

Text of the Invitation to tender for the award  
of the rights to use radio frequencies for  
providing a public communications network  
in the 800 MHz, 1800 MHz and 2600 MHz  
bands (without Appendixes) after the  
corrigendum of obvious inaccuracies



**Č e s k ý   t e l e k o m u n i k a č n í   ú ř a d**

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# **Invitation to tender for the award of the rights to use radio frequencies for providing a public communications network in the 800 MHz, 1800 MHz and 2600 MHz bands**

The English translation of this document is for information only and is not legally binding. Please note that in the event of any discrepancy between the English and the Czech version, the latter will take precedence.

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## 1 LIST OF DEFINITIONS AND ACRONYMS

**2G** – second generation of wireless cellular (mobile) technology which uses digital transfer of radio signal. In the 2G networks, mainly voice services are provided while the 2G technologies newly brought in the development of mobile data services (at the beginning mainly in the SMS form, later on in the form of the internet network access. The second generation of mobile networks and services was built in the Czech Republic with the use of the GSM standard, for data services more recent technologies GPRS (2.5G) and EDGE (2.75G) are used in the Czech Republic.

**3G** – third generation of the wireless cellular (mobile) technology, meeting the IMT-2000 specification (IMT-2000 = International Mobile Telecommunications-2000) and specified by the ITU (International Telecommunication Union). The third generation is represented, in particular, by the UMTS standard (in the HSDPA, HSUPA, HSPA, HSPA+ etc.) versions and the CDMA2000 standard.

**4G** – fourth generation of the wireless cellular (mobile) technology, meeting the IMT-Advanced specification (IMT-Advanced = International Mobile Telecommunications-Advanced) and specified by the ITU (International Telecommunication Union). 4G services should reach transmission speeds of up to 1 Gbit/s. The technologies that should ensure that the IMT-Advanced specification are met include, in particular, LTE Advanced (of the 3GPP family) and WiMAX 2.0<sup>1</sup> (of the IEEE family). The direct predecessors of the 4G technologies include LTE and Mobile WiMAX (IEEE 802.16e): wireless internet access services at theoretical speeds of up to 100 Mbit/s, based on these technologies, are already being offered on a commercial basis. For purposes of this tender, especially National roaming on 4G networks obligation, these standards are also included in 4G definition.

**Act** – Act No. 127/2005 Coll., on electronic communications and on amending certain related Acts (the Electronic Communications Act), as amended.

**Allocation Holder** – the Auction Winner, who has met all the tender conditions and whom an Allocation of radio frequencies which are the subject matter of this tender procedure has been granted.

**Applicant** – a person/entity that submits an Application for the award of the rights to use radio frequencies.

**Application** – Application for the award of the rights to use radio frequencies in accordance with the provisions of Section 21 of the Act.

**Auction** – a form of evaluation of applications for the award of the rights to use radio frequencies. Auction is a part of the tender for the award of the rights to use radio frequencies, which represent the object of the tender. Its purpose is to determine the price and identify the Holders of the individual Auction Blocks.

**Auction Block** – radio spectrum block being offered in the Auction. Radio frequency segments representing the object of the tender correspond to the individual radio spectrum blocks. Where an Auction Block is defined as a real

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<sup>1</sup> Referred to as WirelessMAN-Advanced and corresponding to the IEEE 802.16m standard.

(concrete) block, a specific radio frequency segment is allocated to such a block. Where an Auction Block is defined as an abstract block, the specific radio frequency segment is allocated only on the basis of the frequencies distribution process.

**Auction Block Category** – a set of Auction Blocks of the same size and the same technological determination from one frequency band. Six Auction Block Categories in three frequency bands are offered in total in the Auction.

**Auction Category** – see Auction Block Category.

**Auction Participant** – an Applicant who has fulfilled the qualification requirements indicated in Chapter 6 and has received from the Office a certificate of admission to the Auction.

**Auction Phase** – the phase of the Auction in which the Auction Blocks are distributed by the Auction method. The Auction Phase is split into several Auction Rounds.

**Auction Round** – within an Auction Round, the Auction Participants may offer a price bid for the individual Auction Blocks being offered in the Auction. Each Auction Participant may submit only one bid in an Auction Round. At the end of an Auction Round, the Highest Bid is determined for each Auction Block being offered, and the Highest Bid Holder is identified.

**Auction Winner** – an Auction Participant who submitted the Winning Bid. The Auction winner for a given Auction Block is entitled to choose an appropriate frequency spectrum segment on the basis of the conditions specified for the second phase of the Auction – Frequencies Distribution.

**BEM** – Block Edge Mask, i.e. spectral mask of block edges.

**Bid** – a binding price offer submitted by an Auction Participant in an Auction Round for a given Auction Block.

**CEPT** – European Conference of Postal & Telecommunications Administrations.

**Commercial Code** – Act No. 513/1991 Coll., Commercial Code, as amended.

**Commission** – the European Commission, one of the main bodies of the EU, representing and defending the interests of the Union as a whole. The Commission prepares the drafts of new European legal regulations and is responsible for the implementation of EU policies and utilisation of EU funds.

**Digital Czechia** – document “National Policy in Electronic Communications – Digital Czechia”, whose object is to evaluate the current situation as to the access to and development of the selected electronic communications areas in the Czech Republic with the highest growth potential and to propose the tools necessary for ensuring that the realistic targets of providing adequate support to the economic, cultural and social development of the Czech society are met. The document was approved by the Czech Government on the basis of Government Resolution No. 50 of 19 January 2011.

**Electronic Auction System** – software that enables to organise and ensure the proper course of an Auction phase via remote access.

**Eligibility** – Auction Participant authorisation to submit bids in the Auction. It is indicated as the number of Eligibility points.

**ETSI** – European Telecommunications Standards Institute.

**EU** – European Union.

**FDD** – Frequency Division Duplex, a type of duplex traffic with frequency division.

**First Selection Right** – the right of the Auction Winner to be the first to choose radio frequency segments in the given radio frequency category.

**Frequencies Distribution** – phase of the Auction aimed at allocating specific radio frequency segments to Auction Winners to an extent corresponding to the number and structure of the Auction Blocks won in the Auction.

**Full MVNO** – the notion of Full MVNO describes a type of virtual mobile operator who uses its own infrastructure, with the exception of radio access network which it hires on the basis of a wholesale agreement from a host operator, for the provision of services to the customers. The Full MVNO ensures with its own means, outside the wholesale agreement, the remaining part of the infrastructure and operational systems, e.g. the network infrastructure including GMSC and HLR and service provisioning systems (SMSC, MMSC, GGSN, IN, etc.), and all subsequent processes (billing, customer care, marketing, sales). The Full MVNO has thus practically a full control over the quality of its own provided services and issues its own SIM cards with its own mobile network code (MNC).

**GPRS** – General Packet Radio Service, a mobile data service operating within the GSM system.

**Highest Bid** – bid for an Auction block with the highest price in a situation where the Auction Participant is identified as the Highest Bid Holder in accordance with Chapter 7.6.2 at the end of an Auction Round.

**Highest Bid Holder** – an Auction Participant who submitted the Highest Bid in the Auction Round for an Auction Block.

**ITT** – Invitation to Tender, document “Invitation to Tender for the Award of the Rights to Use Radio Frequencies for Providing a Public Communications Network in the 800 MHz, 1800 MHz and 2600 MHz Bands”.

**ITU** – International Telecommunication Union.

**MVNE** – “Mobile Virtual Network Enabler“ is a company that ensures the operation of services for virtual mobile operators as for instance the connection into the operational and commercial systems of a host operator, administration, operation and support of the necessary network elements and information systems, (OSS/BSS), billing, etc.

**MVNO** – “Mobile Virtual Network Operator“ is a virtual operator, i.e. a company that provides mobile services of electronic communications to end users with the use of a host operator of a public communication network. The services of a host operator of a public communication networks are provided to the MNVO on the basis of a wholesale agreement.

**National Roaming Obligation** – obligation of the Applicant in accordance with the conditions specified in Chapter 5.7 to provide a Rightful Claimant for National Roaming an access to its (the Applicant’s) public communications network(s) operated by the Applicant with use of the radio frequencies allocated on the basis of this tender as well as with the use of the radio frequencies already held in the 900 MHz, 1800 MHz and 2100 MHz bands.

**National roaming on 2G networks** - access to public communication network(s) operated by the Applicant with the use of radio frequencies in the 900 MHz and 1800 MHz bands where the Applicant operates publicly available 2G services.

**National roaming on 3G networks** - access to public communication network(s) operated by the Applicant with the use of radio frequencies in the 2100 MHz bands where the Applicant operates publicly available 3G services.

**National roaming on 4G networks** - access to public communication network(s) operated by the Applicant with the use of radio frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands where the Applicant operates publicly available 4G services.

**Office** – the Czech Telecommunication Office. It was established by Act No. 127/2005 Coll., on electronic communications and on amending certain related Acts (the Electronic Communications Act) as of 1 May 2005 as a central administration authority to exercise state administration in matters specified by the Act, including market regulation and the determination of business conditions in the electronic communications and postal service area.

**Qualification** – the phase of the tender in which the Applicants are evaluated as to whether they meet the qualification requirements and conditions defined in Chapter 5.

**Rightful Claimant for National Roaming** – a person/entity interested in access to the network on the basis of the National Roaming Obligation, who/which meets the conditions specified in Chapter 5.7.1.

**RSC** – Radio Spectrum Committee (a body under the Commission).

**RSPG** – Radio Spectrum Policy Group (a body under the Commission).

**RSUP** – Radio Spectrum Utilisation Plan (RSUP). The RSUP is issued by the Czech Telecommunication Office as the appropriate state administration body under Section 108(1)(b) of the Act on the basis of the results of public consultation organised under Section 130 of the Act and on the basis of Office Council's decision under Section 107(8)(b)(2) of the Act, and to implement Section 16(2) of the Act through regulations of general application.

**Rules of Administrative Procedure** – Act No. 500/2004 Coll., Rules of Administrative Procedure, as amended.

**Sealed Bid Method** – a form of Auction where the price bid is submitted to the Office in a sealed envelope. The Sealed Bid Auction method will be used for the determination of the First Selection Right.

**Selection Committee** – a three-member advisory body to the Office, appointed by the Chairman of the Office's Council. Its mission is to recommend an appropriate procedure to be applied by the Office in accordance with Section 146(6) of the Rules of Administrative Procedure. The Selection Committee will be appointed before the launching of the invitation to tender.

**SMRA** – Simultaneous Multiple Round Auction (SMRA) is an Auction format with simultaneous multiple rounds.

**Spectral Limits** – limits on the maximum range, available to an Applicant, of Auction Blocks within a given Auction Block Category.



**TDD** – Time Division Duplex, a type of duplex traffic with time division.

**UMTS** – Universal Mobile Telecommunication System, a system of the third-generation group of mobile cellular technologies (3G).

**Warranty** – a warranty deposit based on Chapter 6.3, required as a condition for participation in the Auction.

**Wholesale Offer Obligation** – obligation of the Applicant in accordance with the conditions specified in Chapter 5.7 to provide access to its (the Applicant's) public communications network operated by the Applicant with use of the radio frequencies acquired in this tender, to a claimant who requests to be provided with such access for the purposes of providing its own electronic communications services via the Applicant's network.

**Winning Bid** – the Highest Bid for the given Auction Block after the final round of the Auction. The Holder of the Winning Bid becomes the Auction Winner for the given Auction Block.

## 2 INTRODUCTION

The Czech Telecommunication Office as the appropriate state administration body under Section 108(1)(o) and (p) of the Act and under Section 146 of the Rules of Administrative Procedure hereby launches this tender in accordance with Section 21 of the Act for the purpose of awarding the rights to use the public electronic communications network radio frequencies.

The Office launches this tender for the purpose of awarding the rights for the use of radio frequencies in the **800 MHz, 1800 MHz and 2600 MHz bands** in order to meet the requirement to ensure that the radio frequencies are used efficiently under Section 15(1) and (2) of the Act and in compliance with the Parts of the Radio Spectrum Utilisation Plan No. PV-P/10/04.2011-5 for the 470–960 MHz frequency band (hereinafter referred to as “**RSUP 10**”)<sup>2</sup>, No. PV-P/12/04.2011-4 for the 1700–1900 MHz frequency band (hereinafter referred to as “**RSUP 12**”)<sup>3</sup> and No. PV-P/14/11.2010-15 for the 2200–2700 MHz frequency band (hereinafter referred to as “**RSUP 14**”)<sup>4</sup>, by which the number of rights to use radio frequencies in the abovementioned parts of the radio spectrum is limited.

The Office launches this tender in accordance with Resolution of the Government of the Czech Republic No. 78 of 26 January 2011<sup>5</sup> on the actions of the Czech Telecommunication Office in the management of selected parts of the radio spectrum with focus on promoting the provision of high-speed access services in the period up to 2012; by this Resolution, the Government of the Czech Republic approved the Office’s document entitled The Policy of the Czech Telecommunication Office in the Management of Selected Parts of the Radio Spectrum Focused on Support to the Provision of High-speed Access Services. By this, the government of the Czech Republic also expressed its consent to the proposed procedure of Allocation of available frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands in a tender on the basis of the results of an Auction.

The use of these frequencies is of considerable importance for further development of electronic communications services at a higher quality level, compared to the mobile access services provided at present (4G services), and for the expansion of competitive offers of electronic communications services to the general user public.

As defined in the above Resolution, the purpose of the tender is to enable the utilisation of a coherent package of frequencies from the bands reserved for providing of electronic communications services and, thereby, to create conditions for effectively meeting the following requirements:

- develop new electronic communications services by means of high-speed wireless networks, especially of mobile nature;

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<sup>2</sup> [http://www.ctu.eu/164/download/Measures/General\\_Nature/RSUP/RSUP-P\\_10\\_04-2011-05\\_eng.pdf](http://www.ctu.eu/164/download/Measures/General_Nature/RSUP/RSUP-P_10_04-2011-05_eng.pdf)

<sup>3</sup> [http://www.ctu.eu/164/download/Measures/General\\_Nature/RSUP/RSUP-P\\_12\\_04-2011-04\\_en.pdf](http://www.ctu.eu/164/download/Measures/General_Nature/RSUP/RSUP-P_12_04-2011-04_en.pdf)

<sup>4</sup> [http://www.ctu.eu/164/download/Measures/General\\_Nature/RSUP/RSUP-P\\_14\\_11-2010-15\\_eng.pdf](http://www.ctu.eu/164/download/Measures/General_Nature/RSUP/RSUP-P_14_11-2010-15_eng.pdf)

<sup>5</sup> [http://kormoran.vlada.cz/usneseni/usneseni\\_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/\\$FILE/78%20uv110126.0078.pdf](http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/$FILE/78%20uv110126.0078.pdf)

- create conditions for technological innovation;
- ensure that the individual parts of the frequency spectrum are used effectively in the interest of consumers according to the needs of the public communication networks operators;
- encourage competition in the mobile services sector with impact on the entire electronic communications market, which, consequently will be beneficial for the end users;
- create conditions for possible new entrants to enter the market, as within the set of frequencies being offered it will be possible to acquire radio frequency amounts (in terms of range and volume) similar to those that are held in the Czech Republic by the existing mobile service providers.

During the preparations, the Office prepared the draft principles of the tender, which were made publicly available on the Office's website on 1 September 2011<sup>6</sup>. The relevant comments on the proposed principles were reflected by the Office in the determination of the conditions of the text of the "Invitation to tender for the award of the rights to use radio frequencies for providing a public communications network in the 800 MHz, 1800 MHz and 2600 MHz bands" for the purposes of a public consultation according to the section 130 of the Act. These documents were released to the public on 20 March 2012 at the Office's sites. The Office settled and published the comments from the public consultation on 5 July 2012. The Office took into account the relevant comments from the public consultation while setting the final conditions of this tender.

The Office introduced the consultation version of this ITT as well as the final conditions of the tender based on conclusions of the public consultation to the Office for the Protection of Competition (hereafter referred to as "OPC").

The chairman of the OPC expressed in his statement from 12 July 2012 that the OPC has no objections to the final conditions of the tender. However, he recommended to make some changes to the methodical procedure utilised in Chapter 5.7.3 of this ITT related to cases of price disputes. He also pointed out possible harmful effects of excessively high prices.

The recommendations given by the OPC will be taken into consideration by the Office in justified cases related to this tender that belong to the authority of the Office.

The Office lays down that the results of the Auction will be the only criteria for the evaluation of the Applications for the award of the rights to use radio frequencies.

Act No. 26/2000 Coll., on Public Auctions, as amended, and Act No. 137/2006 Coll., on Public Procurement, as amended, are not applied to this tender.

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<sup>6</sup> "Basic principles of the tender for available frequencies for the new generation networks", containing the document entitled "Basic principles of tender/Auction for the assignment of rights to use frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands" at <http://www.ctu.cz/aktuality/aktualni-informace.html?action=detail&ArticleId=8297>

### 3 GENERAL PROVISIONS

#### 3.1 Tender background

In defining the grounds and reasons for the tender, the Office based its considerations on the conclusions of certain fundamental national and European strategic documents and decisions:

1. A process of harmonisation of spectrum management is under way in the European context, coordinated through the CEPT (European Conference of Postal & Telecommunications Administrations) and the Commission bodies, including the RSPG (Radio Spectrum Policy Group) and RSC (Radio Spectrum Committee). In February 2012, the European Parliament and the Council adopted a multiannual Radio Spectrum Policy Programme (the “**Radio Spectrum Policy**”). A wireless access policy for electronic communications services (WAPECS) and a technologically neutral method of determination of minimum technical conditions based on the definition of the block edge mask (BEM) have been worked out within the scheme of international cooperation, and harmonisation documents on a number of frequency bands have been issued.
2. Document entitled “Spectrum Management Strategy (3S Strategy) – support to developing a competitive environment and optimisation of the conditions of using the frequencies in selected parts of the radio spectrum”<sup>7</sup> was issued by the Office. The conclusions contained in this document concerning the strategy of spectrum management are based on the evaluation of the electronic communications market, in particular the market for mobile services and broadband services provided via radio networks with respect to the ongoing process of European harmonisation in the management of the relevant spectrum segments. In this document, the Office defined the following development objectives:
  - **create conditions for strengthening competition and for technological innovation**, to enable, through the application of new technologies, further development of the broadband services to be provided via radio networks;
  - **meet the European harmonisation requirements in the relevant frequency bands** in compliance with the Act’s requirement to ensure effective utilisation of radio frequencies.

