



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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Prague, February 8, 2016

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**Call for Offers for the purpose of awarding
the rights to use radio frequencies to
ensure a public communication network in
the 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 BASIS OF THE TENDER

1.1 European harmonisation and the spectrum administration strategy

When determining the terms and conditions of the tender, the Office drew on the process of European harmonisation of handling the spectrum coordinated via CEPT (European Conference of Postal and Telecommunications Administrations) and the bodies of the Commission of the RSPG (Radio Spectrum Policy Group) and the RSC (Radio Spectrum Committee). Decision of the European Parliament and of the Council establishing a multi-annual radio spectrum policy programme (hereinafter referred to as the “**Radio Spectrum Policy**”).

In accordance with the process of harmonisation, the Office compiled documents entitled “**Spectrum Administration Strategy (3S Strategy) – Support for the Development of the Competitive Environment and Optimising the Conditions for the Use of Frequencies in Selected Parts of the Radio Spectrum**”, published by the Office in 2010, and comprehensive material “Spectrum Administration Strategy”¹, the proposal of which the Office sent after the interdepartmental procedure to the Ministry of trade and industry for the government submission. The government of the Czech Republic approved this document after the submission of the Minister of Industry and Trade on June 3, 2015 with Resolution no. 421. This material summarises a consideration of the status of the electronic communications market, in particular the market in mobile services and broadband services provided by way of wireless networks. The Office defined one of the main objectives therein as follows:

- the creation of conditions for strengthening competition and for technological innovation, which will allow for the development of broadband services provided through wireless networks with the application of new technology;
- in accordance with the requirement of the Act to ensure the purposeful use of radio frequencies, discharge of the requirements of European harmonisation in the frequency bands concerned.

1.2 Basis of the tender arising from the tender for the awarding of rights to use radio frequencies to ensure the public communication network in the 800 MHz, 1800 MHz and 2600 MHz bands in 2013

This tender for the award of rights to use radio frequencies in the 1800 and 2600 MHz bands (hereinafter referred to as the “**Tender**”) takes into consideration the terms and conditions and results of the ended tender for the award of rights to use radio frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands that was announced on 15.8.2013 (hereinafter referred to as the “**4G Auction 2013**”), in particular in the following areas:

- a. The subject-matter of the Tender is all radio frequencies that were the subject-matter of the 4G Auction 2013 and that were not allocated on its basis.
- b. The Office follows on from the aim of the 4G Auction 2013, in which it was assumed in relation to the 1800 MHz band that there would be a change to individual allocations of radio frequencies in this band (refarming), such that the individual holders of allocations (or their legal successors) have undivided sections of radio frequencies that follow on from each other without interruption.
- c. It is clear from the development of the 4G Auction 2013 that at the time of holding the 4G Auction 2013 there was no real demand from potential new operators of mobile electronic communications networks for the whole frequency sections that

¹ http://www.ctu.cz/cs/download/aktualni_informace/strategie_spektra_navrh_09-2014.pdf (Czech language only)

would allow access to the Czech mobile electronic communication service market as full infrastructure players comparable with Existing Operators in terms of their spectral facilities. For this reason the Office has included in this Tender instruments to support economic competition aimed at supporting alternative business plans for the possible market access of infrastructure players and, as with the 4G Auction 2013, instruments in support of economic competition at the level of services.

The proposal of “Call for Offers for the purpose of awarding the rights to use radio frequencies to ensure a public communication network in the 1800 MHz and 2600 MHz bands” was subject of two public consultations according to Section 130 of the Act. This proposal was published on the Office’s web page for the first public consultation on June 17, 2014. All comments were settled and published on September 15, 2014.

Due to a delay of approval of the Government Decree no. 154/2005 Coll., On determining the amount and method of calculation of fees for use of radio frequencies and numbers, as amended, more than one year has elapsed since the first public consultation. The Office therefore decided to submit the conditions of the tender for a new public consultation under § 130 of the Act. In the interest of maximum transparency of the tender procedure, the Office again published a complete draft text of the “Call for offers”, which was based on the settlement of comments submitted in the first public consultation. All comments from the second public consultation were settled and published on December 22, 2015. The Office took all relevant comments into consideration in preparation of the final conditions of this Tender.

