share for the purposes of calculating the participation that B has in the bidder.

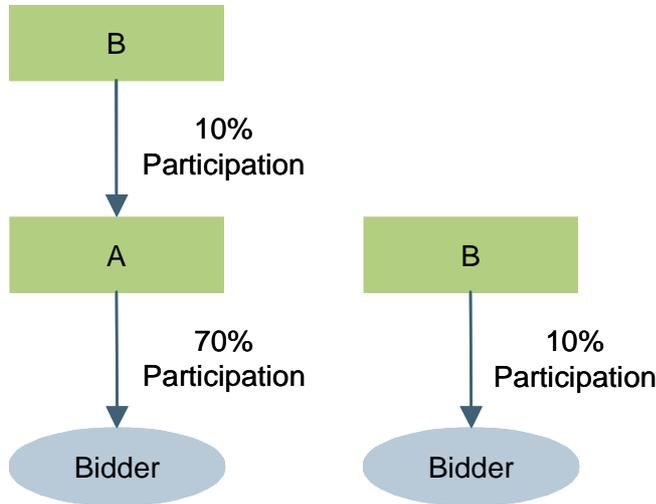


Figure 9: Example of how to calculate entity B's participation in the bidder

Clause 99 (c) of the Danish Energy Agency's decision describes a connected person as a person who controls a legal entity who falls within the scope of clause 99 (b) above.

Figure 10 below describes an example of a relationship that falls under this provision. Entity A is a connected person by virtue of a participation of 10% together with either confidential information or financing of the bidder or assisting the bidder in any other way. Entity B is a connected person by virtue of controlling A.

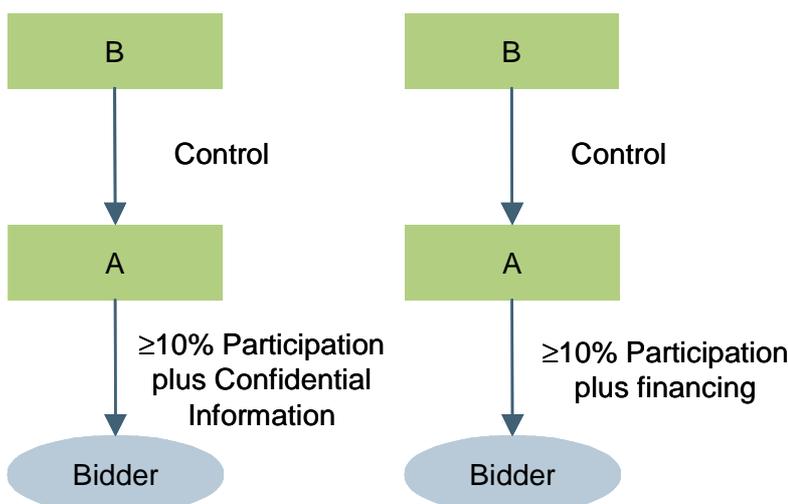


Figure 10: Example of a case where entity B is a connected person by virtue of its control of entity A

Ownership or another form of control shall be illustrated as described in section 1.

Step 2 – Identifying other Connected Persons (“downlinks”)

The second step is to identify entities that are related to the bidder through some relationship other than control or ownership of the bidder. In particular, this requires the bidder to provide information about the “downlinks” from the bidder and the connected persons that were identified above. It is important to note that the information is only required on the “downlink” Legal entities if there is a control relationship. Furthermore, information is not required on legal entities that are connected persons by virtue of their control by a state that is a connected person.

These relationships are covered by clause 99 (d)-(f) of the Danish Energy Agency’s decision and are as follows:

Clause 99 (d) of the Danish Energy Agency’s decision describes a person who is controlled by a person who falls within the scope of clause 99 (a) or (b) above. Figure 11 below illustrates some of the relationships covered by this section.