On the basis of the above strategic initiatives and in coordination and compliance with the approved National Policy in Electronic Communications – Digital Czechia, the Office drew up and submitted to the Czech Government for consideration its document “Policy of the Czech Telecommunication Office in the Management of Selected Parts of the Radio Spectrum Focused on Support to the Provision of High-speed Access Services”, where the basic principles of this tender were contained.

The Government considered this document at its meeting on 26 January 2011 and expressed (in its Resolution) its consent to the proposed procedure of

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<sup>7</sup> [http://www.ctu.cz/cs/download/aktualni\\_informace/3s\\_strategie-29\\_03\\_2010.pdf](http://www.ctu.cz/cs/download/aktualni_informace/3s_strategie-29_03_2010.pdf)

Allocation of the available frequencies in the 800 MHz, 1800 MHz and 2600 MHz through a tender based on Auction.

The method of evaluation of the Applications for the award of the rights to use radio frequencies is defined in the Government Resolution on the basis of the Office's proposal, where the results of the Auction were determined as the only criteria to evaluate the Applications. Auction was preferred, as distinct from a multi-criteria evaluation of Applications under Section 21(3) of the Act, because the Office believes that Auction is an effective and transparent method to achieve the objectives of this tender. Auction also ensures that the award of the rights of use of radio frequencies reflecting their market value. However, maximisation of the price for the assigned radio frequencies is not the main objective of the tender and therefore the tender also contains other conditions that lead to the achievement of the defined objectives.

The Office assumes that in future further frequencies will be assigned in the bands under 1 GHz suitable for the operation of mobile communication networks (e.g. thanks to the released frequencies within the digital dividend II) and due to the similar character of the bands, common spectral limits will be applied to the newly allotted and already held frequencies in the bands under 1 GHz, if the relevant legislation allows it, with the aim of allowing to all Applicants to apply for an amount of the spectrum in the bands under 1 GHz comparable to the amount of the spectrum held by the entities who already will be the Holders of some Radio Frequency Allocations.

### **3.2 Objectives of the tender**

Taking account of the requirements specified in the documents referred to in Chapter 3.1, the purpose of the tender is to enable the use of a coherent set of frequencies from the bands reserved for electronic communications services and, thereby, to create conditions for meeting the following objectives:

- development of new electronic communications services by means of high-speed wireless networks, especially of a mobile nature;
- create conditions for technological innovation;
- ensure that the individual parts of the frequency spectrum are used effectively according to the needs of the public communication networks operators;
- encourage competition in the mobile services sector with impact on the entire electronic communications market, which, consequently, will be beneficial for the end users;
- create conditions for possible new entrants to enter the market, as within the set of frequencies being offered it will be possible to acquire radio frequency amounts (in terms of range and volume) similar to those that are held in the Czech Republic by the existing mobile service providers.

#### **3.2.1 Developing new services and supporting technological innovation**

Implementation of new technologies and the building of high-speed networks are among the top priorities in European countries, including the Czech Republic. According to the "Digital Agenda for Europe", prepared by the Commission, the development of high-speed networks (including radio networks), which provide access to high-speed and super high-speed Internet, is essential "to ensure that the economy grows reliably, jobs are created and

citizens have access to information and services of their choice". The Agenda seeks to ensure that broadband connection is provided to all inhabitants of Europe by the year 2013 and that (i) all Europeans have access to a much faster Internet (over 30 Mbit/s) – the so-called universal broadband coverage, and (ii) at least a half of European households have an Internet connection faster than 100 Mbit/s – the so-called capacity coverage, all by the year 2020. Both fixed and wireless connection technologies should contribute to achieving these objectives. Recent advances in high-speed technologies (e.g. the LTE technology) have proved that wireless communications will play an important role in these efforts.

Similarly, it follows from the document entitled "ICT and the Competitiveness of the Czech Republic"<sup>8</sup>, prepared for the Czech Government, that electronic communications networks provide a basis for the technological infrastructure necessary to improve the competitiveness of the Czech Republic.

The "Digital Czechia" document specifies the details of the objectives defined in the "Digital Agenda for Europe" with priority emphasis on bridging the "digital divide" in access to high-speed Internet between urban and rural areas. To achieve this objective, it is necessary to:

- ensure by the year 2013 that the high-speed Internet access service is available at a minimum transmission speed of at least 2 Mbit/s (download) at all inhabited sites of the Czech Republic and at least 10 Mbit/s in cities,
- ensure by the year 2015 that the high-speed Internet access service is available in the rural areas at a transmission speed reaching at least 50% of the average speed provided in cities. Thirty per cent of households and firms in cities should have access to transmission speeds of at least 30 Mbit/s.<sup>9</sup>

The part of radio spectrum which is the subject-matter of the tender is suitable for meeting the tender objectives, including both universal broadband coverage and capacity coverage, and the Office expects this radio spectrum to be specifically used for the building of high-speed access networks. In this connection, the Office believes that – in addition to the above-mentioned parameters of the service for the end users – a significant increase will be achieved in the data flow provided per single sector of the radio network cell (at least to the level of 60 Mbit/s).

As to achieving the objective of providing universal broadband coverage, the Office expects that within the frequencies offered in the tender the spectrum in 800 MHz band will be primarily used for this purpose. As to ensuring the capacity coverage, the Office expects that within the frequencies offered in the tender the spectrum in the 2600 MHz band will be used for this purpose, as well as the spectrum in the 1800 MHz band, which, as the Office believes, will ensure a wider coverage of the population, thanks to the physical properties of its propagation.

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<sup>8</sup> Study by the Prague School of Economics and partners (ČSSI [Czech Society for System Integration], ICTU), 2010 (<http://www.cssi.cz/cssi/studie-ict-konkurenceschopnosti>)

<sup>9</sup> Digital Czechia, p 4

The conditions for efficient spectrum utilisation, which include, among other things, the minimum population coverage for the individual networks using the assigned radio frequency segments, are defined in Chapter 5.3.

### **3.2.2 Ensuring effective utilisation of the individual parts of the frequency spectrum, encouraging competition in the electronic communications market and creating conditions for new entrants, if any, to enter the market**

The range of radio frequencies that are the subject-matter of the tender enables new entrants to enter the market.<sup>10</sup> In compliance with the objectives of the tender, the Office seeks, in particular, to ensure that the tender conditions determined by the Office do not prevent the Applicants that do not hold radio frequency Allocations in the 900 MHz, 1800 MHz and 2100 MHz bands in the Czech Republic at present from acquiring radio frequencies and providing electronic services and networks.

Support to effective and sustainable competition for the provision of high-speed mobile access services in compliance with the EU's Radio Spectrum Policy is one of the main objectives of the tender. However, it is clear that the new entrants in the electronic communications service market in the Czech Republic will be disadvantaged vis à vis the incumbent mobile service providers. If the current mobile electronic communications service providers enter in the market for high-speed mobile access operated on the radio frequencies that are the subject-matter of the tender, they will benefit from the existing coverage of the Czech territory by the existing public communication networks and from the use of their existing infrastructure. The radio spectrum policy expects a number of tools to be used to support and maintain competition in the electronic communications market, especially the setting of the Spectral Limits or determination of conditions associated with the award of the rights to use radio frequencies in the form of national or regional roaming or the obligation to provide wholesale access.

Seeking to enable the participation of Applicants that do not hold Allocations of the radio frequencies in the 900 MHz, 1800 MHz and 2100 MHz bands in the Czech Republic at present, and to ensure a maximum effectiveness of the use of the assigned radio frequencies and to encourage effective and sustainable competition in the electronic communications market, the Office applied the following tools in the tender:

- Setting the Spectral Limits in the individual frequency bands. Spectral limits in the 800 MHz and 2600 MHz bands are set so as to ensure that the maximum size of the Allocation enables to build an equal-standard new-generation electronic communications network and that spectrum hoarding beyond what is necessary to build a new generation radio network on the basis of currently available technologies is prevented. In the 1800 MHz band, the Spectral Limits are set so as to ensure that a contiguous segment of radio frequencies in this band can be dedicated, in compliance with the 3S Strategy, for the building of another nationwide radio communication network.

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<sup>10</sup>[http://kormoran.vlada.cz/usneseni/usneseni\\_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/\\$FILE/78%20uv110126.0078.pdf](http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/$FILE/78%20uv110126.0078.pdf)



- Setting a maximum number of Eligibility points to limit the total amount of radio frequencies acquired in the tender. The maximum amount of radio frequencies to be acquired on the basis of the maximum number of Eligibility points is set at a level that prevents radio spectrum hoarding by the individual entities.
- Requirement for the National Roaming Obligation on behalf of the Applicants that will acquire a frequency segment of at least  $2 \times 10$  MHz in the 800 MHz band to the benefit of the Applicants who will not get an Allocation in the 800 MHz band and will fulfil the conditions imposed on the Rightful Claimants for the National Roaming who will meet the conditions laid down in the Chapter 5.7.1 so as they should be allowed the access to the effective nation-wide coverage of the population. The National Roaming Obligation is perceived also as a tool necessary to ensure that an Applicant newly entering the market should be able to provide the entire range of services that compete effectively with those provided by incumbent providers even if it does not acquire the Allocation in the 800 MHz band.
- Requirement for the Obligation of Wholesale Offer of services to be provided on public communications networks operated with the use of the radio frequencies allocated on the basis of the tender in order to ensure maximum possible access to the possibility to replicate the range of services provided via these frequencies also by others who are interested in providing such services.

### 3.3 Subject matter of the tender

The subject matter of the tender is the offer of frequencies from the 800 MHz, 1800 MHz and 2600 MHz frequency bands:

- 2 categories of blocks in the 800 MHz band:
  - 1 block with, the size of  $2 \times 5$  MHz (Auction Category **A1**);
  - 5 blocks, each of the size of  $2 \times 5$  MHz (Auction Category **A2**);
- 3 categories of blocks in the 1800 MHz band:
  - 1 block with a size of  $2 \times 15.6$  MHz (Auction Category **B1**);
  - 1 block with a total size of  $2 \times 0.2$  MHz (Auction Category **B2**),
  - 9 blocks, the size of each being  $2 \times 1$  MHz (Auction Category **B3**),
- 2 categories of blocks in the 2600 MHz band:
  - 14 blocks in the paired part of the spectrum, the size of each being  $2 \times 5$  MHz (Auction Category **C**),
  - 10 blocks in the unpaired part of the spectrum, the size of each being 5 MHz (Auction Category **D**).

### 3.4 Basic principles of the tender

- a) The tender will take the form of an Auction. The selected Auction format is simultaneous multiple-round Auction (hereinafter referred to as the "SMRA"). The Auction will be carried out by means of the Electronic Auction System. The principles of the Auction are described in Chapter 7. To be admitted to the tender, the interested entity must meet the qualification requirements specified in Chapter 6 of this ITT.



- b) For participation in the tender, an Application that absolutely meets the requirements of this ITT must be submitted. The requirements set out in this ITT may not be adjusted or qualified in any manner whatsoever by the Applicant in the Application.
- c) The tender will take place in two parts: **Qualification** and **Auction**. In the first part the Office considers whether the Applicants that submitted their Applications as at the date determined in Chapter 3.6 of this ITT meet the conditions of participation in the tender, as determined in Chapter 6 of this ITT. Should an Applicant fail to meet these conditions, the Office will decide to exclude such an Applicant from further participation in the tender. Filing an appeal against the elimination decision does not have a suspensory effect. In the second part all the qualified Applicants take part in the Auction. A full text of the Auction rules is available in Appendix No. 4 to this ITT.
- d) Each Applicant's costs related to participation in the tender shall be borne by the Applicant itself.
- e) The Office will answer written questions sent within the period set out in Chapter 3.6 to the contact electronic address indicated in Chapter 3.5.2. The inquiries delivered must bear the reference number of this tender.
- f) The Office may cancel this tender and may do so even after expiry of the Application submission period. Further details of the cancellation of the tender are defined in Chapter 10.
- g) The Office shall bear no financial obligations or any other obligations arising from the cancellation of this tender.

### 3.5 Tender organiser

#### 3.5.1 Contact information about the Office

**Office name:** CZECH REPUBLIC – Czech Telecommunication Office  
**Represented by:** PhDr. Pavel Dvořák, CSc.  
**Registered office:** Sokolovská 219, 190 00 Prague 9  
**Reg. No. (IČO):** 70106975  
**Tax Reg. No. (DIČ):** CZ70106975  
**Bank account No.:** 19-725001/0710, maintained with the Czech National Bank (ČNB), Prague Branch

#### 3.5.2 The Office's contact person

The Office's contact person for this tender to whom all questions or requests for additional information concerning this tender can be sent is:

**Name:** Ing. Jiří Ducháč  
**Tel:** +420 224 004 624  
**E-mail:** duchacj@ctu.cz

Unless the Act or the Rules of Administrative procedures do not stipulate otherwise, e-mail communications need not to be signed by a certified electronic signature nor directed also to the electronic registry of the Office.

### 3.5.3 Forwarding address for the purposes of this tender:

Český telekomunikační úřad [Czech Telecommunication Office]

Sokolovská 219

poštovní přihrádka 02 [P.O.Box]

225 02 Praha 025

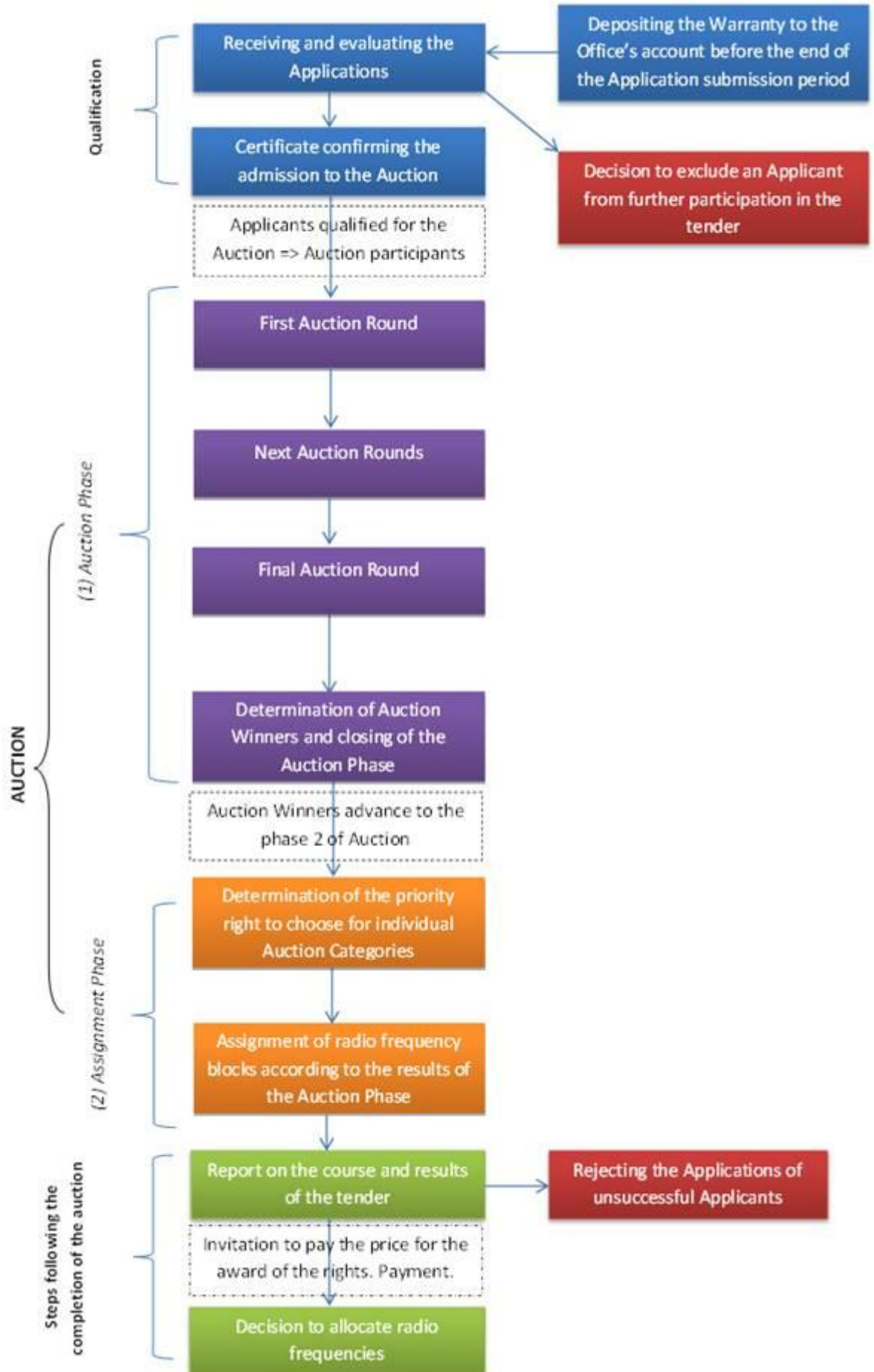
If the above person is contacted via e-mail, the message must be expressly addressed to Mr. Jiří Duchač and this must be indicated in the subject of the message.

### 3.6 Tender dates

Ref.	Activity	Period	Date
a.	Invitation to Tender	-	12 July 2012
b.	Period for the delivery of questions according to Chapter 3.4, clause (e)	21 calendar days from (a)	2 August 2012
c.	Publishing the answers to questions as referred to in clause (b)	4 calendar days following the (b) deadline	6 August 2012
d.	Period for the delivery of Application for the award of the rights to use radio frequencies in accordance with Chapter 6 of the ITT	60 calendar days from (a)	10 September 2012 by 12.00 p.m.
e.	Opening the envelopes with the Applications	working day following the (d) deadline	11 September 2012 at 9.00 a.m. in the Office's reg. office

The actual time schedule of the tender procedure will be published at the web sites of the Office. Unless specified otherwise, the section 40 of the Rules of Administrative Procedure will be applied to the calculation of the deadlines. Mainly the clause stipulating that the day when the fact determining the beginning of the time limit happened will not be included into the course of the time limit will be applied. Should the end of the time limit fall upon a Saturday, Sunday or national holiday, the next working day will be considered as the last day of the time limit. Unless specified otherwise by days are meant calendar days.

### 3.7 Diagram of the course of the tender, split into phases



## 4 SUBJECT MATTER OF THE TENDER

### 4.1 Information about the subject matter of the tender (in accordance with Section 21(5)(a), (b), (c) and (d) of the Act)

#### 4.1.1 The 800 MHz band

The 800 MHz frequency band is a paired band (hereinafter also referred to as FDD), delineated by the 791–821 MHz / 832–862 MHz frequencies (the so-called digital dividend). Formerly used by the radio broadcasting service, this band is now available for the operation of electronic communications networks.