In accordance with the Act, the Office presented both versions of the proposed conditions of the Tender to the Office of Fair Trading (hereinafter referred to as “the OOFT”).

After the settlement of the first public consultation, the Office presented the modified conditions of the Tender to the OOFT on November 26, 2014. The chairman of the OOFT did not have any comments to the proposed conditions as he expressed in his letter from December 19, 2014. The amended draft of the Tender conditions based on the second public consultation was submitted to the OOFT on December 22, 2015. The chairman of the OOFT commented on the conditions in his letter from January 18, 2016. The Office evaluated the comments and informed the OOFT about their settlement in a letter from February 3, 2016. The Office took the comments into account when determining the final conditions of this Tender. The Office published the received comments and information about their settlement at the Office’s discussion site.

2 THE OBJECTIVES OF THE TENDER

The objective of the Tender is to enable the use of an undivided set of radio frequencies from the 1800 MHz and 2600 MHz bands and in doing so generate the conditions for the effective fulfilment of the following objectives²:

- the development of new electronic communication services via wireless, high-speed networks, in particular those of a mobile character, and generation of the conditions for technological innovation;
- ensuring the effective use of individual parts of the frequency spectrum to the benefit of consumers;
- support of economic competition in the sphere of the electronic communication services provided through public electronic communication networks at a wholesale and retail level, with impact on the whole of the electronic communication market, targeted at bringing benefit to the end user;
- making more effective the use of the 1800 MHz band by ensuring the wholeness of individual allocations of the radio frequencies in this band (refarming).

2.1 The development of new services and support for technological innovation as a tool with which to increase competitiveness

The implementation of new technologies and the building of high-speed networks are among the main priorities of European countries, including the Czech Republic. According to the Digital Programme for Europe document compiled by the European Commission, the development of high-speed networks (including wireless networks) contributes to the reliable growth of the economy and the creation of jobs.

Similarly, it ensues from the "ICT and the Competitiveness of the Czech Republic"³ study compiled for the government of the Czech Republic that the electronic communication network forms the basis of the so-called technological infrastructure required to increase the competitiveness of the Czech Republic.

The Digital Czech document further specifies the objectives laid down in the Digital Programme for Europe document, with the priority being to reduce the "digital gulf" in the area of access to high-speed Internet between rural places and cities.

The radio spectrum that is the subject of the Tender is mainly suitable for capacity covering, in that the 1800 MHz band is also usable from the perspective of universal broadband coverage. The Office assumes the use of this radio spectrum, in particular for the construction of high-speed access networks.

The conditions of the purposeful use of the radio spectrum, which among other lay down the minimum extent to which the population must be covered, are defined in section 7.3 of the Call for Offers.

2.1.1 Ensuring the effective use of individual parts of the frequency spectrum

In accordance with the objective of ensuring the effective use of individual parts of the frequency spectrum, the Office decided to offer all radio frequencies that remained

² The objectives of the Tender follow on from the objectives defined in section 3.2.1 of the Call for Offers for the awarding of rights to use radio frequencies to ensure the public communication network in the 800 MHz, 1800 MHz and 2600 MHz bands; see http://www.ctu.cz/cs/download/vyberova_rizeni/invitation_to_tender_15_08_2013.pdf

³ Study of the University of Economics and partners (ČSSI, ICTU), 2010, available at http://www.cssi.cz/cssi/system/files/cssi/Studie_ICT_a_konkurenceschopnost_CR_20101003.pdf (Czech language only)

unallocated in the 4G Auction 2013 within the Tender. In accordance with the procedure proposed in the document "Spectrum Administration Strategy", the Office does not anticipate any more effective way of using these radio frequencies in the future than their immediate use for the development of wireless networks in accordance with the objective of this Tender.