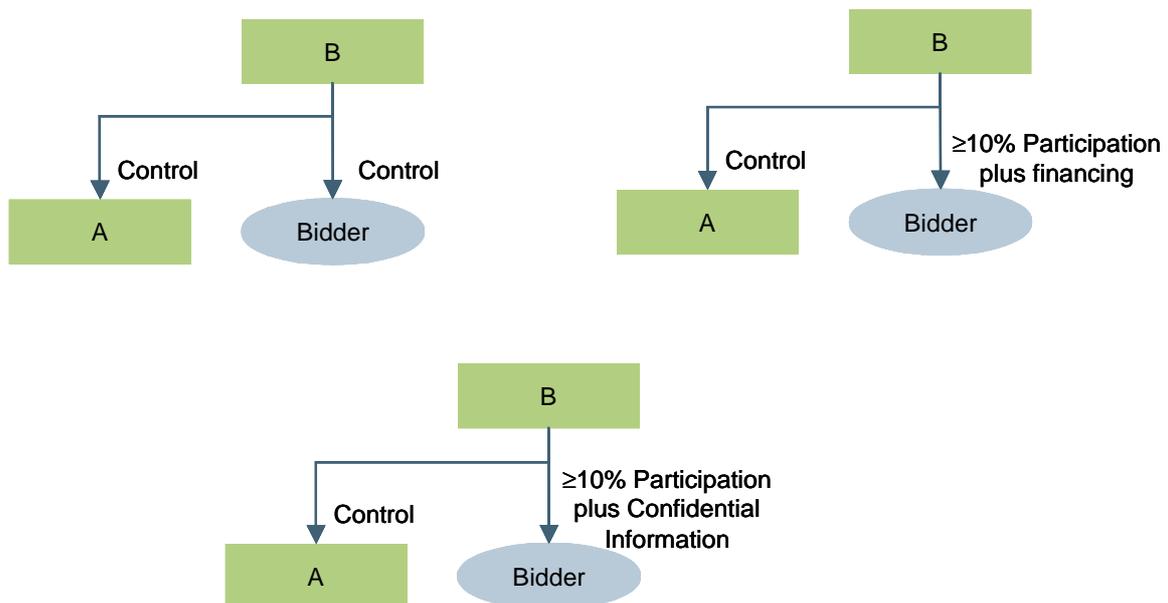


Figure 11: Examples of cases where entity A is a connected person by virtue of being controlled by entity B

Clause 99 (e) of the Danish Energy Agency’s decision describes a person who is controlled by a person who controls a legal entity who falls within the scope of clause 99 (b) above. Figure 12 below illustrates some relationships covered by this section.

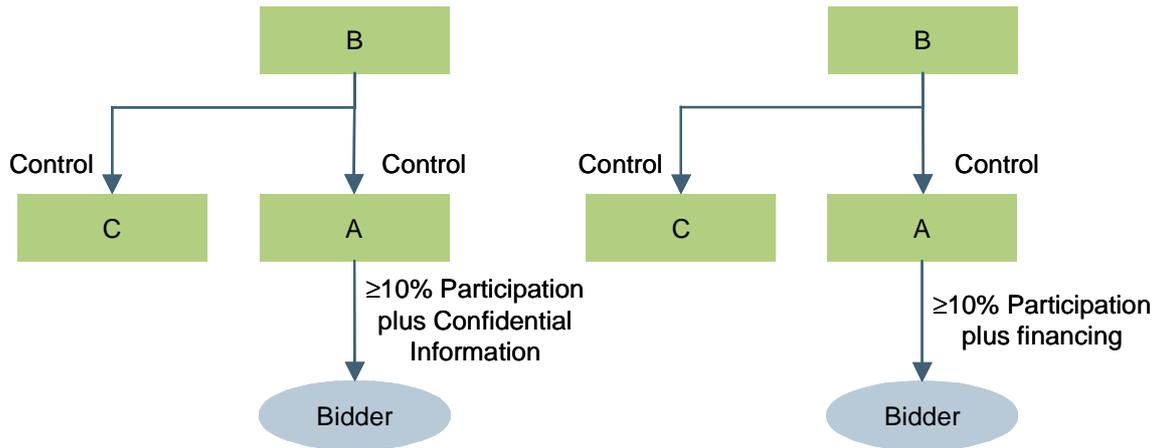


Figure 12: Examples of cases where entity C is a connected person by virtue of being controlled by entity B which also controls entity A

Clause 99 (f) of the Danish Business Authority’s decision describes a person who is controlled by the bidder.

Figure 13 below illustrates some examples that fall within the scope of this provision.