Within the 800 MHz frequency band, the spectrum will be split into 2 block categories:

- **1 independent concrete block 2 × 5 MHz in size** (791.0–796,0 / 832.0–837.0 MHz);
- **5 independent abstract block, each being 2 × 5 MHz in size.**

The following radio frequency segments will be allocated in the tender (frequency channel edges are indicated):

Auction Block Category	Radio frequency segment identifier	Frequency range, downlink in MHz	Frequency range, uplink in MHz	Segment size in MHz
A1	A1.1	791.0–796.0	832.0–837.0	2 × 5.0
A2	A2.1	796.0–801.0	837.0–842.0	2 × 5.0
	A2.2	801.0–806.0	842.0–847.0	2 × 5.0
	A2.3	806.0–811.0	847.0–852.0	2 × 5.0
	A2.4	811.0–816.0	852.0–857.0	2 × 5.0
	A2.5	816.0–821.0	857.0–862.0	2 × 5.0

A maximum limit for the submission of bids for frequencies from the 800 MHz band is determined so that the **spectrum volume acquired in this tender does not exceed in aggregation with the already held spectrum volume in the 900 MHz 2 × 22.5 MHz.**

The segments in the category A2 are offered as abstract blocks in the Auction Phase, the block A1 is offered as a concrete block.

The conditions and obligations associated with the award of the right to use radio frequencies are specified in detail in Chapter 5.

#### 4.1.2 The 1800 MHz band

The 1800 MHz band is a paired band delineated by the 1805–1880 / 1710–1785 MHz frequencies. This band is intended for the operation of a publicly available electronic communications service using the GSM technology or other technologies that are compatible with the operation of GSM networks.

A substantial part of the frequencies in this block is being used by current public communication network GSM standard operators. No Allocations have

been granted yet in the bands of 1805.1–1806.3 / 1710.1–1711.3 MHz, 1816.9–1818.9 / 1721.9–1723.9 MHz, 1822.3–1824.3 / 1727.3–1729.3 MHz, 1842.3–1857.9 / 1747.3–1762.9 MHz and 1875.9–1879.9 / 1780.9–1784.9 MHz.

Within the 1800 MHz frequency band, the spectrum will be split into 3 block categories:

- **9 separate abstract blocks, each being 2 × 1 MHz** in size
- **1 independent concrete block 2 × 0.2 MHz** in size (1805.1–1805.3 / 1710.1–1710.3 MHz)
- **1 coherent concrete block with a size of 2 × 15.6 MHz** (1842.3–1857.9 / 1747.3–1762.9 MHz)

The following radio frequency segments will be assigned in the tender (frequency channel edges are indicated):

Auction Block Category	Radio frequency segment identifier	Frequency range downlink in MHz	Frequency range uplink in MHz	Segment size in MHz
B1	B1.1	1842.3–1857.9	1747.3–1762.9	2 × 15.6
B2	B2.1	1805.1–1805.3	1710.1–1710.3	2 × 0.2
B3	B3.1	1805.3–1806.3	1710.3–1711.3	2 × 1.0
	B3.2	1816.9–1817.9	1721.9–1722.9	2 × 1.0
	B3.3	1817.9–1818.9	1722.9–1723.9	2 × 1.0
	B3.4	1822.3–1823.3	1727.3–1728.3	2 × 1.0
	B3.5	1823.3–1824.3	1728.3–1729.3	2 × 1.0
	B3.6	1875.9–1876.9	1780.9–1781.9	2 × 1.0
	B3.7	1876.9–1877.9	1781.9–1782.9	2 × 1.0
	B3.8	1877.9–1878.9	1782.9–1783.9	2 × 1.0
	B3.9	1878.9–1879.9	1783.9–1784.9	2 × 1.0

A maximum limit for the submission of bids for frequencies in the 1800 MHz band is determined so that the **spectrum volume, acquired in this tender, does not exceed 2 × 23 MHz in aggregate with the spectrum volume already held by the Auction Participant in the 1800 MHz band**. This Spectral Limit is determined so as to make it possible for all Auction Participants to bid for a frequency segment of at least 2 × 5 MHz.

In the Auction Phase, the segments in the category B3 in the 1800 MHz band are offered as abstract blocks. Blocks B1 and B2 are offered as real (concrete) blocks.

The conditions and obligations associated with the award of the right to use radio frequencies are specified in detail in Chapter 5.

#### 4.1.3 The 2600 MHz band:

The 2600 MHz frequency band is delineated by the frequencies of 2500–2690 MHz and includes both a paired and unpaired part of the spectrum.

Within the 2600 MHz frequency band, the spectrum will be split into 2 block categories:

- paired part: **14 separate abstract blocks, each being 2 x 5 MHz** in size
- unpaired part: **9 separate abstract blocks, each being 5 MHz** in size. A block delineated by the frequencies of 2615.0–2620.0 MHz will also be automatically assigned to the Applicant whom has been assigned the block delineated by the frequencies of 2610.0–2615.0 MHz in the second phase of the Auction (Frequencies Distribution). The reason is the increased risk of interference which significantly limits the possibilities to use the latter block. The conditions of the use of the D10 block are specified in more detail in Chapter 5.1.

The following radio frequency segments will be assigned in the tender (frequency channel edges are indicated):

Auction Block Category	Radio frequency segment identifier	Frequency range, downlink in MHz	Frequency range, uplink in MHz	Segment size in MHz
C	C1	2620.0–2625.0	2500.0–2505.0	2 x 5.0
	C2	2625.0–2630.0	2505.0–2510.0	2 x 5.0
	C3	2630.0–2635.0	2510.0–2515.0	2 x 5.0
	C4	2635.0–2640.0	2515.0–2520.0	2 x 5.0
	C5	2640.0–2645.0	2520.0–2525.0	2 x 5.0
	C6	2645.0–2650.0	2525.0–2530.0	2 x 5.0
	C7	2650.0–2655.0	2530.0–2535.0	2 x 5.0
	C8	2655.0–2660.0	2535.0–2540.0	2 x 5.0
	C9	2660.0–2665.0	2540.0–2545.0	2 x 5.0
	C10	2665.0–2670.0	2545.0–2550.0	2 x 5.0
	C11	2670.0–2675.0	2550.0–2555.0	2 x 5.0
	C12	2675.0–2680.0	2555.0–2560.0	2 x 5.0
	C13	2680.0–2685.0	2560.0–2565.0	2 x 5.0
	C14	2685.0–2690.0	2565.0–2570.0	2 x 5.0

Auction Block Category	Radio frequency segment identifier	Frequency range in MHz	Segment size in MHz
D	D1	2570.0-2575.0	5.0
	D2	2575.0-2580.0	5.0
	D3	2580.0-2585.0	5.0
	D4	2585.0-2590.0	5.0
	D5	2590.0-2595.0	5.0
	D6	2595.0-2600.0	5.0
	D7	2600.0-2605.0	5.0
	D8	2605.0-2610.0	5.0
	D9	2610.0-2615.0	5.0
	D10	2615.0-2620.0	5.0

A maximum limit for the submission of bids for **frequencies in the paired part of the 2600 MHz band** is determined so that the **spectrum volume acquired in this tender does not exceed 2 × 20 MHz**. No limit is set for the frequencies in the unpaired part of the 2600 MHz band.

In the Auction Phase, the blocks in this band are offered as abstract blocks.

To prevent spectrum fragmentation, a condition is laid down that the minimum bid size in the tender shall be for 2 paired blocks, i.e. 2 × 10 MHz, in the paired part of the 2600 MHz block.

In the **unpaired part of the 2600 MHz band**, the minimum bid size condition in the tender is for **3 unpaired blocks, i.e. 1 × 15 MHz**. The D10 block is not taken into account in the calculations concerning this criterion.

The conditions and obligations associated with the award of the right to use radio frequencies are specified in detail in Chapter 5.

#### 4.2 Price for the award of the right to use radio frequencies (in accordance with Section 21(5)(f) of the Act)

The price for the award of the rights to use radio frequencies will be equal to the sum of the Highest Bids of the Applicant who becomes the Auction Winner for the real blocks offered in the Auction and the sum of the prices the Auction Winner must pay for the First Selection Right in the given Auction Block Categories under Chapter 7.7.1.

The bids amount in the Auction phase must not be smaller than the minimum price laid down in this Chapter 4.2.

The minimum prices for each Auction Block Category are as follows:

Auction Block Category	Minimum price for 1 block
A1	CZK 800,000,000
A2	CZK 900,000,000
B1	CZK 375,000,000
B2	CZK 5,000,000
B3	CZK 24,000,000
C	CZK 80,000,000
D	CZK 40,000,000

The minimum price has been determined on the basis of an analysis of the price of frequencies for the next generation networks in relevant European countries, in which Auctions for the frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands have been carried out in the past.

The values of the minimum prices established on the basis of this analysis have been reduced by 20% so as to take into account the present economic conditions on the market and so as not to represent a hindrance to the entry of interested parties into the tender and so as to be attractive for a maximum number of potential investors.

## **5 CONDITIONS AND OBLIGATIONS RELATED TO THE AWARD OF THE RIGHT TO USE RADIO FREQUENCIES**

The conditions connected with the award of the right to use radio frequencies, including the conditions of the efficient utilisation of the frequencies and the obligations undertaken by the Applicant in the tender, will be laid down by the Office in its decision on granting the Radio Frequency Allocation which will be issued on the basis of the tender results in compliance with the conditions indicated below and/or in other documents, which are issued on the basis of Section 22(2)(e) of the Act.

### **5.1 Basic conditions for using the assigned radio frequencies**

The right to use the radio frequencies offered in the tender has a nation-wide validity in the Czech Republic.

Any investigation for a complaint of interference on radio reception from the operation of the radio transmitting stations that use the Frequency Allocations that are the subject matter of this tender will be governed by the Act and the methodological procedure published by the Office<sup>11</sup>.

#### **5.1.1 Conditions for using radio frequencies in the 800 MHz band**

The conditions of using the frequencies are specified in RSUP 10 and will be reflected in the individual authorisations for the use of radio frequencies and possibly in other documents to be issued on the basis of the Act. A public communication network operated in the 800 MHz band must meet, from the technical viewpoint, the conditions set out in Commission Decision 2010/267/EU<sup>12</sup>, and within the standard chosen by the Applicant it must meet the conditions set out in ETSI Standards and possibly also in other related documents of the Commission, CEPT or ITU<sup>13</sup>.

Commission Decision 2010/267/EU<sup>14</sup> specifies the basic technical conditions for the use of the 800 MHz band on the basis of the BEM concept. With authorisation from the European Commission, the technical conditions for the 800 MHz band were created within the European Conference of Postal & Telecommunications Administrations (CEPT). On the basis of this authorisation, the CEPT adopted four reports (CEPT Reports Nos. 29, 30, 31 and 32).

CEPT Report No. 29<sup>15</sup> provides instructions on the issues of international coordination, which is of extraordinary importance in the coexistence phase, i.e. in the situation where the technical conditions have already been optimised in certain Member States for fixed and/or radiocommunication networks, whereas other Member States still operate, in the 800 MHz band, high-power transmitters in the broadcasting service. International coordination conditions based on international agreements on using radio frequencies are specified in

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<sup>11</sup> Actual version of this methodological procedure is available at [http://www.ctu.cz/cs/download/radiove\\_ruseni/methodical\\_procedure\\_interference\\_investigation\\_11\\_07\\_2012.pdf](http://www.ctu.cz/cs/download/radiove_ruseni/methodical_procedure_interference_investigation_11_07_2012.pdf)

<sup>12</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:117:0095:0101:CS:PDF>

<sup>13</sup> These documents are available in summary form, for example, at <http://www.erodocdb.dk/default.aspx>

<sup>14</sup> See Footnote No. 12

<sup>15</sup> <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP029.PDF>



detail in Chapter 5.6 with respect to using the frequencies in the 800 MHz band, which are the subject-matter of the tender.

CEPT Report No. 30<sup>16</sup> specifies the least-limiting technical conditions, using the BEM concept – these conditions represent the regulatory requirements focused on managing the risk of harmful interference between adjacent networks with special emphasis on the protection of the digital terrestrial television service (and/or cable television service) provided in the frequency bands below 790 MHz.

CEPT Report No. 31<sup>17</sup> contains a conclusion that a preferable arrangement of frequencies for the 800 MHz band should be based on frequency division duplex, FDD, as distinct from time division duplex, TDD, in order to facilitate international coordination with radio broadcasting services.

CEPT Report No. 32<sup>18</sup> respects the interest in the continued operation of PMSE applications (Programme-Making and Special Events).

The conditions of using the 800 MHz band are coordinated in the Czech Republic in compliance with Commission Decision 2010/267/EU<sup>19</sup> and with the above CEPT reports, on whose basis the conditions of use are defined, including, but not limited to:

- utilisation in the FDD duplex mode with a duplex separation of 41 MHz. Base stations transmit at the lower frequency of the frequency pair
- limit value of the EIRP (Equivalent Isotropically Radiated Power) for the base stations inside the block = +60 dBm/(5 MHz) with the understanding that in the areas of interference the EIRP value will be adequately reduced in keeping with the results of the test operation;
- limit values outside the block are determined as follows:

Frequency range of radiation outside the block	Maximum mean EIRP outside the block
Guard band between the edge of the radio broadcasting service band on the 790 MHz frequency and the edge of the band of the FDD downlink mode <b>(790–791 MHz)</b>	+17.4 dBm/MHz
Frequencies used for the FDD downlink mode <b>(791–821 MHz)</b>	+22 dBm/(5 MHz) in the range of –5 to 0 MHz from the lower edge of the block and in the range of 0 to +5 MHz from the upper edge of the block  +18 dBm/(5 MHz) in the range of –10 to –5 MHz from the lower edge of the block and in the range of +5 to +10 MHz from the upper edge of the block  +11 dBm/(MHz) for the remaining frequencies for transmission from base stations (downlink)

<sup>16</sup> <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP030.PDF>

<sup>17</sup> <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP031.PDF>

<sup>18</sup> <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP032.PDF>

<sup>19</sup> See Footnote. 12

Frequency range of radiation outside the block	Maximum mean EIRP outside the block
Guard band between the edge of the band of the FDD downlink mode and the edge of the band of the FDD uplink mode (duplex gap) (821–832 MHz)	+15 dBm/MHz
Frequencies used for the FDD uplink mode (832–862 MHz)	-49.5 dBm/(5 MHz)

- The limit EIRP values outside the block for base stations' BEM on frequencies lower than 790 MHz are determined at the level of case A indicated in Table 4 in Commission Decision 2010/267/EU:

Condition for EIRP inside the block at base stations, P dBm/10 MHz	Maximum mean EIRP outside the block
$P \geq 59$	0 dBm/(8 MHz)
$36 \leq P < 59$	(P-59) dBm/(8 MHz)
$P < 36$	-23 dBm/(8 MHz)

- The limit value of BEM radiation inside the block for terminals on the frequencies of the FDD uplink mode = +23 dBm. This limit power value is presented as EIRP for terminals designed to be fixed or built-in, and as TRP (Total Radiated Power) for terminals designed to be mobile or portable. The EIRP and TRP are equivalent for isotropic antennas. A deviation of up to +2 dB is permissible in order to accommodate operation in extreme environments and the manufacturing tolerances.

All the above technical conditions based on the Commission's decisions will be reflected as specific technical requirements in the process of awarding of the rights to use radio frequencies to provide public electronic communications networks in the 800 MHz bands, as well as in the awarding of individual authorisations to use radio frequencies in the 800 MHz band.

At the time of this ITT, the 800 MHz band, which is the subject-matter of this tender, is still being used also for the terrestrial digital transmission of DVB-T services in the following areas:

- Trutnov channel 61 (MUX 2)
- Ostrava channel 63 (MUX 4)
- Prague channel 64 (MUX 4)
- Brno channel 64 (MUX 4)

The use of these channels will be terminated, step by step, according to the following timescale:

Area	Expected actions	Preliminary dates of the termination of the use of the channel
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Area	Expected actions	Preliminary dates of the termination of the use of the channel
Trutnov	Depends on harmonisation with the termination of analogue broadcasting in Poland	Mandatory termination date: 30 June 2013 at the latest
Ostrava	Depends on harmonisation with the termination of analogue broadcasting in Poland	Mandatory termination date not yet determined. Termination is expected by the end of 2013
Prague	Substitute channel already allocated	Mandatory termination date: 31 December 2012
Brno	Substitute channel already allocated	Mandatory termination date: 31 December 2012

The current situation in the use of transmitting channels is published by the Office at <http://dtv.ctu.cz>.

Owing to the fact that analogue television broadcasting has not yet been terminated in Poland, limitation of the use of frequency segments in the 800 MHz band may be unavoidable in some places in the border areas of the Czech Republic. These limitations are based on international commitments stipulated on the basis of the results of the Regional Radiocommunication Conference, Geneva 2006 (Geneva 2006 Agreement), which addressed the technical and regulatory conditions of the analogue/digital transition, including the adoption of a frequency plan for digital radio and television broadcasting.

#### 5.1.2 Conditions for using radio frequencies in the 1800 MHz band

The conditions of using the 1800 MHz band frequencies are specified in RSUP 12 and will be reflected in the individual authorisations for the use of radio frequencies and possibly in other documents to be issued on the basis of the Act. A public communication network operated in the 1800 MHz band must meet, from the technical viewpoint, the conditions specified in Commission Decision 2011/251/EU<sup>20</sup>, in the ERC/REC/(08)02 Recommendation<sup>21</sup>, and within the standard chosen by the Applicant it must meet the conditions set out in ETSI Standards and possibly also in other related documents of the Commission, CEPT or ITU<sup>22</sup>.

Stations in the 1805–1880 / 1710–1785 MHz band operate in the duplex mode with a duplex separation of 95 MHz. Base stations transmit at the higher frequency of the frequency pair.

