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Czech Telecommunication Office
with headquarters at Sokolovská 219, Prague 9
P.O. Box 02, Prague 025, Postcode 225 02

Prague, 7 January 2009
Ref.: 110 998-610

On the basis of the results of public consultation under Section 130 of Act No. 127/2005 on electronic communications and on amendment to certain related acts (the Electronic Communications Act), as amended (the "Act") and on the basis of the decision of the Council of the Czech Telecommunication Office (the "Office") under Section 107(8)(b)(2) of the Act, and in order to implement Section 34(4) of the Act, the Office as the appropriate state administration body under Section 108(1)(b) of the Act hereby issues this

**Measure of General Nature No. OOP/10/01.2009-2,
amending Measure of General Nature No. OOP/10/07.2005-3
laying down the technical and organisational conditions for implementing telephone
number portability and the principles for number portability billing between
undertakings, as amended**

Article 1

Measure of General Nature No. OOP/10/07.2005-3, laying down the technical and organisational conditions for implementing telephone number portability and the principles for number portability billing between undertakings, as amended, is hereby amended as follows:

1. In Article 7, Clause b) should read as follows:

"b) short telephone numbers for access to services with short access codes (SACs) 11 to 19, numbers with access code 600 to the electronic communications network, numbers with access code 800 00 for the Home Country Direct services, numbers with routing code numbers 701, 970, 977, 93 and 960 to 969, numbers with access codes 972 to 974, 980, 983 to non-public telephone networks, and numbers with access codes 9890 to 9899 to non-public communications networks".

2. In Article 7, replace the full stop by a comma at the end of Clause e) and add Clause f), which should read as follows:

"f) individual numbers from complete blocks of numbers with access codes 9500 to 9599 to non-public telephone networks, allocated on the basis of the initial authorisation for the use of numbers".

3. In Article 9, Clause b) should read as follows:

"b) short telephone numbers for access to services with short access codes (SACs) 11 to 19, numbers with access code 600 to the electronic communications network, numbers with access code 800 00 for the Home Country Direct services, numbers with routing code numbers 701, 970, 977, 93 and 960 to 969, numbers with access codes 972 to 974, 980, 983 to non-public telephone networks, and numbers with access codes 9890 to 9899 to non-public communications networks".

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4. In Article 9, replace the full stop by a comma at the end of Clause e) and add Clause f), which should read as follows:

“f) individual numbers from complete blocks of numbers with access codes 9500 to 9599 to non-public telephone networks, allocated on the basis of the initial authorisation for the use of numbers”.

5. In Article 11 Paragraph 5, Clause a) should read as follows:

“a) the subscriber’s authorisation failed. After a first authorisation failure, the donor mobile operator must without undue delay inform the subscriber and the recipient mobile operator on the basis of a joint solution why the authorisation failed and allow the subscriber at least two more tries to perform the authorisation within the next seven business days;”.

6. In Article 11 Paragraph 6 should read as follows:

“(6) The donor mobile operator should authorise the subscriber without undue delay after the placing of the order (in the case of prepaid cards) and after the delivery of the statement with the subscriber’s decision to terminate, or not to continue, the contract under the conditions set out in that contract (where there is a written contract). If there is a written contract, the donor mobile operator should authorise the subscriber by comparing the identification data in the order and the identification data in the contract. In other cases the authorisation is performed by means interactive voice response (IVR), by short text messages (SMS) or through the web page.

7. In Article 11 Paragraph 7 should read as follows:

“(7) The order is considered as verified, unless rejected for any of the reasons indicated in Point 5 above. The donor operator must notify the result of order verification to the recipient operator through the joint solution, and to the subscriber, without undue delay, which means within two operating hours (in the case of prepaid cards) and within three working days after the delivery of a statement containing the subscriber’s decision to terminate, or not to continue, the contract under the conditions set out therein (in the case of a written contract). In the case of proceeding in accordance with Paragraph 5 above, the period for notification of the result of order verification should be extended by the time for which the donor mobile operator was performing repeated authorisation. Upon notification of the positive result of the checking of the order, the donor mobile operator must release the number for porting within five operating hours. The donor operator must provide the joint solution with information about the release.”.

8. In Article 13, Paragraph 3 should be added, which should read as follows:

“(3) For payment of the price for the porting of a mobile number, i.e. for the processing of the applicant’s order of number porting in accordance with Article 13 Paragraph 1 above, the determining moment is the moment of transferring the number to the recipient operator and removing the order from the joint solution, as referred to in Article 11 Paragraph 12”.

9. In Article 16, Paragraph 1 (including footnote 2a) should read as follows:

“(1) The number-range holder is entitled to a fee for the rights based on the authorisation to use telephone numbers^{2a)} for each telephone number that was operated in the given calendar year on a public telephone network other than the number-range holder’s network, and is entitled to receive such fees from all operators that operated that telephone number in the given year.

^{2a)} Government Order No. 154/2005 on the determination of the amount of the fee for the use of radio frequencies and numbers, and the method of calculation thereof

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10. In the heading of Article 17, cancel the word “mobile”.