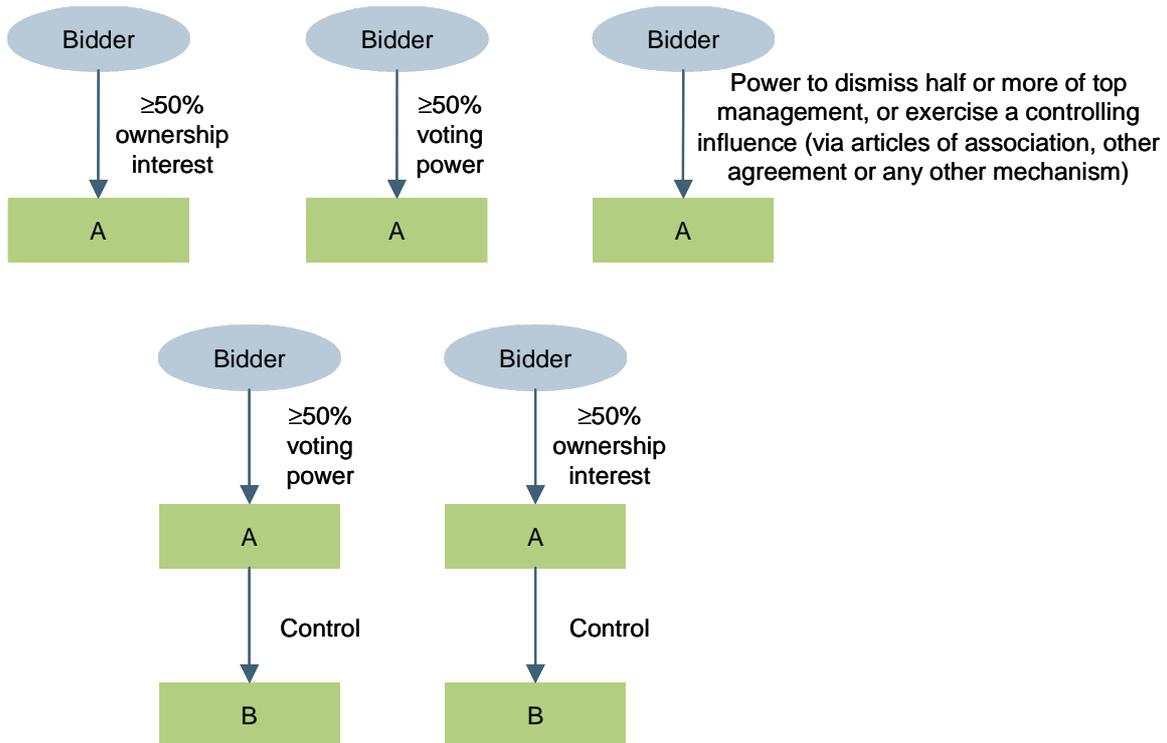


Figure 13: Examples of entities deemed to be controlled by the Bidder

It is important to note that entities in the “downlinks” are only connected persons if they are in a control relationship in relation to a bidder or its connected persons identified in the “uplinks”. However, if there are entities who are not in a control relationship but do have confidential information, they should be listed as insiders together with any connected persons who are also insiders.

Bidders are not required to provide diagrams illustrating the “downlinks”. Instead, they should provide lists in accordance with section 1 as shown in figure 4 and 5.

Step 3 – Identifying Associated Persons and Associated Bidders

Clause 107 of the Danish Energy Agency’s decision defines an associated person in relation to a bidder as a person who holds a participation of 20% or more in the bidder. Figure 14 below illustrates the relationship covered by this provision.

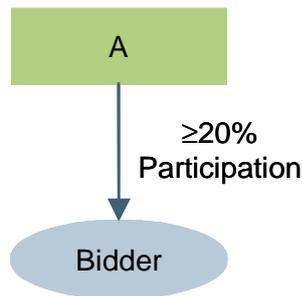


Figure 14: Example of an associated person

Associated bidders are defined in clause 106 of the Danish Energy Agency’s decision. The term refers to two or more bidders who have one of the following relationships with each other:

Clause 106 (a) – One bidder holds a participation of 20% or more in the other bidder (see figure 15).

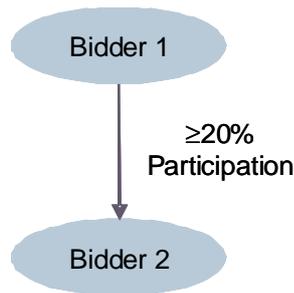


Figure 15: Example of associated bidders: Bidder 1 holds a participation of ≥20% in bidder 2

Clause 106 (b) – A connected person in relation to one bidder holds a participation of 20% or more in the other bidder (see figure 16).

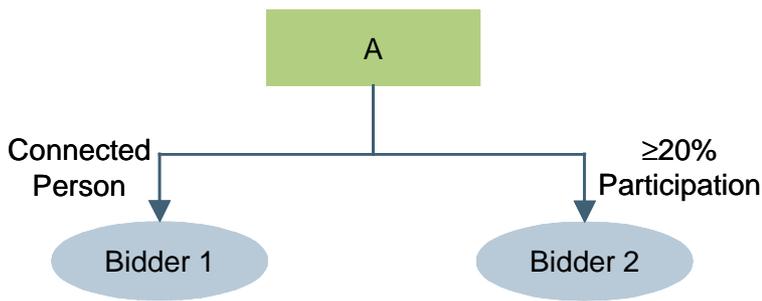


Figure 16: Example of associated bidders: Entity A is a connected person in relation to bidder 1 and holds a participation of ≥20% in bidder 2

Clause 106 (c) – A person who is not a connected person in relation to any of the bidders concerned holds a participation of 20% or more in both bidders (see figure 17).