At the same time, the Office has, in the terms and conditions of this Tender, taken all measures aimed at fulfilling the objective of making the use of the 1800 MHz band more effective by ensuring the integrity of individual allocations of radio frequencies in this band (refarming) and supporting technological innovation with the use of radio frequencies in this band by individual allocation holders.

The 2600 MHz band has been split up with regard to the maximum purposefulness of the use of allocated blocks for wireless radio networks.

2.1.2 Support of competition on the electronic communication market and the creation of conditions for possible market entry by other entities

Support for effective and sustainable competition in the sphere of electronic communication services provided through public electronic communication networks in accordance with the Union's Radio Spectrum Policy is another of the objectives of the Tender.

The Office, following on from the basis of the Tender described in section 1 of this Call for Offers, intends to apply the following instruments of support for economic competition at the infrastructure level in the Tender (directed mainly in support of the participation of Applicants that are not at this time holders of allocations of radio frequencies in the 800, 900, 1800, 2100 and 2600 MHz bands for the territory of the Czech Republic) and at the level of the following services:

- enabling the acquisition of **radio frequencies in the 1800 MHz frequency band**;
- determining the **developmental criteria associated with acquiring radio frequencies** such that alternative business objectives are made possible;
- **the obligation to provide a wholesale offer** of services provided on public communication networks that use the radio frequencies allocated based on the Tender such that wholesale access to the services operated on the allocated section of frequencies by other parties interested in the provision of these services can be ensured to the maximum possible extent.

Another tool aimed at supporting competition at the infrastructure level by supporting the arrival of new infrastructure players is authorisation for the Radio Frequency Holders emerging from this Tender arising from the **obligation to provide national roaming** included in the terms and conditions of the 4G Auction 2013⁴. Authorisation arising from this obligation to provide national roaming based on conditions of the 4G Auction 2013 could also cover the Radio Frequency Holders emerging from this Tender as long as the terms and conditions laid down in the obligation are met. This authorisation allows applicants that newly enter the market to provide blanket services on public electronic communications networks and thus effectively compete with the services of Existing Operators.

⁴ http://www.ctu.cz/cs/download/vyberova_rizeni/invitation_to_tender_15_08_2013.pdf

3 THE FUNDAMENTAL PRINCIPLES OF THE TENDER

- a) The Tender will be carried out in the form of an auction. The auction format chosen is a simultaneous, multiple round auction (hereinafter referred to as “SMRA”) to be undertaken using an Electronic Auction System. The principles of the Auction are described in section 9 of the Decree and in the Auction Regulations that constitute Annex 4 to the Call for Offers.
- b) Only interested parties that comply with the terms and conditions of participation according to section 8 of the Call for Offers may register for the Tender. An Application which unconditionally complies with the requirements laid down in this Call for Offers must be submitted for participation in the Tender. The Applicant is not authorised to modify or condition the requirements laid down in this Call for Offers in any way.
- c) The Tender shall proceed in three steps – (1) the qualification part (2) the auction part and (3) the procedure of the Office following the end of the Auction. In the qualification part, the Office shall consider whether the Applicants that submitted their applications by the end of the time limit for lodging Applications laid down in section 5 of the Call for Offers comply with the terms and conditions of participation in the Tender laid down in section 8 of the Call for Offers. If the Applicant fails to comply with these terms and conditions or ceases to comply with them at any time during the Tender, the Office shall decide to eliminate it from subsequent participation in the Tender. The lodging of a remedial measure against a decision to exclude an Applicant from further participation in the Tender has no suspensory effect. All eligible Applicants take part in the second part of the Tender, the Auction. The full wording of the Auction Rules is presented in Annex 4 to the Call for Offers. The Office will then proceed according to section 10 of the Call for Offers.
- d) Participation in the Tender is at the expense of the Applicant.
- e) The Office will reply in writing to queries sent within the time limit set out in section 5 of the Call for Offers to the contact e-mail address of aukce@ctu.cz. Any queries delivered must be marked with the reference number of this Tender.
- f) The Office is authorised to cancel this Tender even following the passing of the time limit laid down for the submission of Applications. Further details to concern the cancellation of the Tender are defined in section 13 of the Call for Offers.
- g) The Office shall not bear any financial or other obligations arising from the cancellation of the Tender.