The issue of coexistence of the GSM systems and systems of the group of IMT Standards, particularly IMT-2000/UMTS and LTE, is addressed in accordance with the above documents. Coexistence of these systems in the 1800 MHz band is possible if all the following technical parameters are met (unless the operators of adjacent networks agree otherwise):

<sup>20</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:106:0009:0010:CS:PDF>

<sup>21</sup> <http://www.eroocdb.dk/docs/doc98/official/pdf/Rec0802.pdf>

<sup>22</sup> See Footnote No. 12

Systems	Technical parameters
UMTS complying with the UMTS standards issued by the ETSI, including, but not limited to, the EN 301908-1, EN 301908-2, EN 301908-3 and EN 301908-11 standards	<ol style="list-style-type: none"> <li>1. Carrier frequency separation of at least 5 MHz between two adjacent UMTS networks.</li> <li>2. Carrier frequency separation of at least 2.8 MHz between the UMTS network and an adjacent GSM network.</li> </ol>
LTE complying with the LTE standards issued by the ETSI, including, but not limited to, the EN 301908-1, EN 301908-13, EN 301908-14 and EN 301908-11 standards	<ol style="list-style-type: none"> <li>1. Separation of at least 200 kHz between the edge of a LTE channel and the edge of the GSM carrier frequency channel between adjacent LTE and GSM networks.</li> <li>2. No frequency separation is required between the edge of the LTE channel and the edge of the channel of the UMTS carrier frequency between adjacent LTE and UMTS networks.</li> <li>3. No frequency separation is required between the edges of the LTE channels of two adjacent LTE networks.</li> </ol>
WiMAX complying with the WiMAX standards issued by the ETSI, including, but not limited to, EN 301908-1, EN 301908-21 and EN 301908-22 standards	<ol style="list-style-type: none"> <li>1. Separation of at least 200 kHz between the edge of a WiMAX channel and the edge of the GSM carrier frequency channel between adjacent WiMAX and GSM networks.</li> <li>2. No frequency separation is required between the edge of the WiMAX channel and the edge of the channel of the UMTS carrier frequency between adjacent WiMAX and UMTS networks</li> <li>3. No frequency separation is required between the edges of the WiMAX channels of two adjacent WiMAX networks.</li> </ol>

### 5.1.3 Conditions for using radio frequencies in the 2600 MHz band

The conditions of using the 2600 MHz band frequencies are specified in RSUP 14 and will be reflected in the individual authorisations for the use of radio frequencies and possibly in other documents to be issued on the basis of the Act. A public communication network operated in the 2600 MHz band must meet, from the technical viewpoint, the conditions specified in Commission Decision 2008/477/ES<sup>23</sup>, in the ERC/REC/(11)05 Recommendation<sup>24</sup> and within the standard chosen by the Applicant it must meet the conditions set out in ETSI Standards and possibly also in other related documents of the Commission, CEPT or ITU<sup>25</sup>.

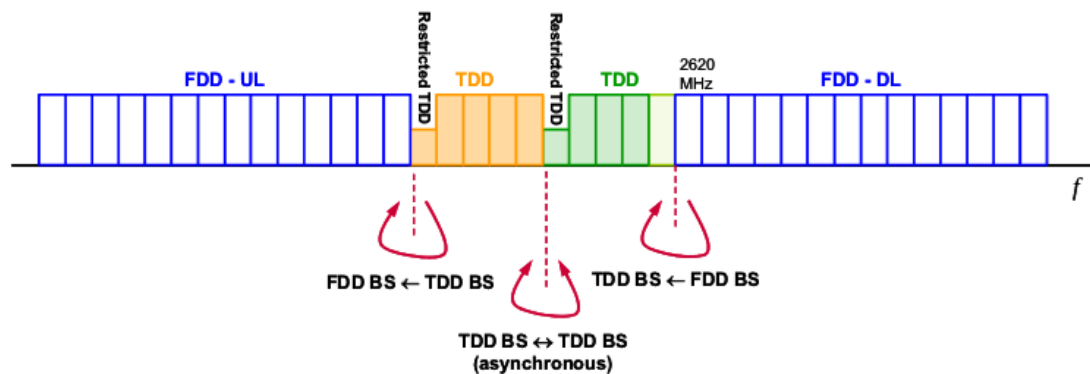
The conditions of using the 2600 MHz band are coordinated in the Czech Republic in compliance with the above documents, on whose basis the conditions of use are defined, including, but not limited to the following:

<sup>23</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:163:0037:0041:CS:PDF>

<sup>24</sup> <http://www.erodocdb.dk/docs/doc98/official/pdf/Rec1105.pdf>

<sup>25</sup> See Footnote. 12

- Stations in the 2620–2690 / 2500–2570 MHz band operate in a duplex mode with a duplex separation of 120 MHz. Base stations transmit at the higher frequency of the frequency pair. Stations in the 2570–2620 MHz band operate in a simplex mode.
- The limit EIRP value for the base stations inside the block is +61 dBm/(5 MHz), with the exception of:
  - radio frequencies segment D1 (2570.0–2575.0 MHz), where the EIRP limit value is restricted to +25 dBm/(5 MHz). A similar limitation will be applied to each initial block of category D radio frequency segment in a situation where more than one Applicant become category D radio frequency segment Allocation Holders, provided that their frequency segments are adjacent to each other (see the figure below – the blocks are denoted as “Restricted TDD”)



This restriction is due to the need to ensure suitable technical conditions for the coexistence of systems using frequencies in adjacent blocks serving for unlimited TDD and FDD traffic, or – in the case of two unsynchronised networks operating in the TDD mode – to ensure the compatibility defined in Commission Decision 2008/477/EC<sup>26</sup>. D1 segment restriction will not be applied where the same Applicant becomes the Holder of the Allocation of the segments D1 and C14.

- Due to the fact that frequency segment C1, in which the EIRP is not limited, is adjacent to frequency segment D10, there is an increased probability of interference to the D10 frequency segment. For this reason, the D10 segment is not an Auction Block – it will be automatically assigned to the segment D9 Allocation Holder. A basic in-block EIRP limit value for base stations is applied to the D10 block: its level is +61 dBm/(5 MHz).

#### 5.1.4 Issuance of individual authorisations

The use of the radio frequencies which are the subject matter of the tender must be approved by the Office in the form of an individual authorisation.

<sup>26</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:163:0037:0041:CS:PDF>

Individual authorisations will be issued separately for each of the allocated frequency bands. The following complementing conditions will be set in the individual authorisation:

- a) In the 800 MHz band the condition assigning to the Allocation Holders the obligation to provide to the Office, by the end of each calendar month, the list of the base stations which the Allocation Holder plans to put into operation during the subsequent period. The list will be provided to the Office in the electronic form in the spreadsheet format. On the basis of this notification the Office will inform, through its internet sites, the other entities concerned about the planned test operation start of base stations in the given locality.
- b) In the 800 MHz, 1800 MHz and 2600 MHz bands the condition assigning to the Allocation Holders the obligation to provide to the Office, by the end of each calendar month<sup>27</sup>, the list of the base stations currently in operation in a format suitable for the batch calculation of the coverage<sup>28</sup>, including all changes of the below mentioned data about the stations that are already in operation which occurred during the previous month. The description of the base stations in operation according to these notifications will be an integral part of the individual authorisations. In the 800 MHz band the notification will be made only about the base stations in which the test operation was terminated according to (d). The announcement for each base station will comprise the following data:
  1. District identifier according to the list provided by the Office;
  2. Unique name of the site (location). In the case of a change of technical parameters the name must be maintained;
  3. Address of the site;
  4. Geographic coordinates of the site (WGS 84 system, in degrees, minutes, seconds);
  5. Height of the location above the ground (m);
  6. The transmitter's and receiver's frequency (range in MHz);
  7. Height of the antenna system centre above the ground (m);
  8. Radiation characteristics of the antenna system (code description according the HCM agreement, appendix 6<sup>29</sup>)
  9. Azimuth of maximum radiation in each sector (°);
  10. Mechanically set elevation in the radiation azimuth in each sector (°);
  11. Maximum radiated power ERP in the sector (W).
- c) In the 800 MHz band the conditions assigning to the Allocation Holder to verify the impact on adjacent bands by at least one-month trial operation of each base station. The stations operated in test operation mode will not be

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<sup>27</sup> This time limit may be changed following a mutual agreement with the Office.

<sup>28</sup> In the csv format (comma will be columns 'separator, tenths will be separated by point), or possibly in another format agreed on with the Office.

<sup>29</sup> [http://hcm.bundesnetzagentur.de/vertrag/englisch/e\\_pdf10.zip](http://hcm.bundesnetzagentur.de/vertrag/englisch/e_pdf10.zip)

included in the fulfilment of the conditions of the purposeful use of the radio frequencies according to the Chapter 5.3.

The individual authorisation Holder must notify in the notification under (b) the exact dates of commencement and termination of the operation of the individual radio transmitting equipment (network base stations) and any significant events concerning the operation of the terminals, e.g., stress tests.

#### **5.1.5 Verification of the coverage**

On the basis of an application by the Allocation Holder the Office will carry out the inspection of the scope of the coverage of the Allocation Holder's network e.g. for the purpose of verification of the coverage of a district, of the fulfilment of the coverage requirement by a Rightful Claimant for National Roaming or for the fulfilment of the development criteria. The Allocation Holder will be notified by the Office about the result.

Together with the application the following data have to be submitted unless they have been submitted to the Office at the same time under the Chapter 5.3.

1. Coverage according to the Allocation Holder's calculation plotted in the map provided by the Office with the 100 × 100 m grid. In the map, the Office will determine the numbers of inhabitants for the individual squares of 100 × 100 m on the basis of which it will be possible to determine the coverage percentage of the given district.
2. For all the stations for which a certificate is required about the scope of the network coverage under the point 5.1.5 the technical parameters of the stations mentioned under (b) of the Chapter 5.1.4. The data will be provided for all relevant stations (i.e. stations in the 800, 1800, 2600 and possibly 2100 MHz bands) in a format suitable for the batch calculation of the coverage<sup>30</sup>.
3. Furthermore, for all stations in the 800 MHz band the information will be included about the results of the test operation of the stations, including the information about all occurred cases of incompatibility or interference with other frequency spectrum users.

## **5.2 Technologies and services for which the rights to use radio frequencies are to be awarded**

In compliance with the technological neutrality principle, the Office does not lay down any conditions or limitations in respect of the technologies the Applicant intends to use with the auctioned frequencies for the provision of publicly available electronic communications services. This does not affect the provisions of the relevant RSUPs.

All and any equipment operated on the radio frequency blocks that are the subject matter of the tender must meet the technical standards currently in force and other generally binding legal regulations. The Office reserves the

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<sup>30</sup> In the csv format (comma will be columns 'separator, tenths will be separated by point), or possibly in another format agreed on with the Office.

right at any time to modify the requirements for the technical equipment associated with the use of these frequency blocks.

### **5.3 Conditions of effective use of radio frequencies**

For the purposes of using the radio frequencies that are the subject matter of the tender, mandatory criteria are specified, which are binding on the Allocation Holders from the viewpoint of meeting the conditions of effective utilisation of the radio frequencies acquired in the tender:

- Effective utilisation of the radio frequencies, i.e. the provision of commercial services with the use of public communication networks operated on the allocated frequencies, must be started within 2 years from the coming of the Allocation into effect;
- Effective utilisation of the radio frequencies according to the section 22b(2) of the Act, i.e. the provision of electronic communications services via public communication networks with the use of the total scope of the allocated radio frequencies, must be started within 7 years from the coming of the Allocation into effect;
- Service offer coverage in terms of territory and population – development criteria – must be ensured to the extent defined for individual frequency bands. Should an Applicant become a Radio Frequency Allocation Holder in several frequency bands, only one set of the development criteria is mandatory for the fulfilment of the coverage requirement.
  - If the Applicant gains in this tender a Radio Frequency Allocation in the 800 MHz band and any other Radio Frequency Allocation in other frequency bands, the development criteria according to the Chapter 5.3.1 are mandatory for the whole Frequency Allocation.
  - If the Applicant gains in this tender a frequency segment B1.1 in the 1800 MHz band and any other Allocation of radio frequencies in the 1800 MHz and 2600 MHz bands, the development criteria according to the Chapter 5.3.2 are mandatory for the whole Frequency Allocation.
  - If the Applicant gains in this tender a Radio Frequency Allocation in the 2600 MHz band and a Radio Frequency Allocation in 1800 MHz band, apart from the B1.1 block, the development criteria according to the Chapter 5.3.3 are mandatory for the whole Frequency Allocation.

In the event of failure to comply with the coverage requirement, it is considered that the requirement has not been met for all radio frequencies which the Applicant obtained in this tender.

For the purpose of verification of the purposeful use of the radio frequencies the Allocation Holder will submit to the Office the following data:

1. The coverage, according to the Applicant calculation, plotted into the map provided by the Office with 100 × 100 m grid. The Office will specify the number of inhabitants for each 100 × 100 m square on the basis of which it will be possible to define the coverage percentage of the given district.



2. For all stations by which the Holder proves the coverage requirement, i. e. stations in the 800, 1800 and 2600 MHz bands and possibly in 2100 MHz band, the stations' technical parameters according to the point (b) Chapter 5.1.4. The data will be provided in a format suitable for batch calculation of the coverage<sup>31</sup>.
3. For all stations in the 800 MHz band also the information about the results of the stations' test operation, including the information about all the cases of incompatibility or interference with other users of the frequency spectrum.

The Allocation Holder will submit these data at the following moments at the latest:

- development criteria fulfilment according to the Chapter 5.3.1, (c), (d) and (e);
- coverage of an A or B district in compliance with the conditions of the Chapter 5.3.1, (a).
- development criteria fulfilment according to the Chapters 5.3.2 and 5.3.3.

#### **5.3.1 Development criteria for the use of radio frequencies in the 800 MHz band**

Residential areas at the district level will be divided into the following two groups according to the population density criteria:

- Group A, comprising districts where thinly populated areas prevail,
- Group B, other districts.

The list of districts with their inclusion in the above groups is contained in Appendix 6.

District as the basic unit of territory allows Allocation Holders more freedom in the planning of territory coverage, compared to the NUTS 5 territorial units.

A Radio Frequency Allocation in the 800 MHz frequency band will be associated with the mandatory adoption of the coverage commitment to the following extent:

- a) For each group A district covered, the Allocation Holder may start the provision of publicly available electronic communications in one district of the B group. Once all the districts in the group A are covered, the Allocation Holder may start the provision of the publicly available electronic communications services in all the remaining districts of the B group;
- b) covering (coverage) is understood to mean the operation of a public electronic communications network using own Frequency Allocations in the 800 MHz, 1800 MHz or 2600 MHz bands, capable to provide the high-speed Internet access service at a required speed, such service being available to at least 95% of the given district's population with

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<sup>31</sup> In the csv format (comma will be columns 'separator, tenths will be separated by point), or possibly in another format agreed on with the Office.

75% probability of indoor coverage<sup>32</sup> without the use of an external antenna and with 85% probability of indoor coverage with the use of an external antenna. The minimum required speed of the service mandatory to meet the coverage requirement is defined as follows:

- within 7 years after the decision on the Radio Frequency Allocation coming into effect the minimum required speed of the service is set at the level of 2 Mbit/s (download);
  - in the following period, the minimum required speed of the service is set at the level of 5 Mbit/s (download);
- c) Within 30 months from the date of the decision about radio Frequency Allocation coming into effect, the Allocation Holder must cover at least 95% of Group A districts.
- d) The Holder of an Allocation in the 800 MHz band who is an operator of the 3G network in the 2100 MHz band may include into the coverage obligations' fulfilment specified under (b) also the services provided on a public communication network with the use of radio frequencies in the 2100 MHz band if these services allow high speed connection in the quality mentioned under (b). This inclusion is possible only for the period of the first 5 years since the decision on the Allocation of the radio frequencies comes into effect. To meet the coverage requirement according to (c) after the five year period elapses, this inclusion may not be applied, that is to say it is necessary to fulfil the obligation under (c) exclusively under the conditions mentioned under (d) within the period mentioned under (b).
- e) Within 7 years from the date of the decision about Radio Frequency Allocation coming into effect, the Allocation Holder must cover 100% of Group A and Group B districts, transit railway corridors I to IV, motorways and express roads.

Should an Applicant that is not a 900 MHz band Allocation Holder become the 800 MHz band Allocation Holder, the periods referred to under (c) and (e) are extended by 12 months.

Owing to the characteristics of radio signal propagation, it is impossible to prevent the overlapping of signal radiation from Group A districts to Group B districts in border-line cases. The permitted overlapping is defined in Appendix 3 to the ITT.

### **5.3.2 Development criteria for the use of radio frequencies in the 1800 MHz band**

The development criteria for using the radio frequencies in the 1800 MHz band are determined separately only for the Auction block B1.

The rights of use in the 1800 MHz band, corresponding to Auction Block B1, will be associated with the coverage commitment to the following extent:

- Within 8 years from the date of the decision about Radio Frequency Allocation coming into effect, the Allocation Holder must cover at

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<sup>32</sup> Indoor coverage means reception at the required transmission speed in at least one above-ground room of a flat.

least 50% of the population of the Czech Republic. Covering (coverage) is understood to mean the operation of a public electronic communications network using the own Frequency Allocations acquired in the tender in the 1800 MHz or 2600 MHz band which is capable to provide the high-speed Internet access service with the required speed. The minimum required speed of the service mandatory to meet the coverage requirement is defined as follows:

- within 8 years after the decision on the Radio Frequency Allocation coming into effect the minimum required speed of the service is set at the level of 2 Mbit/s (download);
- in the following period, the minimum required speed of the service is set at the level of 5 Mbit/s (download);

No development criteria are laid down for other frequency segments in the 1800 MHz band.

### **5.3.3 Development criteria for the use of radio frequencies in the 2600 MHz band**

The rights of use for radio frequencies in the 2600 MHz band will be associated with the coverage commitment to the following extent:

- Within 7 years from the date of the decision about Radio Frequency Allocation coming into effect, the Allocation Holder must cover at least 30% of the population of the Czech Republic. Covering (coverage) is understood to mean the operation of a public electronic communications network using the own frequencies assignments in the 2600 MHz band acquired in the tender which is capable to provide the high-speed Internet access service with the required speed. The minimum required speed of the service mandatory to meet the coverage requirement is defined as follows:
  - within 7 years after the decision on the Radio Frequency Allocation coming into effect the minimum required speed of the service is set at the level of 2 Mbit/s (download);
  - in the following period, the minimum required speed of the service is set at the level of 5 Mbit/s (download);

Should an entity that is not a 900 MHz band Allocation Holder become the 2600 MHz band Allocation Holder, the periods referred to in this Chapter 5.3.3 are shifted by 12 months.

### **5.4 Conditions of radio frequency Allocation transfer**

The Office does not set out any additional conditions for the transferring of rights to use radio frequencies beyond the conditions laid down in Section 23 of the Act.

### **5.5 Validity period of Radio Frequency Allocations**

Radio Frequency Allocations, which are the subject matter of the tender, will remain in effect until **31 March 2028**.

### **5.6 Conditions resulting from international agreements on the use of radio frequencies**

The use of radio frequencies is contingent on compliance with the conditions set in binding international and bilateral agreements coordinating the technical parameters of transmitters on the Czech borders. International coordination of

the frequencies of terrestrial mobile service and fixed service is governed by the HCM<sup>33</sup> Agreement, as amended. Radio Frequency coordination agreements between the Czech Republic and its neighbours override the HCM Agreement. At present, such agreements (for the 800 MHz and 2600 MHz bands) are in effect with all neighbouring countries.