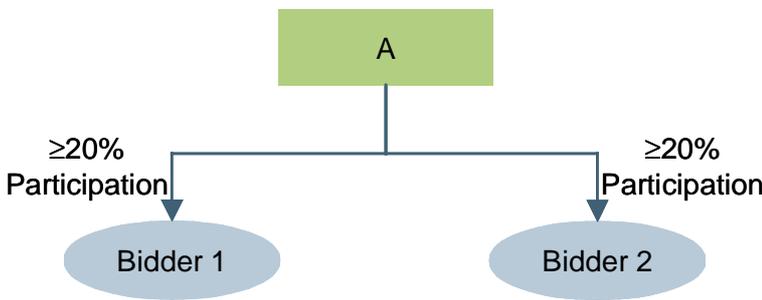


Figure 17: Example of associated bidders: Entity A holds a participation of ≥20% in bidder 1 and 2

Clause 106 (d) concerns linkages through mobile operators – one of the bidders (or a connected person in relation to this bidder, or a party who holds a participation of 20% or more in this bidder) and the other bidder (or a connected person in relation to the other bidder, or a party who hold a participation of 20% or more in the other bidder) each hold a participation of 20% or more in the same mobile operator or persons who control the mobile operator (see figure 18).

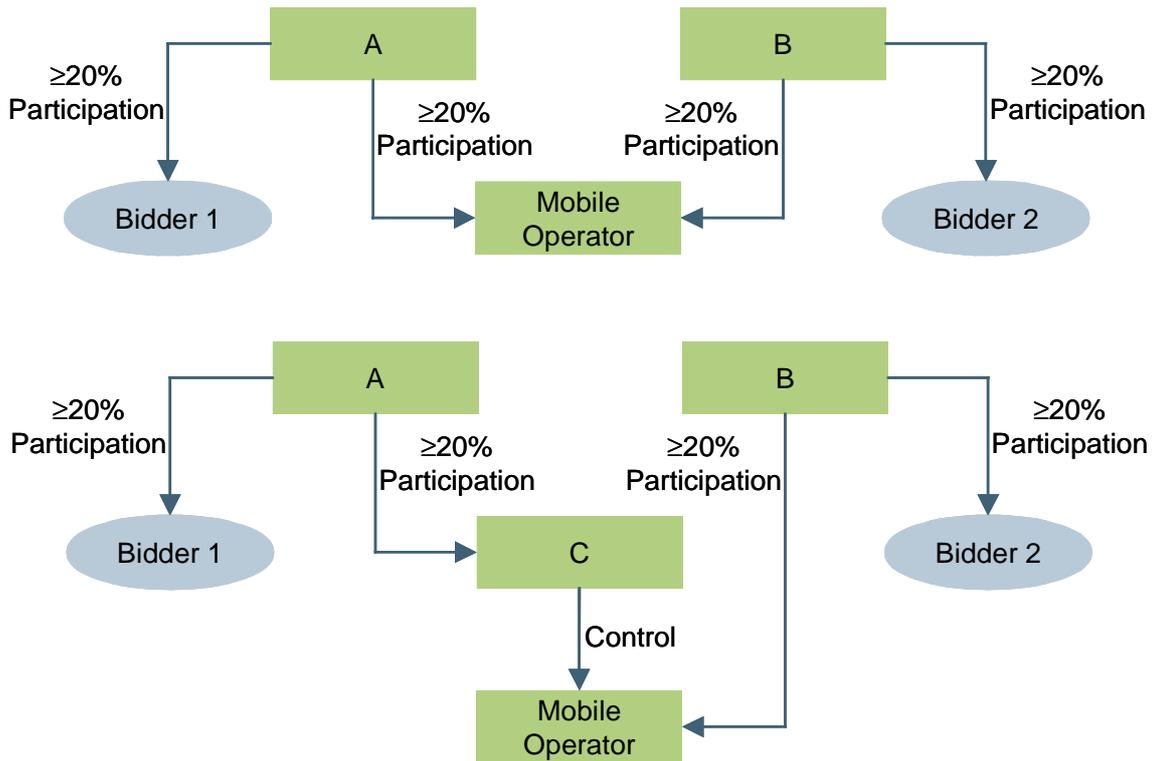


Figure 18: Example of associated bidders: Linkages through mobile operators

Section 1 instructs bidders to disclose associated persons and associated bidders on a separate sheet to the disclosures comprising connected persons. Disclosures on associated persons should be presented in the same manner as connected persons, as shown above.