4 THE ORGANISER OF THE TENDER

Name of Office:	Czech Telecommunication Office
Representative:	Mr. Jaromír Novák
Registered office:	Sokolovská 58/219 190 00 Praha 9
Address for the delivery of documents on paper:	Český telekomunikační úřad Poštovní příhrádka 02 225 02 Praha 025
Address for the delivery of documents in electronic format:	e-mail: podatelna@ctu.cz Data box: a9qaats
Company Registration Number:	70106975
Tax Identification Number:	CZ70106975
Bank account number for the purposes of paying the Guarantee according to section 8.3 of the Call for Offers:	6015-725001/0710 held at the Czech National Bank, Prague branch
Bank account number for the payment of the Total Price:	19-725001/0710 held at the Czech National Bank, Prague branch

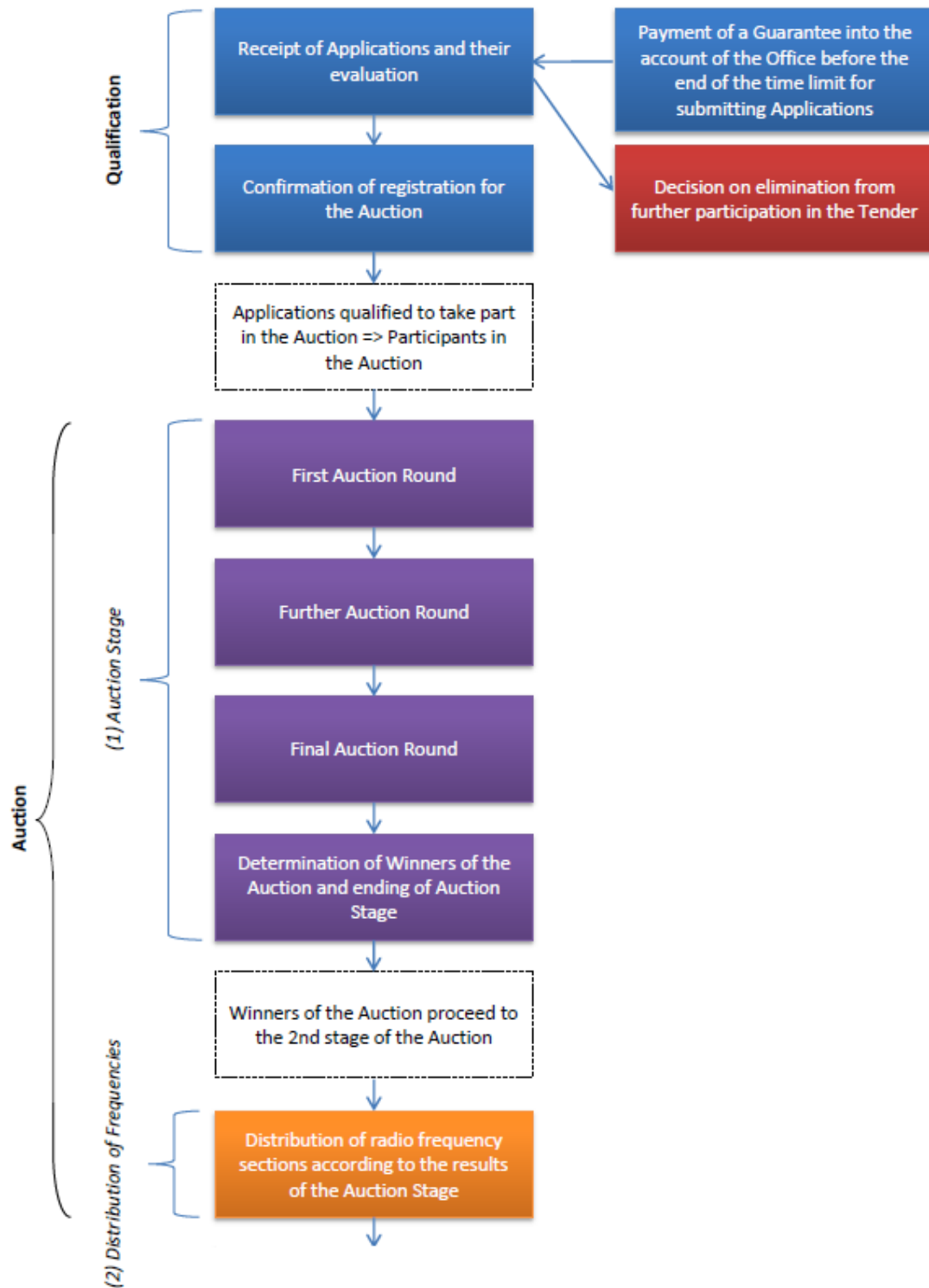
5 THE TIME LIMITS OF THE TENDER

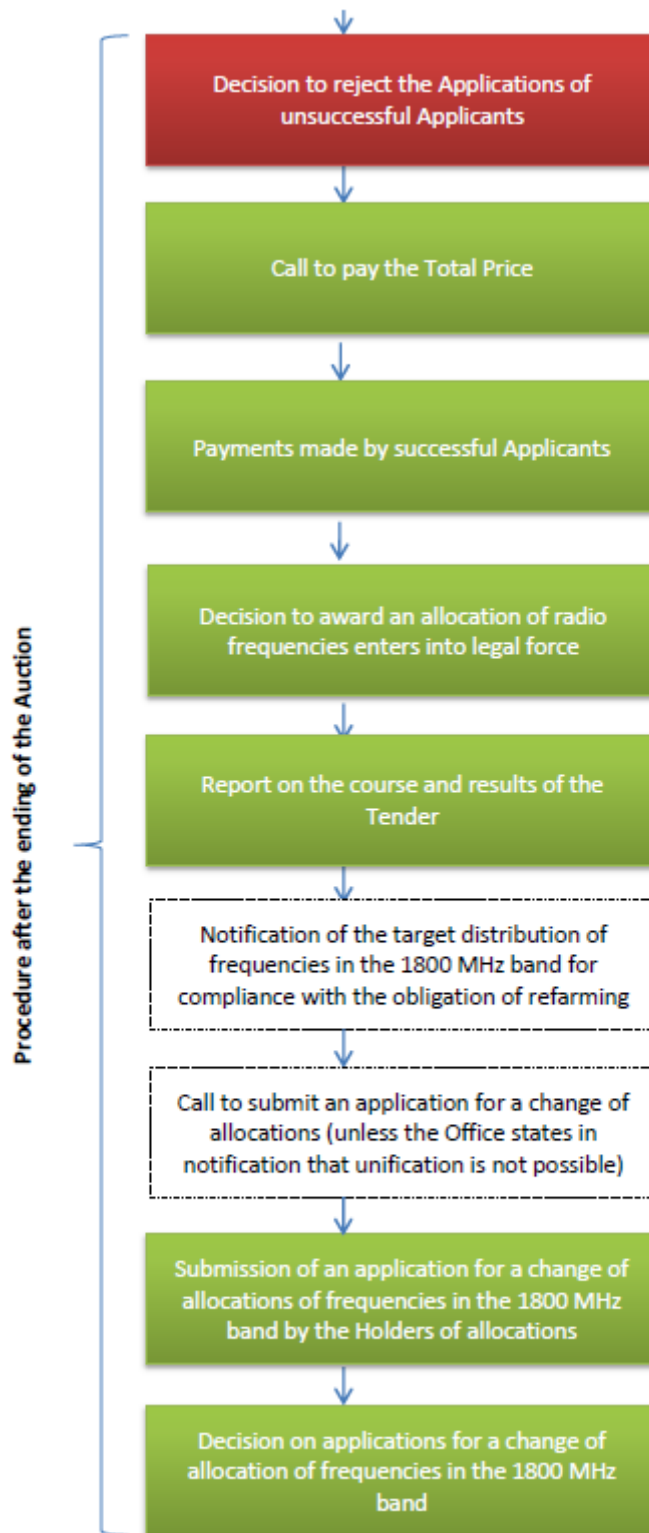
5.1 Time schedule of the Tender

Specification	Activity	Deadline
a.	Call for Offers	February 8, 2016
b.	Delivery of queries according to section 3 (e) of the Call for Offers	February 22, 2016
c.	Publication of answers to queries according to section 3 (e) of the Call for Offers	February 29, 2016
d.	Delivery of Applications for the award of rights to use radio frequencies in accordance with section 8 of the Call for Offers	March 22, 2016 by 12:00 noon
e.	Opening the envelopes holding the Applications submitted	March 23, 2016 by 9:00 a.m. at the registered office of the Office