#### **5.6.1 Conditions of using frequency bands on the border**

The conditions for using the frequencies, as specified in the bilateral agreements with Germany, Austria, Poland and Slovakia are as follows for the individual frequency bands:

- The 800 MHz band:
  - The intensity of electromagnetic field at a height of 3 m above the ground in the 5 MHz reference segment shall not exceed 55 dBµV/m on the state border and 29 dBµV/m at a distance of 9 km from the border;
  - The HCM Agreement methodology shall be used in the calculations;
  - Propagation curves with a 50% locations and 10% time probability shall be used for the calculations.
- The 1800 MHz band:
  - Conditions of using frequencies in the 1800 MHz band for the LTE and/or WiMAX systems are not covered by the bilateral agreements. Frequency coordination in the 1800 MHz band is based on the basic parameters set out in the ERC/REC/(08)02 Recommendation for the UMTS systems – these values are at a noise level and do not allow for coverage up to the border;
  - The intensity of electromagnetic field at a height of 3 m above the ground in the 5 MHz reference segment shall not exceed value of 39 dBµV/m on the state border;
  - The HCM Agreement methodology shall be used in the calculations;
  - Propagation curves with a 50% locations and 10% time probability shall be used for the calculations;
  - GSM systems may continue to be operated in accordance with the relevant bilateral agreements and ERC/REC/(05)08 Recommendation.
- The 2600 MHz band:
  - The intensity of electromagnetic field at a height of 3 m above the ground in the 5 MHz reference segment shall not exceed value of 65 dBµV/m on the state border and 39 dBµV/m at a distance of 5 km from the border; For the TDD systems these values do not guarantee undisturbed operation near the state border without mutual synchronisation of the networks;

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<sup>33</sup> [http://hcm.bundesnetzagentur.de/vertrag/englisch/e\\_pdf10.zip](http://hcm.bundesnetzagentur.de/vertrag/englisch/e_pdf10.zip)

- The HCM Agreement methodology shall be used in the calculations;
- Propagation curves with a 50% locations and 10% time probability shall be used for the calculations.

## **5.7 Obligations to be undertaken by the Applicant during the Tender**

To secure and encourage purposeful use of the spectrum, development of economic competition in the market for the new services to be provided on the radio frequencies representing the subject matter of this tender, and to comply with the objectives and grounds of the tender specified in Chapter 3, the Applicants will undertake, in the tender, the obligations to provide National Roaming and wholesale services under the conditions described in this Chapter 5.7.

### **5.7.1 National Roaming**

When submitting their Applications for the participation in the tender, the Applicants must undertake the obligation to provide National Roaming for the event that they will acquire in the tender a Radio Frequency Allocation in the 800 MHz band of a minimum size  $2 \times 10$  MHz. According to the National Roaming Obligation the Rightful Claimants are the interested parties who will acquire after the day of the announcement of this ITT:

- (i) a Radio Frequency Allocation of at least  $2 \times 15.6$  MHz in the 1800 MHz band and will not acquire at the same time any Frequency Allocation in the 800 MHz band and/or
- (ii) a Radio Frequency Allocation of at least  $2 \times 20$  MHz in the paired part of the 2600 MHz band and will not acquire at the same time any Frequency Allocation in the 800 MHz band and/or
- (iii) a Radio Frequency Allocation of 50 MHz in the unpaired part of the 2600 MHz band and will not acquire at the same time any Frequency Allocation in the 800 MHz band and/or
- (iv) a Radio Frequency Allocation in the 800 MHz band and/or is not a Holder of Radio Frequency Allocations in the 900 MHz band.

By the National Roaming Obligation, the Applicants agree with the following independent obligations:

- to provide to the Rightful Claimants for National Roaming for a 10 year period since the coming into effect of the Radio Frequency Allocation on the basis of this tender the National Roaming on the 2G networks;
- to provide to the Rightful Claimants for National Roaming for a 10 year period since the coming into effect of the Radio Frequency Allocation on the basis of this tender the National Roaming on the 3G networks;
- to provide to the Rightful Claimants for National Roaming for the whole validity of the Radio Frequency Allocation on the basis of this tender the National Roaming on the 4G networks.

Unless otherwise agreed between the Parties, the Applicant undertakes to start the provision of the network access service on the basis of its National Roaming Obligation to each Rightful Claimant for National Roaming at the latest at the date when the following conditions will be fulfilled:

1. the period has elapsed within which the Applicant undertook, in respect of the networks concerned, to publish a reference offer for the fulfilment

of the National roaming obligation according to the Chapter 5.7.3 of the ITT, and

2. this Rightful Claimant for National Roaming covers through a public communication network it operates with the use of any technologies and its own Frequency Allocation acquired after the date of the tender announcement in the 800 MHz, 1800 MHz and/or 2600 MHz, bands at least 20% of the population of the Czech Republic. The fulfilment of the coverage requirement by the Rightful Claimant for National Roaming will be, in the event of a dispute confirmed by the Office according to the procedure in the Chapter 5.1.5.

The Applicants will undertake the obligation to carry out in good faith negotiations directed towards the conclusion of an access agreement (in the form of National Roaming) with each Rightful Claimant for National Roaming irrespective of the fact if this Rightful Claimant has complied with the requirement to cover at least 20% of the Czech Republic population. This coverage requirement may be agreed as a suspensory condition for the effect of the negotiated agreement on the access (in the form of National Roaming).

The National Roaming Obligation for 4G networks does not concern the territories that the Rightful Claimant for National Roaming declares as covered for the purpose of meeting the requirement to cover at least 20% of the Czech Republic population for the purposes of development criteria fulfilment. The National Roaming Obligation for 2G networks and the National Roaming Obligation for 3G networks are not limited with respect to the territory.

To meet the National Roaming Obligation, Applicants will undertake, if so requested by a Rightful Claimant for National Roaming, to negotiate in good faith with each Rightful Claimant for National Roaming about signing an agreement (agreements) allowing National Roaming for 2G networks and/or National roaming for 3G networks and/or for 4G networks allowing, taking into account technical characteristics of the host network and the Rightful Claimant's for National Roaming business plans – to provide independent and nation-wide electronic communications services by the Rightful Claimant for National Roaming. The price for enabling the access to the network (in the form of National Roaming) must correspond to this: it must be reasonable with respect to the extent and nature of the services to be provided on the basis of this access (in the form of National Roaming) and to the costs to be incurred by the National Roaming provider in enabling such access. The level of the price for the provision of the access (in the form of National Roaming) on the basis of the National Roaming Obligation must not, with respect to the preceding sentence, hinder the development of competition in any subordinate market(s) and must enable to an equally effective operator operate the profitable business of a Rightful Claimant for National Roaming at a subordinate market or markets.

Under the National Roaming Obligation, Applicants undertake not to do anything to restrict the purpose, extent, quality and structure of the services to be provided by the Rightful Claimant for National Roaming. Where it is impossible for objectively identifiable capacity reasons to fulfil the National Roaming Obligation over the entire geographical extent of the host network, the Applicants will undertake to meet this National Roaming Obligation within a geographical extent agreed in advance on a contractual basis, where the fulfilment of the National Roaming Obligation is not hindered by objective capacity limits.

Unless otherwise agreed between the Parties, the agreement concluded on the basis of the National Roaming Obligation must meet at least the following conditions:

- must enable to the customers of the Rightful Claimant for National Roaming the access to the voice services operated by any technology operated in the communication network to which the access is enabled, so as the Rightful Claimant for National Roaming could provide voice, facsimile and SMS service, including calls forwarding, calls blocking and calling party identification in the same scope as the services provided by the Applicant and it must also enable to the Rightful Claimant for National Roaming to provide its own value added service thanks to the access to transmission capacity;
- must enable to the customers of the Rightful Claimant for National Roaming the access to transmission capacity operated on any technology operated at the communication network to which the access is enabled so that the Rightful Claimant for National Roaming might provide its own value-added services to the same extent as provided by the Applicant;
- clear pricing conditions must be laid down, based on the per-unit charge specified according to the nature of the services (minute, data volume unit, SMS, etc.);
- must provide for gradual reduction of National Roaming, initiated by the Rightful Claimant for National Roaming with respect to the progression of the construction of its own network.

The Applicant will undertake the obligation to conclude an agreement or agreements on the basis of the National Roaming Obligation for an effective period of at least two years, unless the Rightful Claimant for National Roaming requests a shorter effective period. Should this minimum two year agreement duration exceed the duration period of the Applicant's obligation, the Applicant undertakes to conclude an agreement with the effective period of at least till the effective period of its obligation, unless the parties agree on a longer effective period.

#### **5.7.2 The Wholesale Offer Obligation**

When submitting their Applications for participation in the tender, the Applicants must undertake the Wholesale Offer Obligation.

To meet the Wholesale Offer Obligation under this Chapter 5.7.2, Applicants will undertake, for a period of 12 years since the effective of the Radio Frequency Allocation, if so requested by a claimant interested in a Wholesale Offer, to negotiate in good faith with each such claimant about signing an agreement on access to the public communications network operated with the use of the radio frequencies acquired in this tender, which agreement enables the interested claimant – with respect to the technical possibilities of the given network and the interested claimant's business plans – to provide its electronic communications services in an independent manner and on the national scale. The price for enabling the access to the Wholesale Offer provider's own network must correspond to this; it must be reasonable with respect to the extent and nature of the services to be provided through the host network and with respect to the costs to be incurred by the Wholesale Offer provider in enabling such access and in the subsequent traffic. The level of the price for the provision of a

wholesale offer in accordance with this Chapter 5.7.2, must enable an equally effective operator to operate its business in a profitable manner like a party interested in the Wholesale Offer at a subordinate market or markets.

To meet the Wholesale Offer Obligation under this Chapter 5.7.2, the Applicants undertake to negotiate, in compliance of this chapter 5.7.2, with possible parties interested in obtaining the access (in the form of Wholesale Offer) to the public communication network operated with the use of the radio frequencies acquired in this tender, irrespective of the purpose and extent of the services and the intended method of use of their public communications network by the interested claimant for the provision of the 4G services. This means that the Applicants must first of all negotiate with potential virtual mobile operators (MVNOs), be they MVNE, Full MVNO or MVNO with a lower share of their own infrastructure and operational systems.

To meet the Wholesale Offer Obligation under this Chapter 5.7.2, the successful Applicants must, if so requested by an interested claimant, offer such a claimant access to their public communication network operated with the use of the radio frequencies acquired in this tender, thus enabling such a claimant to provide its service through that network at least to the same extent and at the same quality at which the successful Applicant itself provides its services to its customers, unless the interested claimant requests a smaller extent and/or lower quality of the services to be provided on the basis of the Wholesale Offer. Should any extension or any other change is made to the extent of the services provided by the successful Applicant with the use of the radio frequencies acquired in this tender during the term of the Wholesale Offer agreement, the Applicant undertakes, if so requested by an interested claimant, to adequately extend or change the range of the Wholesale Offer or the agreement concluded on its basis in order to ensure that the interested claimant is able at any time during the term of the offer or agreement concluded on its basis to provide its services at least to the same extent as the Applicant making the Wholesale Offer, provided that the interested claimant so requests. In the event of an extension of the Wholesale Offer, the Applicant may, if there are good grounds therefore, request an adequate extension of the items of the Wholesale Offer price.

The Applicant will undertake the obligation to conclude an agreement on the basis of the Wholesale Offer Obligation for an effective period of at least two years, unless the interested claimant requests a shorter effective period. Should this minimum two year agreement duration exceed the duration period of the Applicant's obligation, the Applicant undertakes to conclude an agreement with the effective period valid at least till the effective period of the obligation, unless the parties agree on a longer effective period.

### **5.7.3 Joint provisions for the National Roaming Obligation and Wholesale Offer Obligation**

To meet the National Roaming Obligation and Wholesale Offer Obligation under Chapters 5.7.1 and 5.7.2, the Applicants will undertake to make and duly publish a binding reference offer of access to the network. The form, extent and essential details of the reference offer must be as laid down for the reference offer purposes by the Measure of General Nature No. OOP/7/07.2005-12, as amended by OOP/7/01.2006-1 and OOP/7/07.2011-10, issued by the Office on the basis of Section 82(4) of the Act. The reference offer to fulfil the Wholesale Offer obligation will be defined within the extent of



the provided wholesale services corresponding to the entity of the Full MVNO type with the understanding that the Rightful Claimants may ask for a broader scope of wholesale services with a smaller part of their own infrastructure and operational systems. The reference offer must meet the conditions and requirements for meeting the undertaken obligations, contained in Chapters 5.7.1 and 5.7.2 above.

The reference offers intended to comply with the National Roaming Obligation and the whole offer obligation must be made and published with the following deadlines:

- reference offer for National Roaming for 2G networks and National Roaming for 3G networks – at the latest within 6 months from the date of the entering into effect of the decision on the Radio Frequency Allocation acquired in this tender;
- reference offer for National Roaming for 4G networks and reference offer to fulfil the Wholesale Offer obligation – at the latest within 6 months since the day when the Applicant started to provide commercial services through the communication networks to which access is provided within the obligation.

Should the Applicant be granted by more than one Allocation, all the periods starting on the effective day of the Radio Frequency Allocation since the effective day of the first Allocation that the Applicant will acquire in this tender are taken into account.

In the event some of the technical parameters of the reference offer are not known to the Applicant within the deadlines mentioned above, the Applicant undertakes to publish a reference offer on the basis of reasonable assumptions. As to the data and information for which the Applicant is unable to make any reasonable assumption, the Applicant agrees to include in the reference offer a complete list of the data and information to be submitted by an interested claimant together with its application for concluding an agreement on the basis of the reference offer, in order that the Applicant could complete its reference offer according to such data and information, and to prepare a complete draft agreement, respecting the parameters indicated by the interested claimant. The Applicant agrees to submit such a complete draft to any interested claimant within 3 months at the latest from the submission by the interested claimant of its application containing all the data and information required to be included in the reference offer. In the case when the application of the Rightful Claimant for National Roaming or possibly of a claimant for the Wholesale Offer will not contain all the essential details requested in the reference offer, the Applicant liable for the National Roaming Obligation (Wholesale Offer) will invite the interested party to complete the application. In such case the 3 months period is suspended at the moment of the delivery of the notice to the Rightful Claimant for National Roaming/claimant for the Wholesale Offer and its course continues once the application has been completed by the Applicant.

The Applicant who undertook National Roaming Obligation or Wholesale Offer obligation is obliged to respect the conditions of contractual relations concluded on the basis of the National Roaming Obligation or the Wholesale Offer Obligation (namely the agreed price level) for the whole duration of the contractual relation in compliance with the conditions of the undertaken Obligation.

By undertaking the National Roaming Obligation and Wholesale Offer Obligation, Applicants agree to avoid any ungrounded, i.e. not objectively justifiable, discrimination between individual claimants and/or any other persons with whom they have signed, or will sign, an agreement on access in the form of National Roaming or Wholesale Offer.

Applicants who will be requested to provide National Roaming or a Wholesale Offer under this Chapter 5.7 undertake to inform the Office in writing about any request for the provision of National Roaming or a Wholesale Offer they receive from a Rightful Claimant for National Roaming or from an interested claimant, and about the basic parameters of each application and that within 15 working days from receiving such a request. Subsequently, the successful Applicants will undertake, with respect to the preceding sentence, to inform the Office about the progression of the negotiations on the provision of National Roaming or Wholesale Offer, and to do so in writing on an ongoing basis, i.e. at least once a month. This obligation is without prejudice to these entities' other information duties vis-à-vis the Office.

The information to be provided in accordance with the preceding paragraph may not be withheld from the Office, not even with reference to its confidentiality.

All the Applicants will unconditionally undertake to refrain from laying any hindrances of administrative, legal or any other nature nor will they specify any conditions that are not unavoidable for the process of conclusion of the agreement for the interested parties for the Wholesale Offer in the negotiations leading to the conclusion of the agreement on the basis of the Wholesale Offer Obligation.

The Office prefers that the agreements based on the National Roaming Obligation and Wholesale Offer Obligation should be concluded on the basis of commercial negotiations.

Should a dispute arise about the compliance of the prices agreed on above or of other conditions of the National Roaming or Wholesale Offer with the conditions of the National Roaming Obligation or Wholesale Offer Obligation, the Office is ready, when asked par the litigants, to decide, proceeding according to the provisions of the section 127 of the Act. If the decision is to be taken in a dispute about the compliance of the prices agreed on above and the conditions of the National Roaming Obligation or the Wholesale Offer Obligation, the Office will mainly apply the methodology<sup>34</sup> of the pricing on the basis of the principle of margin compressing.

A breach of the National Roaming Obligation or Wholesale Offer Obligation will be considered as a failure to fulfil the obligations set out by the decision on the award of Frequency Allocation under Section 22b(1)(b) of the Act. Should the Office find that the National Roaming Obligation or Wholesale Offer Obligation has been breached, the Office invites the liable Applicant to remedy the situation within the meaning of Section 22b(1)(b) of the Act.

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<sup>34</sup> Actual version of this methodology is available at [http://www.ctu.cz/cs/download/ostatni/cenove\\_vyhodnocovani\\_postup\\_ctu\\_cj\\_ctu-43738\\_2011-611.pdf](http://www.ctu.cz/cs/download/ostatni/cenove_vyhodnocovani_postup_ctu_cj_ctu-43738_2011-611.pdf)

Should the Applicant fail to remedy the breach of the National Roaming Obligation or Wholesale Offer Obligation within the period determined by the Office in accordance with Section 114 of the Act, the Chairman of the Council will take steps based on Section 22b of the Act.

Provisions of this Chapter 5.7.3 are without prejudice to the Office's rights to use other legal remedies.

**5.8 Amendment to the Radio Frequency Allocation, loss of its validity, and its transfer**

Amendment to Radio Frequency Allocation, loss of its validity, and its transfer are addressed in Sections 22a, 22c and 22d of the Act. The Office does not lay down any further conditions in respect of these issues.

## 6 RULES AND CONDITIONS OF PARTICIPATION IN THE TENDER (QUALIFICATION)

### 6.1 Qualification requirements

#### 6.1.1 General rules of proving qualification

In accordance with Section 21(2) of the Act, the Office lays down the conditions of participation in the tender with respect to meeting the objectives set out in Section 5(2) to (4) of the Act and in compliance with the principles indicated in Section 6 of the Act.

All conditions of participation in the tender under this Chapter 6 must be met as at the moment of expiry of the period for the submission of Applications on the basis of Chapter 6.4. If the Applicant's qualification changes during the course of the tender and the change results, or could result, in failure to meet the rules and conditions under this Chapter 6, the Applicant concerned must notify this to the Office in writing within 7 days. If the Applicant, at any moment of the tender procedure, stops complying with the rules and conditions of the participation in the tender, the Office will decide on its elimination from the tender.