11. In Article 17, Paragraph 1 should read as follows:

“(1) The undertakings that have the obligation to ensure telephone number portability in accordance with Section 34(1) of the Act must amend the general conditions of the services they provide: provisions regulating the number portability service conditions in accordance with this Act and this Measure should be included in the general conditions within four months after the entry into effect of this Measure. In particular, the undertakings should define in the General conditions:

- a) the method of determination of a reasonable claim for settlement in the event of premature termination of a fixed-term contract because of number porting, provided that this was agreed in the contract;
- b) mode of free provision of information to the subscriber about the level of the claim referred to in Clause a) above, if the subscriber so requests.

Article 2 Effect

This Measure of General Nature enters into effect on the ninetieth day after the date of its publication in *Telekomunikační věstník* [Telecommunications Bulletin] with the exception of Points 1 to 4, which should enter into effect on the one hundred and eightieth day after the date of publication of this Measure of General Nature in *Telekomunikační věstník*.

Explanatory Memorandum

The Czech Telecommunication Office (“the Office”) issues Measure of General Nature No. OOP/10/01.2009-2 (the “Measure”) in order to amend Measure of General Nature No. OOP/10/07.2005-3, laying down the technical and organisational conditions for implementing telephone number portability and the principles for number portability billing between undertakings, as amended.

Measure of General Nature No. OOP/10/07.2005-3 (“the Measure”), as amended, is hereby amended to ensure compliance with the requirements of Decree No. 231/2008, amending Decree No. 117/2007 on electronic communications networks and service numbering plans, and also to reflect the findings concluded by the Office from the evaluation of up-to-date applications of this Measure in practice.

On Article 1 Points 1 to 4 of this amendment:

Decree No. 231/2008 newly opened the number range of 9890 to 9899 for access to the virtual non-public communication network (NPN). The Office extended Article No. 7 Clause b) and Article No. 9 Clause b) by including in them these newly opened access codes, which are non-portable.

The Office has also enabled the portability of telephone numbers with access codes 9500 to 9599, because the Office believes that it is a good measure in favour of the non-public network operators who (if they are not number range holders themselves) may choose another publicly

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available telephone service provider when they decide on the porting of numbers used with access codes 9500 to 9599 to another public telephone network.

Non-public network operators with access codes of 9500 to 9399 are provided publicly accessible telephone service by the undertaking to which the Office allocated these numbers. Such a user (non-public telephone network operator) is in the position of a subscriber to publicly accessible telephone service, because such a user has a contract for the provision of publicly available telephone service with the undertaking providing that service. Under this service, calls from/to this user's non-public network are provided to it and are charged in defined cases to its account.

At the same time, the Office inserted a new clause f) into Article 7 and Article 9, specifying an exemption from the portability (both between fixed operators and between mobile operators) of individual numbers from complete blocks of numbers with an access code of 9500 to 9599 to non-public telephone networks. The purpose is to ensure that only complete blocks of the numbers concerned can otherwise be ported.

On Article 1 Point 5 of this amendment:

The Office modified Article 11 Paragraph 5 of the Measure to subscribers' benefit: subscribers should be informed without undue delay about the result of authorisation, if the authorisation fails, enabling to repeat the authorisation process as soon as possible. The purpose of the amendment is to ensure that there is no unnecessary loss of time before it subsequently becomes possible to verify the order and before the number can be released by the donor operator: the subscriber should learn as quickly as possible that he was not authorised and should be able soon to avail himself of the opportunity of repeated authorisation.

On Article 1 Point 6 of this amendment:

Wishing to speed up the order verification process, the Office lays down in Article 11 Paragraph 6 that the donor mobile operator must perform the authorisation of the subscriber without undue delay both in the case of prepaid cards and in the case of written contract. In both cases (prepaid cards, written contract), the authorisation is a one-off act of checking the authorisation of the subscriber (or a person authorised by the subscriber) to handle the numbers in the order, and is not very time consuming. The process of verification of the order involves the checking of whether the objective factors indicated in the Measure hinder the porting of the number, and is more time consuming.

On Article 1 Point 7 of this amendment:

The Office reduced, to subscribers' benefit, the period within which the donor operator must (in the case of written contract) notify the result of the verification to the recipient operator and to the subscriber: the period was reduced from five working days to three working days. In this point, the text was modified to clearly show who in fact performs the authorisation process: it is performed by the donor operator rather than the subscriber himself. Mobile number portability was introduced in January 2006. Mobile network operators had sufficient time to streamline their systems and processes to be able to reduce the authorisation period.

On Article 1 Point 8 of this amendment:

This amendment was made to reflect the Office's Decisions Ref. No. 44 398/2005-610/XXVI vyř. of 25 March 2008 and Ref. No. 39 857/2008-603/II vyř. of 3. July 2008, from which it follows that the entire number porting process only ends at the moment when the number is actually ported to the other operator: as a result, the moment of supply is the moment of the actual porting of the number. On the basis of the above, the Office inserted in Article 13 a new Paragraph 3, specifying the moment of the rise of entitlement to the payment of the price for the porting of the number.