An up-to-date time schedule for the Tender will be published on the Office's website. Unless specified otherwise, the provisions of Section 40 of the Rules of Administrative Procedure shall be applied to the calculation of time limits in the course of the Tender. It primarily stands that the day on which the situation which determines the commencement of the time limit occurs is not included in the running of the time limit. If the end of the time limit falls on a Saturday, a Sunday or a public holiday, the final day of the time limit is the next work day. Unless specified otherwise, a time limit is a matter of calendar days.

5.2 Chart of the course of the Tender divided into individual stages





6 THE SUBJECT-MATTER OF THE TENDER

6.1 The 1800 MHz band

The 1800 MHz band is a paired band delimited by the 1805–1880 / 1710–1785 MHz frequencies. The band is intended for the operation of electronic communication networks within the scope of a flexible service.

A significant part of the frequencies in this frequency band is used by existing holders of radio frequency allocations that operate public communication networks on them in GSM standard or, as the case may be, high-speed access to the Internet with the use of LTE technology. Radio frequency allocations have not yet been issued in the 1805.1-1805.3 / 1710.1–1710.3 MHz and 1842.3–1857.9 / 1747.3–1762.9 MHz sections.

A maximum spectral limit for the submission of bids for radio frequencies in the 1800 MHz band is determined so that the total quantity of the radio frequencies allocated to one Applicant on the basis of this Tender does not exceed 2×30 MHz in aggregate with the radio frequency allocation in the 1800 MHz band already held by the Applicant.