An Applicant that fails to prove meeting the conditions of participation in the tender within the period for the submission of Applications or ceases to meet these conditions during the tender will be invited by the Office to remedy the situation or, if the defects are not remedied in adequate time period set by the Office, will be excluded from further participation in the tender.

#### 6.1.2 Basic conditions of participation in the tender

The basic conditions of participation in the tender are met by an Applicant,

- a) whose assets are not subject to insolvency proceedings as at the date of submission of the Application and have not been subject to such proceedings during the last three years prior to the date of submission of the Application, with the Applicant's being adjudicated bankrupt; or an insolvency petition has not been rejected for lack of assets to cover the costs of insolvency proceedings, or bankruptcy has not been cancelled due to the assets' being clearly insufficient, or compulsory administration has not been imposed pursuant to specific legal regulations; the Applicant should prove this by a **statutory declaration**;
- b) that is not winding up as at the date of submission of the Application; the Applicant should prove this by a **statutory declaration**; and
- c) that is not on the list of persons banned from participation in public contracts as at the date of submission of the Application; the Applicant should prove this by a **statutory declaration**.

#### 6.1.3 Professional and technical conditions of participation in the tender

The professional and technical conditions of participation in the tender are met by an Applicant that, as at the date of submission of the Application, is authorised to do business in the electronic communications sector under Sections 8 and 13 of the Act. The Applicant should prove this by a **statutory declaration**.

#### 6.1.4 Economic and financial conditions of participation in the tender

The economic and financial conditions of participation in the tender are met by an Applicant who – no later than as at the last day of the period for the submission of Applications under Chapter 6.4 – deposits a warranty amount specified in Chapter 6.3 on the Office's bank account indicated in Chapter 3.5.1. The Applicant should prove this by the **bank's certificate** of having sent the relevant amount to the Office's indicated bank account. The full amount of the warranty must be credited to the Office's indicated bank account no later than as at the last day of the period for the submission of Applications under Chapter 6.4.

### 6.2 Application for the award of the rights to use radio frequencies

#### 6.2.1 Formal aspects of the Application

The applications must be submitted in writing in two hardcopy counterparts, one of which can be denoted as original and the other as a copy. The Applicant is responsible for the identity of both counterparts. Originals of relevant documents, or officially authenticated copies thereof, must be attached to the original Application. Plain, unauthenticated copies of the documents may be attached to the copy of the Application. The original must be secured against the removal or addition of any sheets. Together with the printed document, the Applicant should also submit the Application in electronic form in the PDF format on a carrier where it is write-protected (e.g. CD-R, DVD-R).

In the event that information whose disclosure to third parties could affect the Applicant's legitimate interests, or could threaten or compromise the course of the tender or the results thereof, is contained in the Application or its Appendices, the Applicant should attach to its Application another copy of the Application where such information is not contained, which copy (version) can be used by the Office for the purposes of inspection of the documents within the meaning of Section 21(7) of the Act. As required by Section 21(7) of the Act, this version of the Application, intended for document inspection, must not contain, in particular, information about the deposited Warranty amount or about the Applicant's activity points. In addition, the Applicant should attach to the Application a report with an easy-to-survey enumeration of the information that must be excluded from document inspection under Section 21(7) of the Act and a brief justification of the elimination of the individual parts of the Application. The Office is not obliged to respect the determination of the information to be excluded from document inspection under this Chapter 6.2.1 according to the Applicant's opinion.

The Applications must be in the Czech language, the relevant documents and other papers attached to the Application may also be in another language with a certified translation into Czech. Documents in the Slovak language, attached to the Application, do not have to be translated.

The Applications must be delivered to the Office's address indicated in Chapter 3.5.1 before the expiry of the period for the delivery of the Applications indicated in Chapter 6.4. The original Application as well as the copy must be delivered to the Office together in one envelope, which is sealed or closed in another suitable way, with the Applicant's company number (IČO) and the reference number of this Invitation to Tender inscribed on it; in addition, there must be a distinct inscription "*NEOTVÍRAT – VÝBĚROVÉ ŘÍZENÍ 800, 1800, 2600 MHz*" [Do not open – Tender 800, 1800, 2600 MHz].

A model Application is in Appendix 1; the attachment to the Application is in Appendix 2 to the ITT.

#### 6.2.2 Mandatory appendices to the Application

The Applicant must attach to the Application **all the documents required to meet the conditions of participation in the tender under Chapter 6.1** above, and:

- a) in the case of legal entities, the **certificate of incorporation** (extract from the Companies Register) or extract from any other similar register, which is not older than 90 days before the last day of the period for submission of Applications under Chapter 3.6;
- b) in the case of the legal entities whose Application is not signed by the person(s) authorised therefore according to the entry in the Czech the Companies Register) a **power of attorney**, proving the subscribed persons' authorisation to sign the Application;
- c) in the case of the Applicants that are members of a business group under Section 66a of the Commercial Code, including, but not limited to, Applicants forming a concern with another person/entity: **a clear graphical presentation of the business group** whose member the Applicant is, including the indication of the **governing persons and the individual ownership interests exceeding 10%, (shares) for all the members of the business group in the Applicant** irrespective of the fact if the interest in the Applicant is owned directly or indirectly. If the interest in the Applicant is held directly or indirectly through one or more trusts<sup>35</sup> or another similar construct of a foreign legal order (e.g. a foundation) then this interest or ownership is include into the 10% limit mentioned above and the Applicant has to mention not only the information about the person of the trustee bat mainly the information about the person(s) to whose benefit the given trust has been set up or better who are the trust beneficiaries and who, even though such trust beneficiary directly or indirectly hold/own a share in the Applicant which exceeds the 10% limit. These persons are considered as members of the business group of which the Applicant is a member. If there is a quoted company in the assets structure of the Applicant or for a company holding in the Applicant a share that exceed the 10% limit, the Applicant will give the most recent available data about the shares in this company, e.g. from the last annual general meeting, or the reports submitted to the stock exchange. The Applicant will further submit a statutory declaration of the truth of the information in this paragraph.
- d) **statement of consent to the Office's right to use all and any information contained in the Application, and the appendices thereto, for the purposes of this tender** as part of Appendix 1, signed by the person(s) authorised to act on behalf of, or to represent, the Applicant; and

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<sup>35</sup> By a trust is understood a structure according to foreign legislations (trust under the Act 89/2012 Civil Code) and other funds of similar type administered by a trustee to the benefit of a beneficiary.

- e) **statement of acceptance of the obligations undertaken by the Applicant in the tender, as indicated in Chapter 5.7** in the form of appendix to the Application according to Appendix 2, signed by the person(s) authorised to act on behalf of, or to represent, the Applicant.

### 6.2.3 Binding nature of the Application

The Applicant may amend or withdraw its Application at any time before the expiry of the period for the submission of Applications under Chapter 6.4. The Application must be signed by the person(s) authorised to act on behalf of, or to represent, the Applicant; and must be delivered to the Office to the address indicated in Chapter 3.5.3.

After the expiry of the period for the submission of Applications under Chapter 6.4 no amendment may be made to the Application. Failure to act on time cannot be excused.

### 6.3 Warranty

Participation in the tender under Chapter 6.1.4 is contingent on the deposition of a financial warranty (the “**Warranty**”). The Warranty serves to secure the Applicant’s obligation to pay the total price, offered by the Applicant in the Auction, for the award of the right to use radio frequencies under Chapter 4.2 and to secure the Applicant’s obligation under Chapter 9, and also to refrain from any action that endangers or compromises the course or result of the tender within the meaning of Section 21(6) of the Act.

The amount of the Warranty must correspond to the number of Eligibility points indicated by the Applicant in the Application. The total amount of the Warranty is calculated as a multiple of CZK 10,000,000 (ten million Czech crowns) and the number of Eligibility points indicated in the Application.

To ensure that the amount of the Guarantee is adequate to the Applicant’s obligations being secured in the tender, the Office set the minimum amount of the Warranty at CZK 80,000,000 (eighty million Czech crowns), which corresponds to 8 Eligibility points.

The Office also determined the maximum number of eligibility points, limiting the total amount of radio frequencies to be acquired in the tender to 25, which corresponds to a Warranty amount of CZK 250,000,000 (two hundred and fifty million Czech crowns). The maximum amount of Eligibility points number is determined so as to prevent, in accordance with Chapter 3.2.2, radio spectrum hoarding by the individual entities.

The Warranty must be deposited by direct debit and must be credited to the Office’s account indicated in Chapter 3.5.1 before the expiry of the period for the submission of Applications according to Chapter 6.4. The Applicant must use its company number (IČO) (or another identifier for Applicants not having an IČO), as the payment identification code (“variabilní symbol”) in the payment of the Warranty. The Applicant will bear all the bank charges and other costs associated with the payment of the Warranty. The Applicant is responsible for ensuring that the entire amount of the Warranty is credited to the Office’s account.

Failure to deposit the Warranty for the Application in time will be considered as failure to comply with the conditions of participation in the tender and the Office will decide to exclude the Applicant from further participation in the

tender. Filing an appeal against the elimination decision will not have a suspensory effect.

Potential interest on the Warranty for the time when it was deposited on the Office's account will be returned by the Office to the Applicant to the account from which the Warranty was paid to the Office, and that within 14 days since the day of return or forfeiture of the Warranty.

The Warranty will be forfeited in the following cases:

- a) the Office invites the successful Applicant on the basis of the results of the Auction to pay the price for the award of the rights to use radio frequencies, sets a payment due date for this purpose in accordance with Chapter 8, and the Applicant fails to pay the price or its part for the award of the rights within the time period determined in the Chapter 8; or
- b) the Applicant commits any action referred to in Chapter 9, and this tender process or any part thereof is frustrated due to such action, as a result of which it is impossible to allocate on the basis of this tender some radio frequency blocks, which are the subject matter of the tender.

A Warranty forfeited in accordance with this Chapter 6.3 is treated as receipt to the national budget of the Czech Republic.

The Warranty is returned to the Applicants in the following cases:

- a) upon the finality of the decision to exclude an Applicant from further participation in the tender in accordance with Section 21(2) of the Act or according to the Chapter 6.5;
- b) upon the finality of the decision to exclude an Applicant from further participation in the tender in accordance with Section 21(6) of the Act, unless the tender is frustrated by the tender participant under the Chapter 9 and the Warranty is forfeited;
- c) upon the finality of rejecting an unsuccessful Applicant under Section 21(8) of the Act; or
- d) after the effective day of the Office's decision to cancel the tender, unless the tender has been frustrated by the Applicant according to the Chapter 9 and the Warranty is forfeited.

The Warranty is returned to the Applicants to the bank account from which it was sent to the Office. The Warranty must be so returned within 14 days from the date on which any of the above events occurs. The costs of returning the Warranty will be borne by the Office.

In the event that on the basis of the results of this tender the Applicant is obliged to pay the price for the rights to use radio frequencies, the Warranty will be used for the payment of the price or a part thereof. The Applicant will be invited to pay only the margin between the price for the award of the rights to use radio frequencies and the amount of the Warranty. In the event that the Warranty deposited on the Office's account exceeds the price for the award of the rights to use radio frequencies the Applicant is obliged to pay, the Office will return to the Applicant the margin between the Warranty and the price for the award of the rights to use radio frequencies.



#### **6.4 The period for submission of Applications to the tender**

The envelopes with the Applications will be accepted until **10 September 2012** by **12.00 p.m.**

The Office's address to which the Applications can be delivered is indicated in Chapter 3.5.1. The contact person for matters related to the submission of Applications to this tender is Mr. Jiří Duchač.

Applicants can send their Applications or deliver them in person to the above address on weekdays from 9.00 a.m. to 3.00 p.m. and on the last day of the period for submission of Applications from **9.00 a.m to 12.00 p.m.**

#### **6.5 Multiple participation in the tender, participation on behalf of a business group**

No persons/entities other than those that are economically independent of each other may take part in the tender. Business groups as specified in Section 66a of the Commercial Code, including, in particular, a controlling party and controlled party, persons/entities forming a concern, related parties or parties acting in concert (hereinafter "a business group"), may submit only one Application to this tender and may do so through only one person/entity.

If a member of the business group is an entity/person who, at the date of the tender announcement, is the Holder of the right to use radio frequencies in the 900 MHz, 1800 MHz or 2100 MHz (hereinafter the "incumbent operator") the Business group may participate in the tender only through the intermediary of this incumbent operator.

In the event that an Application is submitted to this tender by more than one member of a business group or in relation to the Business groups whose member is an incumbent operator from the side of another member of the Business group than the incumbent operator, the Office will decide to exclude from the tender all Applicants that are members of such a Business group.

#### **6.6 Joint participation of more than one person/entity**

An Application for the award of the rights to use radio frequencies on the basis of the results of this tender may be submitted only by individual natural persons or legal entities. Should an Application be submitted by a consortium or any other association of more than one person/entity, such a submission will be treated as failure to meet the conditions of participation in this tender within the meaning of Section 21(2) of the Act.

#### **6.7 Opening the envelopes with Applications**

The opening of the envelopes with applications submitted in time will take place on the working day that follows after the date of the application submission deadline according to Chapter 6.4, i.e. **11 September 2012 from 9.00 a.m.** at the Office's address.

The opening of envelopes will be attended by a notary public, who will take the minutes of the event, and members of the Selection Committee. All Applicants who submitted their Applications in time may take part in the envelope opening event, each Applicant being represented by one person so authorised on the basis of a power of attorney. In the presence of the Selection Committee, the Office will open the envelopes one by one according to their serial numbers and examine each of them for compliance with the **following requirements on the Applications**, i.e.:

- a) whether the Application is in the Czech language and whether the appendices to the Application, which may be in other languages, have certified translations into Czech (this does not apply to appendices in the Slovak language);
- b) whether the Application and all relevant appendices are signed by persons authorised for that purpose; and
- c) whether the Application contains all parts and appendices required in this document.

After examining each Application for compliance with the above requirements, the Office, or the Selection Committee upon the Office's authorisation, will tell the Applicants the identification data of the Applicant whose Application has been checked and whether it meets the above requirements.

The Office may request the Applicant to explain, correct or amend in writing the information presented or the documents intended to prove compliance with the above requirements.

The Applicant agrees to meet this request within a reasonable period of time to be determined by the Office. Meeting such a request is a condition of the Applicant's further participation in the tender.

The Office will deliver its **decision to reject the Application** to each Applicant that submitted an Application but the Office has found on the basis of the recommendation of the Selection Committee that the application fails to meet the above requirements on Applications and that the Applicant failed to complete within the determined period the submitted information or documents even after being invited to do so.

Subsequently, the Office will make public on its website a list of the Applicants whose Applications were found to meet the above requirements on Applications.

## **6.8 Evaluation of the Applications**

The Office will evaluate on the basis of the Selection Committee's recommendation whether the Applications that have not been excluded according to the preceding Chapter 6.7 meet the conditions of participation in the tender in accordance with Chapter 6.1.

The Office may request the Applicant to explain, correct or amend in writing the information presented or the documents intended to prove compliance with the conditions of participation in the tender in accordance with Chapter 6.1.

The Applicant agrees to meet this request within a reasonable period of time to be determined by the Office. Meeting such a request is a condition of the Applicant's further participation in the tender.

Then the Office will deliver to each Applicant a **certificate of admission to the Auction** or **decision on elimination from further participation in the tender** in accordance with Section 21(2) of the Act, depending on the results of the evaluation. In the decision on elimination from further participation in the tender the Office must indicate the grounds on which the Applicant's Application was excluded. Filing an appeal against this decision does not have a suspensory effect in accordance with Section 21(2) of the Act.

The Office will subsequently publish the list of Applicants who may participate in the Auction. In case of doubts the Office reserves the right to postpone the publication of the Applicants' list until the doubts are removed.

## **7 AUCTION**

### **7.1 Auction format**

The Auction format to be used in the tender is as follows: simultaneous multiple round Auction, organised as an ascending open Auction with the option to withdraw the highest bid.

In the preceding sentence, the following terms have the following meanings:

- simultaneous – all the Auction blocks being offered are available for Auction purposes at the same time;
- multiple-round – a system of successive rounds;
- ascending – the price of the block increases in each round, with the exception referred to in the fourth paragraph under point 7.6.8;
- open – information about the Highest Bid prices for certain blocks is available to the participants in each round, but the identity of the Auction Participant is not disclosed;
- possibility to withdraw the Highest Bid – the Auction Participant may withdraw the Highest Bid if it is unable to realise the entire Auction portfolio and there is a risk that it would acquire an unwanted combination of Auction blocks.

Applicants that meet the qualification requirements set out in Chapter 6 (Auction Participants) may take part in the Auction.

The purpose of the Auction is to distribute the blocks on offer among the Auction Participants offering the highest price for the individual blocks under the rules laid down in this Chapter, doing so to the maximum extent corresponding to the Spectral Limits for each frequency band and to the individual Auction Participants' Eligibility Points.

The Auction is divided into 2 phases:

1. Auction phase – phase in which the individual blocks on offer are distributed among the Auction Participants that offered the highest price for the given block (Auction Winners);
2. Frequency Distribution phase – phase in which specific segments of the radio spectrum being offered are allocated to Auction Winners to the extent and in the structure corresponding to the results of the Auction Phase.

To ensure proper course of both phases of the Auction process, the Office will provide an Electronic Auction System.

## 7.2 Starting prices, Spectral Limits and activity points

Category	Frequency band	Frequency [MHz]	Blocks on offer	Spectral limit	Minimum extent of offer	Starting price [mil.CZK per block]	Activity points [pts per block]
A1	800 MHz paired spectrum	791-796 / 832-837	1 block 2×5 MHz	2×22,5 MHz including existing Allocations band 900 MHz	not determined	800	4
A2		796-821 / 837-862	5 blocks 2×5 MHz			900	4
B1	1800 MHz paired spectrum	1842,3-1857,9/ 1747,3-1762,9	1 block 2×15.6 MHz	2 x23 MHz including existing Allocations in 1800 MHz band	not determined	375	4
B2		1805,1-1805,3/ 1710,1-1710,3	1 block 2×0.2 MHz			5	1
B3		1805-1880 / 1710-1785 (unallocated part)	9 blocks 2×1 MHz			24	1
C	2600 MHz paired spectrum	2620-2670 / 2500-2570	14 blocks 2×5 MHz	2×20 MHz	2×10 MHz	80	1
D	2600 MHz unpaired spectrum	2570-2620	9 blocks 5 MHz	not determined	15 MHz	40	0,5

## 7.3 Electronic Auction system

The procedure to gain access to the Electronic Auction System will be notified to the Auction Participants in sufficient time ahead of the commencement of the Auction itself. Before the Auction commences, the Office will ensure that Auction Participants are trained and a test Auction is performed. The test Auction will serve to present the Electronic Auction System and test its functionality. The Office will give the Auction Participants – also well in advance of the Auction – the contact information concerning the person representing the Auction operator, together with the address of the Electronic Auction System's website and with a manual for the Electronic Auction System and the telephone number of technical support to the Electronic Auction System.