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On Article 1 Point 9 of this amendment:

This amendment was made to reflect the changes brought about by the new Government Order No. 288/2008, amending Government Order No. 154/2005 on the determination of the amount of the fee for the use of radio frequencies and numbers, and the method of calculation thereof.

On Article 1 Point 10 of this amendment:

The Office deleted the word “mobile” from the heading of Article 17, because fixed network subscribers should be informed about the number porting conditions in a similar manner to mobile network subscribers. The reason is that fixed-term contracts are at present also concluded in fixed networks and not, as previously, in mobile networks only.

On Article 1 Point 11 of this amendment:

To ensure that the subscribers are sufficiently informed, the Office modified the text of Article 17 Paragraph 1 Clause a) so that the general conditions of the services provided by the undertakings concerned include information about the method of determining the reasonable claim for settlement in the event that there is a contractual arrangement concerning the possibility to prematurely terminate a fixed-term contract.

On Article 2 of this amendment:

The Office considered the need to perform technical measures related to the portability of numbers with access codes 9500 to 9599 and set the entry into effect of Points 1 to 4 of the Measure at 180 days after the date of its publishing in Telekomunikační věstník. On 3 November 2008, on the basis of Act No. 130 of the Act and in accordance with the Czech Telecommunication Office Rules for maintaining consultations with the affected entities, the Office published at the discussion site its draft Measure of General Nature, amending Measure of General Nature No. OOP/10/07.2005-3 laying down the technical and organisational conditions for implementing telephone number portability and the principles for number portability billing between undertakings, as amended, and an invitation for comments on the draft. Comments on the draft could be raised within 1 month after the date on which the invitation for comments was published.

Comments on the draft Measure could be submitted until 3 December 2008. Four affected entities raised their comments within this period. The comments concerned the published proposal to amend the Measure of General Nature as well as the remaining parts of the Measure, which were not the subject of the discussion.

The comments were primarily focused on the possibility of porting the telephone numbers with access codes 9500 to 9599, on the periods in which the act of authorisation should be performed within the processes of number porting between mobile operators, including the period for informing the subscriber and the recipient operator about authorisation failure, and on the period for notification of the result of order verification. The need to specify precisely the conditions in which entitlement arises to the payment of the price for the porting of the number between the donor operator and recipient operator was also pointed out.

The Office did not find any reason for excluding the portability of the telephone numbers with access codes between 9500 and 9599. The Office modified the formulation in respect of the determination of the period of time available for authorisation: if the first authorisation attempt fails, the donor mobile operator must inform (through the joint solution) the subscriber and the recipient operator about the failure of the authorisation without undue delay and also, the donor mobile operator must authorise the subscriber without undue delay after the placing of the order in the joint solution (in the case of prepaid cards) and without undue delay after the delivery of the statement with the subscriber's decision to terminate, or not to continue, the contract (in the case of written contract). A period of three working days is set for the process the verification of the order in the case of written contract. The Office specified in detail the

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conditions in which entitlement arises to the payment of the price for the porting of the number between the donor operator and recipient operator.

The Office accepted the comments aimed at a more precise text of the proposed amendments and reflected them in the final version of the text of the Measure.

The comments not focused in the draft text under review generally concerned the possibilities and methods of securing number portability (operating a database, a joint solution, financing), detailed wording of the Measure to guarantee the possibility of number porting for subscribers served by publicly available telephone service providers not operating a network of their own, and the obligation to define the method of determining reasonable claim for settlement where the number portability service is provided to a subscriber with a fixed-term contract.

With respect to Section 34(4) of the Act, the Office did not accept the comments requiring the extension of the text of Measure of General Nature No. OOP/10/07.2005.3, as amended, also to apply to the providers of publicly accessible telephone service, because the Measure of General Nature only laid down the technical and organisational conditions for securing telephone number portability and the principles for charging prices related with telephone number portability between undertakings and because these conditions and principles apply to the group of undertakings specified in Section 34(1) of the Act as undertakings providing a public telephone network. The respective Measure of General Nature, issued by the Office, must comply with the Act and must stay within the limits of statutory authorisation. The subscriber's right to number porting is sufficiently addressed in Section 34(1) of the Act and there is no need to address it also in a Measure of General Nature.

The Office also did not accept the comment concerning the "number portability database" (the joint solution). In the Measure of General Nature in question, the Office did not go beyond its own authorisation, because in Article 15 Paragraphs 2 to 5 it only specified the organisational conditions for the implementation of number portability as set out in Section 34(4) of the Act. In addressing the comment requiring the Office to maintain and administer a number portability database" (joint solution)", the considerations must be based on the fact that the Office as an administrative authority may only do what is specified by the Act – and the Act does not impose any such obligation on the Office.

The Office partially accepted the comment concerning the extension of the general conditions for the provision of service. The objective is to ensure sufficient information in cases where the parties to a contract for a fixed period of time agree on the possibility of porting the number and the consequent possibility to terminate the contract. It is for the parties to agree on what they include in their contractual conditions.

The comment settlement table, made public at the discussion site, contains the text of all the comment and the way they were settled.

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for the Council of the
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