This limit is set to prevent undesirable accumulation of spectrum and to allow effective competition for offered frequency blocks alongside with support of principle of competition by means of services offered in this frequency band.

Radio frequencies in the 1800 MHz frequency band will be divided into 2 categories of Auction blocks:

- 2 independent, abstract Auction blocks each of a size of 2×5 MHz;
- 2 independent, abstract Auction blocks each of a size of 2×2.9 MHz

The following frequency sections will be allocated in the Tender (the outer boundaries of the frequency channels are shown):

Auction block category	Frequency section identifier	Frequency scope of downlink in MHz	Frequency scope of uplink in MHz	Size of section in MHz
A	A-1	1805.1–1805.3 1842.3–1845.0	1710.1–1710.3 1747.3–1750.0	2×2.9
	A-2	1855.0–1857.9	1760.0–1762.9	2×2.9
B	B-1	1845.0–1850.0	1750.0–1755.0	2×5.0
	B-2	1850.0–1855.0	1755.0–1760.0	2×5.0

6.2 The 2600 MHz band

The 2600 MHz frequency band is a band delimited by the 2500–2690 MHz frequencies and contains a paired and an unpaired part of the spectrum. The band is intended for a terrestrial wireless access network for the provision of electronic communication services.

A significant part of the frequencies in the paired part of the 2600 MHz frequency band was acquired by existing mobile operators in the 4G Auction 2013, while the unpaired part of the 2600 MHz remained unallocated in the 4G Auction.