The Electronic Auction System will be accessible using a standard web browser on the Auction participants' premises and via their hardware. The technical parameters of the mandatory hardware and software and the parameters of internet connection will be described in the Electronic Auction System user manual.

The individual Applicants will be able to access the Electronic Auction System via a logon procedure using the logon data to be obtained through registration in the Auction system. For security reasons the EAS will be available only from the Czech Republic territory, the number of localities (IP addresses) will not be limited in any way. All Auction Participants will act as absolutely anonymous parties in the Electronic Auction System. The technical means of the of the Auction operator's facilities and the Auction Procedure itself will comply with the adequate security standards. They will be protected against attack and against disclosure of the Auction Participants' identity will be provided by appropriate HW and SW means on the side of the system, by secure connection between the Auction Participant's web browser and the system server (protected by the HTTPS coded network protocol) and by a system-controlled mandatory minimum level of logon data security.

The Applicants are responsible for the functioning of their technical equipment and internet connection through which they will access the Electronic Auction System.

The Electronic Auction System and its individual processes will be preset so as to be able, to the maximum possible extent, to eliminate any risk of inadvertent error (e.g. double click) on the Auction Participants' side. The protection will correspond to the level of protection of financial transactions and will be provided, for example, by entering a security code to confirm important transactions.

Should a problem that makes it impossible to continue the Auction occur in the operation of the Electronic Auction System, alternative means of communication can be used in compliance with the rules governing this Auction. The Auction Rules document is attached to the ITT as Appendix 4. Alternative means of communication should be understood to mean communication via telephone or fax, with the condition of Auction access authorisation, determined by the Office. The Office bears no liability for any technical problems on the Auction Participant's side that hinder any Auction Participant from connecting to the Electronic Auction System.

In the framework of transparency, the Office will ensure, through the supplier of the Electronic auction system, a maximum support during the adaptation of the Auction Participants to the Electronic auction system environment so as the Auction could be carried out properly. Proper training of all Auction Participants will be done during the preparation for the Auction, together with handing over of user's documentation of the system and two test auctions.

#### **7.4 Force majeure**

In the case of unpredictable events that affect significantly the course of the Auction, the Office may suspend or stop an Auction Round or the entire Auction. On this basis, the Office may:

- resume the Auction or an Auction Round in the phase in which it was suspended; or
- declare the Auction or an Auction Round or several Auction Rounds invalid; or
- start the Auction anew from its beginning or from a certain Auction Round.

Should such an unpredictable event occur, the Office assumes that the Auction will be resumed in a period as short as possible. Examples of such situations include technical problems on the side of the Electronic Auction System operator, which may have an adverse impact on the Office or the Auction Participants, elimination of an Applicant from further participation in the Auction in accordance with Section 21(6) of the Act, or serious and wide internet access connection failures.

The Auction Participants will be notified about any such cases through the Electronic Auction System and by informing the Auction Participants' contact persons indicated in the Application.

#### **7.5 Information during the Auction**

During the entire course of the Auction, the following information about the bids will be available to all Auction Participants:

- overview of all the bids submitted by the Auction Participant during the entire Auction;

- overview of all the Auction Blocks for which the Auction Participant currently holds a bid, and the prices for these Auction Blocks;
- overview of the Auction Blocks for which – in the last closed round – the Auction Participant submitted a binding bid, which is not the Highest Bid, together with the amount the Auction Participant offered;
- overview of all Auction Blocks, together with the following information:
  - i. engaged/unengaged block – information whether any of the Auction Participants holds the Highest Bid on the given block, without indicating the name of the Auction Participant with the Highest Bid;
  - ii. the amount of the Highest Bid price for the block, or the minimum price for the block, if there is no Highest Bid Holder for the given block;
  - iii. current number of Eligibility points of the auction Participant;
  - iv. current number of Absence Rights;
  - v. current number of Highest Bid withdrawal rights;
  - vi. expected time of the commencement and end of the next Auction Round;
  - vii. total level of Eligibility points of all Auction participants realised in the last closed Auction Round.

Before commencement of each Auction Round, a message containing the following information will be sent to all Auction Participants via the Electronic Auction System:

- start and end of the next Auction Round;
- the Auction Participant's Eligibility points for the next Auction Round;
- overview of all Auction Blocks for which the Auction Participant holds the Highest Bid and the prices for these Auction Blocks;
- the number of remaining Highest Bid withdrawal rights.

The Auction participants will be informed within the current round about the remaining time till the end of the current Auction round.

Once each Auction Round is closed, the following information about the course and results of the Auction Round will be published:

- overview of all Auction Blocks, with information about the Highest Bid if the given block is engaged (without indicating the Highest Bid Holder), or information about the minimum price in the case when no bid has yet been submitted for the given block or possibly about the price of the Auction block for the next Auction round in the case of Highest Bid withdrawal according to the Chapter 7.6.8 in the round just closed (including the possibility of price adjustment defined in the Chapter 7.6.8).
- total sum of all Auction Participants' Eligibility points.

Information from each Auction Round will be available in the Electronic Auction System history.

## **7.6 First phase – the Auction Phase**

In the individual Auction Rounds, Auction Participants may concurrently submit bids for all the required Auction Blocks, which are divided into categories indicated in the table in Chapter 7.2, based on the activity rules defined in Chapter 7.6.1. Within an Auction Round, an Auction Participant may submit only 1 binding bid, or may use the Absence Right, as specified in Chapter 7.6.7.

Auction Rounds will take place on working days between 10.00 a.m. and 6.00 p.m. All Auction Participants will be informed about the commencement of each Auction Round at least 15 minutes in advance. Each round lasts 60 minutes, without prejudice to the provisions of the paragraphs below. An Auction Round will also be automatically terminated when the bids of all Auction Participants have been submitted or the Auction Participants used the Absence Rights according to Chapter 7.6.7. The decision to terminate the round in this manner will be notified to all Auction Participants through the Electronic Auction System.

### **7.6.1 Activity rules**

The activity of Auction Participants during the Auction is limited by the number of Eligibility points available to the Auction Participant for the given Auction Round on the basis of the rules for Spectral Limits for the individual bands and on the basis of the minimum bid rules within Auction Categories C and D.

The Auction Participant can set up various combinations of Auction Blocks on the basis of the number of Eligibility points in accordance with the following rules:

- According to Chapter 7.2, all Auction Blocks are included in categories to which a relevant number of activity points is allocated. The sum of the activity points of all selected Auction Blocks within one combination cannot be higher than the number of Eligibility points.
- In the first round, the Eligibility of the Auction Participant is based on the amount of the Warranty deposited during the Qualification Phase in accordance with Chapter 6.3, where the minimum and maximum number of Eligibility points for the first Auction Round is also defined. Eligibility is not further increased within the individual rounds.
- In the subsequent Auction Rounds, the number of Eligibility points is based on the activity of the Auction Participant in the last closed Auction Round.

The Auction Participant's activity in an Auction Round is calculated as follows:

- + total number of Eligibility points for all Auction Blocks for which the Auction Participant submitted a bid in the given round
- + total number of Eligibility points for all Auction Blocks for which the Auction Participant was the Highest Bid Holder at the onset of the Auction Round
- total number of Eligibility points for all Auction Blocks for which the Auction Participant was the Highest Bid Holder at the onset of the Auction Round and for which the Auction Participant submitted a new (higher) bid in the given round



- total number of Eligibility points for all Auction Blocks for which the Auction Participant was the Highest Bid Holder at the onset of the Auction Round and which the Auction Participant waved (used the Highest Bid withdrawal right).

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**= TOTAL NUMBER OF ACTIVITY POINTS IN THE AUCTION ROUND**

In the event that the Auction Participant's activity in the given round is smaller than the number of Eligibility points for the given round, the number of Eligibility points for the next Auction round will be reduced to the level of the activity points in the given round. This rule will be mitigated during the first three Auction rounds. The following mandatory activity level will be specified for these rounds:

This rule will be mentioned in the course of the first three Auction rounds. The following level of obligatory activity will be set in these rounds:

- 1. round: 50% Eligibility points
- 2. round: 60% Eligibility points
- 3. round: 80% Eligibility points

In case of necessity of rounding, the Eligibility points should always be rounded down to the closest integer.

If the number of points in the Auction round achieves the required Eligibility points level for the given Auction round, the number of the Eligibility Points is kept for the next Auction round. E.g. if an Auction Participant who has at its disposal in the 1st Auction round 10 Eligibility Points, realises in the first round the activity only at the level of 50% of its Eligibility Points, i.e. only 5 activity points would be realised, then the number of the Eligibility Points will be maintained for the 2nd Auction round.

Should an Auction Participant fail to respect in these rounds even the reduced obligatory activity level, then the number of its Eligibility Points will be reduced proportionately to the amount of the obligatory activity points. If rounding is necessary upward rounding is always applied. E.g. if our model Bidder with 10 Eligibility Points realises in the first round only 4 activity points, its number of Eligibility Points for the next round would be reduced to 8 (The number of the Eligibility Points for the 2nd round = (4 points of real activity in the 1st round/ 5 obligatory activity points in the 1st round) \* 10 Eligibility Points for the 1st round).

The reduction of the Eligibility Points number will not be applied if the right of Absence is exercised in the given round according to the Chapter 7.6.7.

The Spectral Limit determines the maximum number of Auction Blocks the Auction Participant may bid for in the individual Auction Rounds. Compliance with this rule will be checked automatically by the Electronic Auction System.

The Auction Participant will only be able to submit a binding bid if it complies with all the above activity rules.

## **7.6.2 The Highest Bid and Highest Bid Holder**

At the end of each Auction Round, the Highest Bid Holder will be identified for each Auction Block. To be a Highest Bid Holder, an Auction Participant must make the highest bid for a given block in the given Auction Round.

If the same highest bid for an Auction Block in an Auction Round is submitted concurrently by two or more Auction Participants, the Auction Participant that submitted its bid earlier will become the Highest Bid Holder. The Auction Participants concerned will be informed about the concurrent submission of the same Highest Bid through the Electronic Auction System. These Auction Participants will also be informed whether they became Holders of the given Auction Block.

In the event that the initial Highest Bid Holder in an Auction Round makes use of the Highest Bid withdrawal right in accordance with Chapter 7.6.8 and none of the Auction Participants increases its bid for the given block, no Highest Bid Holder for the given Auction Block will be identified. The price of the block for the next round will be determined as defined in Chapter 7.6.88.

### **7.6.3 Minimum scope of a bid**

The minimum scope of a bid within the Auction categories C and D is determined by the minimum number of the Auction blocks within the Auction category that have to be comprised in a mandatory Bid in each Auction round. The respect of the minimum scope of a bid will be automatically checked by the EAS.

This rule will be realised in the framework of the Auction in such a manner that Auction Participants will not be able to submit such Bid in the Auction round that would not respect this rule. The checking of this rule will be provided automatically within the EAS.

When an Auction Participant is unable to meet the condition of the minimum scope of a bid in an Auction round and at the same time it will have no right of Absence, through which the Auction Participant could pass to the next Auction round irrespective of its failure to respect this rule, the EAS automatically carries out the withdrawal of the Highest Bid in the Auction blocks which do not fulfil the rule of the minimum scope of a bid. The number of the Highest Bid withdrawal rights will be reduced by one unit.

### **7.6.4 The First Auction Round**

The First Auction Round commences with the concurrent offer of all Auction Blocks in all categories at the minimum price corresponding to the individual categories specified in Chapter 4.2.

In the first round, the price offered in the bid must be the same as or higher than the minimum price of the Auction Block.

In the first round, the Auction Participant may submit a bid for an Auction Block at 5 price levels determined in advance by the Electronic Auction. These are as follows:

- minimum price of the Auction Block;
- minimum price of the Auction Block increased by 2.5%;
- minimum price of the Auction Block increased by 5%;
- minimum price of the Auction Block increased by 10%;
- minimum price of the Auction Block increased by 20%.

In the first Auction Round, the Auction Participants have no opportunity to use the Absence Right specified in Chapter 7.6.77. If the Auction Participant's activity in the first Auction Round is smaller than the number of its Eligibility

points, its Eligibility for the next Round will be reduced as described in Chapter 7.6.1.

The Highest Bid withdrawal right cannot be used in the first Auction Round.

#### **7.6.5 The subsequent Auction Rounds**

The possibility to submit bids for individual Auction Blocks in the subsequent Auction Rounds is defined in different ways, depending on whether the Highest Bid Holder is, or is not, identified for the given Auction Block.

- If the Highest Bid Holder is identified, then the Auction Participants who are interested in acquiring the given block may submit only a higher bid. The Highest Bid Holder may increase the current Highest Bid according to the same rules. Within the Electronic Auction System, the possibility to increase the bid will be reduced to 4 price levels defined in advance:
  - The highest bid increased by 2.5% of the minimum price of the Auction Block;
  - The highest bid increased by 5% of the minimum price of the Auction Block;
  - The highest bid increased by 10% of the minimum price of the Auction Block;
  - The highest bid increased by 20% of the minimum price of the Auction Block.
- If the Highest Bid Holder is not identified because no bid has as yet been submitted for the given Auction Block, the Auction Participants may submit a bid for the given Auction Block at 4 price levels determined in advance, determined by the Electronic Auction System. These are as follows:
  - Minimum price of the Auction Block;
  - Minimum price of the Auction Block increased by 2.5%;
  - Minimum price of the Auction Block increased by 5%;
  - Minimum price of the Auction Block increased by 10%;
  - Minimum price of the Auction Block increased by 20%.
- If the Highest Bid Holder is not identified because the Highest Bid withdrawal right has been used according to Chapter 7.6.8, the Auction Participants may submit a bid for the given Auction Block at 5 price levels, determined by the Electronic Auction System. These are as follows:
  - Price of the withdrawn Highest Bid or price determined in accordance with Chapter 7.6.8;
  - Price of the withdrawn Highest Bid or price determined in accordance with Chapter 7.6.8 increased by 2,5% of the minimum price of the Auction Block;
  - Price of the withdrawn Highest Bid or price determined in accordance with Chapter 7.6.8 increased by 5% of the minimum price of the Auction Block;
  - Price of the withdrawn Highest Bid or price determined in accordance with Chapter 7.6.8 increased by 10% of the minimum price of the Auction Block;

- Price of the withdrawn Highest Bid or price determined in accordance with Chapter 7.6.8 increased by 20% of the minimum price of the Auction Block.

In addition to the above possibilities of submitting a bid, the Auction Participants may also use the Highest Bid withdrawal right in accordance with Chapter 7.6.8 for one or more blocks in respect of which they are the Highest Bid Holders. The Eligibility points corresponding to the number of Eligibility points for all withdrawn Highest Bids can be used by the Auction Participant in the given Auction Round to submit bids for other Auction Blocks in accordance with the Activity rules specified in Chapter 7.6.1.

In the subsequent rounds, the Auction Participants can use the Absence Right in accordance with Chapter 7.6.7. If they do so, the number of an Auction Participant's Eligibility points is not reduced for the next round.

In the event that the number of an Auction Participant's Eligibility points decreases to nil in any Auction Round, the Auction Participant is unable to take part in the next Auction Round. The number of this Auction Participant's Highest Bid withdrawal rights and Absence Rights will be automatically reduced to nil.

#### **7.6.6 Final Auction Round**

An Auction Round becomes the final Auction Round if the following conditions are concurrently met:

- a) No offer has been submitted for any Auction Block of the spectrum;
- b) No Highest Bid withdrawal right has been used in accordance with Chapter 7.6.8;
- c) No Absence right has been used in accordance with Chapter 7.6.7.

Once all final round conditions are met, the Office informs the Auction Participants that the Auction is closed.

The final round also sets in when conditions (a) and (b), referred to in the first paragraph of this Chapter 7.6.6, are simultaneously met in two Auction Rounds in succession, i.e. when none of the Auction Participants with Eligibility higher than 0 submitted any new bid for Auction Blocks and none of them used the Highest Bid withdrawal right. After the end of each Auction Round in which this condition is met, the Office will inform all Auction participants that if this happens again in the following Auction Round the Auction will be closed.

Besides the above situations, the Office may also determine a final round in the case where one last Auction Participant with Eligibility above 0 remains in the Auction. In such a case the Office will inform all Auction Participants to that effect after the end of the round preceding the final round.

#### **7.6.7 The Absence Right**

Each Auction Participant has the right to waive its participation in an Auction Round and may do so up to four times. Auction Participants are not entitled to use this right in the first round of the Auction.

Participation may be waived in any of the following three ways:

- actively, by choosing to do so through the Electronic Auction System, with no activity in the Auction Round;

- actively, by choosing to do so through the Electronic Auction System, with a bid submitted in the given Auction Round, which, however, would lead to the loss of Eligibility in the next Auction Round;
- passively, with no activity within the time limit for the Auction round, which would automatically lead to the loss of Eligibility.

When the Absence Right is used in the Auction round, Eligibility is not lost.

The Absence Right may only be used by an Auction Participant whose number of Eligibility points is greater than 0. When the number of the Auction Participant's Eligibility points is 0, the remaining Absence Rights are automatically taken away from such an Auction Participant.

#### **7.6.8 The Highest Bid withdrawal right**

From the second round on, the Auction Participants may withdraw the Highest Bid price of one or more Auction Blocks for which they are the Highest Bid Holders from the preceding Auction Round.

Each Auction Participant may use the Highest Bid withdrawal right in no more than five Auction Rounds, irrespective of the number of Auction Blocks with Highest Bids on which this right was used within one round.

If the Holder of the Highest Bid for an Auction Block uses its right and withdraws its Highest Bid, and if the Highest Bid Holder does not change in the given Auction Round, such an Auction Block will be denoted as unallocated. The Office will ensure that this block is offered in the next round for a price corresponding to the withdrawn Highest Bid. If no bid is made for the given Auction Block in the round that follows the withdrawal of the Highest Bid, the Office may reduce the price of the block in a later round. This reduced level may correspond to the following values:

- (a) the price of an Auction block in the Auction round preceding the moment when the Auction participant who exercised in this block the right to withdraw the Highest Bid became the Holder of the Highest Bid;
- (b) the highest actual block price in the same Auction category;
- (c) the lowest actual block price in the same Auction category;
- (d) the minimum price of an Auction block when it is not possible to fix the price according to the points (a) to (c).