No spectral limit will be determined in this Tender for the submission of offers for frequencies from the 2600 MHz band.

Radio frequencies in the paired part of the 2600 MHz frequency band are offered as one specific block of a size of 2 × 10 MHz

The following radio frequency section will be allocated in the Tender (the outer boundaries of the frequency channels are shown):

Auction block category	Frequency section identifier	Frequency scope of downlink in MHz	Frequency scope of uplink in MHz	Size of section in MHz
C	C-1	2680.0–2690.0	2560.0–2570.0	2 × 10.0

Radio frequencies in the unpaired part of the 2600 MHz frequency band are offered as two specific blocks, each with size of 25 MHz such that the most purposeful use of these radio frequencies is ensured⁵.

The following radio frequency sections will be allocated in the Tender:

Auction block category	Frequency section identifier	Frequency scope of downlink in MHz	Frequency scope of uplink in MHz
D	D-1	2570.0-2595.0	25.0
	D-2	2595.0-2620.0	25.0

⁵ With reference to the conditions set in the section 7.1.2 of the Call for Offers, the Office states that based on the obligatory protection block of 5 MHz with limited EIRP between radio networks operating in the unpaired part of the 2600 MHz frequency band and between paired and unpaired parts of the 2600 MHz frequency band, it is effectively possible to operate two unsynchronized networks on frequency blocks of 20 MHz size.

6.3 Price of the allocation of rights to the use of radio frequencies (according to Section 21(5) (f) of the Act)

The size of the price for the award of rights to use radio frequencies that the Applicant is obliged to pay based on this Tender will equal the sum of the Winning Offers of the Applicant and any Difference.

The size of the Offers at the Auction Stage may not be lower than the minimum price of the Auction blocks laid down in this section 6.3 of the Call for Offers.

The minimum price for individual Auction Block Categories is determined as follows:

Auction Block Category	Minimum price for 1 block
A	CZK 75,000,000
B	CZK 130,000,000
C	CZK 138,000,000
D	CZK 93,000,000

The minimum prices of a block for Auction Block Categories A and B were determined using the procedure laid down in section 6.3.1 of the Call for Offers.

The minimum price of a block for Auction Block Category C were determined based on the average prices for the award of rights in the same frequency band within the scope of the 4G Auction 2013⁶, with conversion to the size of the block using the procedure laid down in section 6.3.2 of the Call for Offers.

The minimum price of a block for Auction Block Category D was determined using the procedure laid down in section 6.3.3 of the Call for Offers.

The resulting minimum block prices determined using the procedures laid down in sections 6.3.1 to 6.3.3 of the Call for Offers were subsequently decreased based on the validity of the allocation of radio frequencies stated in section 7.5 of the Call for Offers.

6.3.1 Auction Block Categories A and B

Based on the fact that the prices obtained in the 1800 MHz band in the 4G Auction 2013 were influenced by the spectral limit set for Existing Operators in this band, the calculation of minimum block prices in Auction Block Categories A and B was maintained at CZK 15.0 million per 1 MHz

The minimum prices of Auction Block Categories A and B were determined from these unit price by multiplying the unit price by the size of the Auction Block.

The minimum price for Auction Block Category A, which is 2 × 2.9 MHz in size, was therefore determined at CZK 87.0 million. This price was subsequently lowered to CZK 75.0 million based on shorter validity of the allocation of radio frequencies.

The minimum price for Auction Block Category B, which is 2 × 5 MHz in size, was therefore determined at CZK 150.0 million. This price was subsequently lowered to CZK 130.0 million based on shorter validity of the allocation of radio frequencies.

⁶ http://www.ctu.cz/cs/download/vyberova_rizeni/vyhlaseni_vyberoveho_rizeni_15_08_2013_zprava_prubeh-vysledky_vyberoveho_rizeni.pdf (Czech language only)

6.3.2 Auction Block Category C

The prices obtained for Auction Blocks in the paired part of the 2600 MHz band in the 4G Auction 2013 are summarised in the following table.