If there is a reduction of the bid price according to this procedure, all Auction participants (including the entities who have achieved zero value of the Eligibility Points) will have the number of Eligibility Points increased by the value corresponding to the activity points value of the Auction block(s) where the bid price has been reduced. But the number of the Eligibility Points may not go, for any Auction participant, beyond the number of the Eligibility Points which the Auction participant had at the Auction start. The number of the Absence rights and Highest Bid withdrawal rights is not affected by this rule, with the exception of the Participants with zero Eligibility Points value who will have returned the original number of the Absence rights and Highest Bid withdrawal rights, which the given Auction Participant had at the moment when it achieved zero value of the Eligibility Points,

An Auction Participant who uses the Highest Bid withdrawal right can use the respective Eligibility points to submit bids for other blocks in the same round.

#### **7.6.9 Identification of Auction Winners and the closing of the Auction Round**

The Auction Participant who is the Highest Bid Holder for the individual Auction Blocks in the final Auction Round, described under Point 7.6.6 above, becomes the Auction Winner for the given Auction Block.

Notification of Auction results will be delivered by the Office to all Auction Participants. The Notification must contain the following information:

- a) identification of the winning Applicants and the number of Auction Blocks and the corresponding width of the frequency segment acquired by them in each Auction Category;
- b) prices of all Auction Blocks sold at the Auction and the total price generated at the Auction;
- c) enumeration of the Auction Blocks that remained unallocated;
- d) enumeration of the Auction Participants that failed in bidding for the Auction Blocks.

### **7.7 Second Phase – The Distribution of Frequencies**

The purpose of the second phase of the Auction process – the distribution of frequencies – is to allocate specific radio frequency segments to all Auction Winners to the extent of the Auction Blocks acquired within the individual Auction Block Categories. The distribution of radio frequencies will take the form of successive selection of specific radio frequency segments by the individual Auction Winners in each Auction Block Category according to Chapter 4.1.

In each Auction Block Category, the ranking of the Auction Winners for selecting the specific segments of radio frequencies will be determined by the procedure defined in Chapter 7.7.1.

Auction Winners will have to respect the selection conditions defined in Chapter 7.7.2 during the selection.

#### **7.7.1 The process of determining the First Selection Right in respect of radio frequency segments**

The First Selection Right for specific radio frequency segments will be determined on the basis of the results of a separate Auction to be conducted by the Sealed Bid Method. In a bid whose structure is provided in the appendix 5 to the ITT announcement the individual Auction Winners will offer a price for the opportunity to acquire the First Selection Right to choose frequency blocks independently in each specific category of Auction Blocks (categories A2, B3, C and D).

The number of Auction winners for A2, B3, C and D is determined by the Auction phase results – in each of these Auction blocks category an *n* number of Auction winners will be declared. The Applicants who became Auction winner in a certain Auction category then may submit a bid separately for each selection ranking in the given Auction category from the first ranking to the (*n*-1) ranking. On the basis of processes defined in this Chapter 7.7.1 the order of the Auction winners will be determined according to which they will have the possibility to subsequently select specific frequency segments in the given category. The first selection right will go to the Auction winner with the highest bid for the first selection ranking in the given category, the second selection right will go to the one of the remaining Auction winners who have submitted the second highest bid for the second selection ranking, etc.

In the case when there is only one Auction winner in one of the categories the process described in this Chapter 7.7.1 will not be applied.

After closing the Auction Round according to Chapter 7.6.9, the Office will deliver to all Auction Winners an invitation to submit bids for the First Selection Right in respect of radio frequency segments with a defined time and form of submission of the bids. This time period will not be shorter than 14 calendar days since the sending off of the invitation. Each bid must be submitted on the bid form (as shown in Appendix 5) separately for each Auction Block Category, where the Auction Winner acquired an Auction Block on the basis of the results of the Auction Round. No minimum and maximum bid amount is set. The bids in CZK will be rounded to whole millions.

The original form of the bid must be placed in an envelope, which must be sealed or otherwise suitably closed, and there must be the following inscriptions on it: the Auction Winner's company number [IČO] (or another identification mark for Applicants not having an IČO), the reference number of this Invitation to Tender, and the distinctly written words "NEOTVÍRAT – ROZDĚLENÍ KMITOČTŮ" [Do not Open – Distribution of Frequencies].

The form with the bid must be signed by the person(s) authorised to act on behalf of, or represent, the Applicant and must be delivered to the Office's address indicated in Chapter 3.5.3. The envelopes with the bids will be accepted until a deadline to be notified by the Office. The Auction Winners may send their bids to the address indicated in Chapter 3.5.3 or deliver them in person on weekdays from 9.00 a.m. to 3.00 p.m. and on the last day of the period for submission of bids from 9.00 a.m. to 12.00 p.m.

Should an Auction Winner fail to deliver its bid form as and when required, its bid will be treated as submitted with the price of CZK 0.

The opening of the envelopes and the determination of the rankings for radio frequency segment selection for the individual Auction Block Categories will take place in the Office's headquarters in the presence of a notary public, who will take the minutes of the process. All Auction Winners who submitted their bids in time may take part in the envelope opening event, each Applicant being represented by only one person so authorised on the basis of a power of attorney. Each envelope will be checked for compliance with the formal requirements for the bid. Should a bid form fail to meet the formal requirements, it will be treated as submitted with the price of CZK 0.

The following rules apply (in the order as shown here) to the rankings for selection in each Auction Block Category:

1. The First Selection Right in respect of radio frequency segments in given frequency category will be acquired by the Auction Winner that offers the highest price for the First Selection Right for a frequency segment in the given category. The second selection right respect of radio frequency segments in given frequency category will be acquired by the of the remaining Auction Winners that offer the highest price for the second selection right of the frequency segment in the given category, etc. The remaining Auction Winner that has not acquired priority selection right for a radio frequency segments will be the last to make a selection.
2. In the case of equality of two or more bids for the First Selection Right in a given Auction Category, the ranking of the Auction Winners

concerned will be determined on the basis of the higher average price of the Auction Blocks won by these Auction Winners in the given Auction Category.

3. In the case that the Auction Winners cannot be ranked according to Point 2 above, the ranking for the selection of a frequency segment within an Auction Category will be determined on the basis of the higher price for the Auction Block in the given Auction Category.
4. In the case that the Auction Winners cannot even be ranked according Point 3 above, the ranking for the selection of a frequency segment within an Auction Category will be determined according to the earlier time of submission of the bid for the Auction Block with the highest offered price in the given Auction Category.

On this occasion, the Auction Winners will also be informed about the time and place of the meeting at which the radio frequency segments will be distributed on the basis of the results of the Auction. This meeting will take place within 5 working days from the date of the opening of envelopes with bids.

The price each Auction Winner is obliged to pay for the First Selection Right in each Auction Category and in a specific order will be added to the price of the Auction Blocks in the given Auction Category. This price will be determined according to the so-called second price rule, which means that the Auction Winner will pay for the First Selection Right in the specified order the price offered by the Auction Winner that for the given ranking of the priority selection right offered the next lower bid price.

Thus the Auction Winner that ranked first in the given Auction Block Category will pay the price offered by the Auction Winner that ranked second in the same Auction Block Category. For the Auction Winner that ranked last in the given Auction Block Category, the price will automatically be set at zero.

#### **7.7.2 Radio Frequency Segment Distribution Rules**

The basic rule to be respected by all Auction Winners in distributing the Radio Frequency segments is the coherent blocks rule, which means that their selections should not break the continuity of the spectrum allocated to the individual Allocation Holders in the given frequency band, and the same applies to the part of spectrum that was not acquired by any Auction Participant.

The following rules apply (in the order as shown here) to the distribution of radio frequency segments in the B3 category:

1. An Auction Winner that won at least one Auction Block in this category must choose a radio frequency segment between its current radio frequency segments.
2. An Auction Winner that won at least one Auction Block in this category must choose a radio frequency segment adjacent to its existing (or new) radio frequency segment.
3. An Auction Winner that won at least one Auction Block in this category must choose a radio frequency segment from the end of the 1800 MHz band.



### **7.7.3 The course of radio frequency segment selection and the closing of the Auction**

The Allocation of the specific radio frequency segments within the Auction Categories will take place in the presence of all Auction Winners at the meeting to be called by the Office.

An Auction Winner who fails to appear at the radio frequency segment selection meeting will automatically lose the First Selection Right under Chapter 7.7.1 and will be assigned the last rank – this, however, is without prejudice to such an Auction Winner's obligation to pay the First Selection Right price specified in Chapter 7.7.1. The Office will allow this Auction Winner to select a radio frequency segment on a later date. Should the Auction Winner fail to appear at the meeting held on a later day, the Office will allocate a specific radio frequency segment to such an Auction Winner at its (the Office's) discretion. The Office reserves the right to oversee the selection of radio frequency segments and will, in particular, monitor the Allocations of individual radio frequency segments for compliance with the radio frequency distribution rules as specified in Chapter 7.7.2.

During the negotiations at the meeting, radio frequency segments will be allocated one by one according to the individual bands so that the segments to be allocated first will be those in the 800 MHz band (Auction Category A), followed by the Allocation of segments in the 1800 MHz band (Auction Category B3 (B2 and B1 having been allocated as specific blocks already on the basis of the Auction)). Segments in the paired part of the 2600 MHz band (Auction Category C) will be the third to be allocated and segments in the unpaired part of the 2600 MHz band (Auction Category D) will be the last. Within each category, the individual Auction Winners will successively choose specific radio frequency segments defined in Chapter 4.1 in accordance with the rules defined in Chapter 7.7.2.

For maximum efficiency during the negotiations, the Office admits that the Auction Winners may agree on the distribution of the radio frequency segments before the negotiations and notify such an agreement to the Office at the meeting. Of course, this must be without prejudice to the rule of maintaining the coherence of the frequency spectrum segments (including the coherence of the part of radio frequencies, if any, that have remained unallocated).

A notarial record will be prepared of the negotiation at the meeting.

The Office will send each Applicant a Notification of the Closing of the Auction to inform them that the Auction has been closed and the radio frequencies acquired during the Auction have been distributed among the Auction Winners. This Notification will also be published on the Office web page.

This Notification must contain the following information:

- a) identification of the winning Applicants;
- b) identification of the radio spectrum segments acquired by the individual Applicants within the individual bands (Auction Categories);
- c) prices of all the radio spectrum segments acquired during the Auction and calculated as the sum of the prices of the Auction Blocks within the individual frequency bands and the price assessed for the First Selection Right in respect of segments within the Auction Category;

- d) enumeration of the radio spectrum segments that have remained unallocated;
- e) enumeration of the Auction Participants that failed in bidding for the Auction Blocks.

#### **7.8 Elimination of an Applicant in the course of the Auction**

An Applicant may be eliminated from further participation in the tender according to the condition mentioned in the Chapter 6 and in the Chapter 9.

Should an Applicant be eliminated from further participation in the tender during an Auction phase, it will lose the possibility to participate in the next Auction round. The number of the Highest Offer withdrawal rights and Absence rights will be automatically reduced for this Auction Participant to zero. If this Auction Participant is the Highest Bid Holder for some of the Auction blocks than the Highest Bid will be withdrawn automatically for these Auction blocks and the procedure in the next Auction round will be similar to the situation when the Highest bid is withdrawn according to the Chapter 7.6.8.

If the elimination occurs in the phase of distribution of frequencies, the Office will decide on further procedure, with the understanding that if the eliminated Applicant is the Auction Winner for an important amount of Auction blocks, the Office may decide to cancel the tender.

## **8 THE OFFICE'S ACTION AFTER THE CLOSING OF THE AUCTION**

The Office will make its decision on the result of the tender on the basis of the recommendation submitted by the Selection Committee in the form of report on the course and results of the Auction. The report will contain an overview of all the Applications received, the result of the Auction and the substantiation thereof. The Report must be agreed by the majority of the members of the Selection Committee, signed by them and delivered (together with all accompanying documents) to the Office within 30 days from the closing of the Auction.

Once the Selection Committee's report is delivered, the Office will issue its decision on the result of the tender, following the procedure specified in Section 21(8) of the Act. On the basis of the result of the Auction, contained in the Selection Committee's report, the Office will reject the applications of unsuccessful Applicants within two months from the end of the Auction. Upon the finality of the decision referred to in the preceding sentence, the Office will invite the successful Applicants to pay the price for the award of the right to use radio frequencies, which price they offered. Once the price for the award of the right to use radio frequencies, which price was offered by the successful Applicants, is paid, the Chairman of the Council of the Office will decide within 30 days on awarding the Allocations of radio frequencies under Section 22 of the Act.

The amount of the price for the right to use radio frequencies must be paid in Czech crowns to the account indicated in Chapter 3.5.1. When the payment is made, the Allocation Holder's company number (IČO) should be entered as the payment identification code ["variabilní symbol"]. The words "PRIDEL KMITOCTU" [Frequency Allocation] must be written in the "Zpráva pro příjemce" [message to the payee] window. The amount must be paid within 15 days from the date of delivery of the invitation to pay. The amount will be considered as paid when it is credited to the indicated account of the Office.

Should a successful Applicant to whom radio frequencies are to be allocated on the basis of the result of the Auction fail to pay the total price, offered by the Applicant himself, for the right to use radio frequencies within 15 days from the date of delivery of the invitation to pay, the radio frequencies that had to be allocated to such an Applicant within the tender will not be allocated. Should only a part of the total price, offered by a successful Applicant in the Auction for the right to use all the radio frequencies won by him, is paid by such an Applicant within the fifteen-day period from the delivery of the invitation to pay, the Office will invite such an Applicant to pay within a three-day grace period the remaining part of the total price offered by him. Should the successful Applicant fails to pay the remaining part of the total price offered by him even within such a grace period, the Office will proceed as if the Applicant did not pay the total price, offered by him in the Auction, for the award of the right to use the radio frequencies, and the part of the price already paid will be returned by the Office to the Applicant's account from which that part of the price was sent. Failure to pay within the required period of time the price, or any part thereof, for the right to use radio frequencies constitutes grounds for the rejection of the Application by the Office. This is without prejudice to the provisions concerning the forfeiture of the warranty and other sanctions the Office may apply in such cases.

The Office will publish a report on the course and results of the tender within a month from the completion of the tender, including a comprehensive Auction log established by the Electronic Auction System.

## **9 THE RULES OF CONDUCT OF PARTICIPANTS DURING THE TENDER**

During the entire course of the tender, the Applicants must refrain from any action that endangers or compromises the course or result of the tender. Such action includes, in particular:

- a) acting in concert with another Applicant in the tender, especially in matters concerning the amounts of the bids in the Auction or the distribution thereof;
- b) unfair procrastination or disturbance of the tender;
- c) unfair conduct preventing or hindering another entity from participation in the tender.

In the case of such conduct, the Office will decide in accordance with Section 21(1) to exclude the Applicant from further participation in the tender. If the Applicant commits any action referred to in the preceding paragraph, and this tender process or any part thereof is frustrated due to such action, as a result of which it will be impossible to allocate some radio frequency blocks, which are the subject matter of the tender, the Applicant's Warranty, deposited according to Chapter 6.3, will be forfeited.

## **10 CANCELATION OF THE TENDER**

In accordance with the provisions of Section 21(6) of the Act, the Office is entitled to cancel or stay the tender. The Office may do so, in particular, in a situation where the tender cannot be carried out due to a technical error or any other circumstances or the tender is frustrated due to the action of the Applicants or other persons.

## 11 COMMUNICATION DURING THE TENDER

Within the tender, the Office defines the possibilities of communication on matters related to the tender in the following cases:

- General communication during the tender – the Office will provide information about the course and dates of the Auction on an ongoing basis on its website. In addition, Applicants may communicate with the Office, using the contact information indicated in the ITT;
- Communication in the individual phases of the tender:
  1. Before submitting the Application – individual Applicants can communicate with the Office in the form of questions and answers when preparing their Applications in accordance with Chapter 3.4 point f);
  2. Application submission – delivery to the Office of the “Application for the Award of the Rights to Use Radio Frequencies” document in accordance with Chapter 6.2 and the possibility to participate in the envelope opening event. If so requested by the Office in the case of any uncertainty, the Applicant must provide additional explanation or amendment to the Application;
  3. Training for the Electronic Auction System and the performance of the test Auction;
  4. Auction phase – automatic information about the commencement of each round, about the basic parameters of the individual Auction Rounds (Eligibility, Highest Bid, points of Absence and Highest Bid Withdrawal etc.), about the final round of the Auction etc.;
  5. Submission of a price bid for the First Selection right, possibility to participate in the envelope opening event;
  6. Negotiations about the distribution of the radio spectrum segments.
- Communication in extraordinary cases:
  1. Information about extraordinary events, e.g. in connection with the risk of frustration of the Auction, change of the circumstances of how the Applicant meets the conditions of participation in the tender etc., can be provided to the Office’s contact person indicated in Chapter 3.5.2 during the entire course of the tender;
  2. Technical support during the Auction Phase – information about any technical issues related to the Electronic Auction System, its adjustment, loss of logon data etc. will be provided during the Auction phase of the tender. The contact data of technical support will be notified by the Office before the onset of the Auction part of the tender.
- The Office’s information during the tender about concluding the individual parts of the tender and the results thereof:
  1. Information about tender process commencement;

2. Information about the evaluation of the qualification part of the tender and about the results of the qualification;
3. Information about the commencement of the Auction part of the tender;
4. Information about the end of the Auction part of the tender and the results thereof;
5. Information about the closing of the Auction and the distribution of radio frequencies among Auction Winners.

The Applicants must respect the confidentiality of all circumstances related to their participation in the tender. According to Chapter 7.7.3, the Office only admits the possibility for Auction Winners to coordinate their conduct before the negotiation on radio frequency distribution on the basis of the results of the Auction, and to agree on the final distribution of the spectrum on the basis of Auction results.



## **12 LIST OF APPENDICIES**

Appendix 1 – Model form of the “Application for the award of the rights to use radio frequencies”

Appendix 2 – Appendix 1 to the Application for the award of the rights to use radio frequencies – “Statement of Obligations Undertaken by the Applicant”

Appendix 3 – Measurements for the purposes of controlling mobile broadband data network signal coverage (Methodical Procedure)

Appendix 4 – Auction Rules

Appendix 5 – Model form of the “Bid for the Purposes of the Process of Establishing the Right of First Selection of the Radio Frequency Segment in Accordance with Chapter 7.7.1 of the Invitation to Tender”

Appendix 6 – List of districts in the Czech Republic and their classification according to the population density criterion

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