The total price and the unit price corresponding to a frequency allocation of 1 MHz are calculated from the prices obtained.

Auction Block	Size	Price (millions of CZK)
C-1	2 × 5.0 MHz	80.0
C-2	2 × 5.0 MHz	80.0
C-3	2 × 5.0 MHz	80.0
C-4	2 × 5.0 MHz	80.0
C-5	2 × 5.0 MHz	80.0
C-6	2 × 5.0 MHz	80.0
C-7	2 × 5.0 MHz	80.0
C-8	2 × 5.0 MHz	80.0
Total price		640.0
Unit price (MHz)		8.0

The minimum price of Auction Block Category C was determined from the unit price of CZK 8 million per MHz by multiplying the unit price by the size of the Auction Block.

The minimum price for Auction Block Category C, which is 2 × 10 MHz in size, was therefore determined at CZK 160.0 million. This price was subsequently lowered to CZK 138.0 million based on shorter validity of the allocation of radio frequencies.

6.3.3 Auction Block Category D

The minimum price of the Auction Block in the unpaired part of the 2600 MHz frequency band in the 4G Auction 2013 was determined based on a pricing analysis (benchmark) of the prices obtained for the award of rights for the use of frequencies in the relevant European countries as at 1 August 2013. The Minimum Price of an Auction Block of 5 MHz in size based on this analysis was set at CZK 30.0 million, meaning that the aggregate amount of all Auction Blocks in the unpaired part of the 2600 MHz frequency band was CZK 270.0 million. The fact that there was no interest in Auction Blocks in the unpaired part of the 2600 MHz frequency band in the 4G Auction 2013, even at the minimum price, indicates that the minimum price in this part of the band determined for the 4G Auction 2013 exceeded the market value of this spectrum.

For this reason, the Office decided to set the Minimum Price of Auction Block Category D such that it further reduced the Minimum Price by 20 % on the 4G Auction 2013. The Office considers this reduction to be sufficiently large to stimulate new demand and, at the same time, sufficiently low that the risk does not arise of the Minimum Price being lower than the market value of this part of the spectrum.

The Minimum Price for Auction Block Category D, which is 25 MHz in size, was therefore determined at CZK 108.0 million. This price was subsequently lowered to CZK 93.0 million based on shorter validity of the allocation of radio frequencies.

7 THE CONDITIONS AND OBLIGATIONS ASSOCIATED WITH THE RIGHT TO USE RADIO FREQUENCIES

The terms and conditions associated with the award of rights to use radio frequencies, including the terms and conditions of the purposeful use of radio frequencies and the obligations accepted by the Applicant in the course of the Tender, shall be determined by the Office in a decision on the allocation of radio frequencies issued on the basis of the results of the Tender and potentially in other documents issued based on the Act.

7.1 The fundamental terms and conditions of using the radio frequencies awarded

The radio frequencies offered in the Tender are intended for use within the entire territory of the Czech Republic.

Procedure shall follow the Act and the methodical approach published by the Office⁷ in the case of investigating complaints regarding interference of radio reception resulting from the operation of radio transmission stations that use allocations of the radio frequencies that are the subject of this Tender.

To ensure cooperation of holders of frequency allocations issued based on this Tender during control of fulfilling of the Tender conditions and obligations specified in this section 7 in accordance with Act No. 255/2012 Sb., on inspection (Inspection Code), the Office will specify an obligation to provide necessary count of testing SIM cards with unlimited service consumption on frequencies assigned based on this Tender in the allocations of radio frequencies.

7.1.1 Terms and conditions of the use of radio frequencies in the 1800 MHz band

The terms and conditions of using radio frequencies in the 1800 MHz band are presented in PVRS 12 and will be projected in the IO or, as the case may be, in other documents issued based on the Act. From the technical perspective, the public communication network operated in the 1800 MHz band must comply with the terms and conditions specified in Commission Decision 2011/251/EU⁸, in the ERC REC (08)02⁹ recommendation and, within the bounds of the standard chosen by the Applicant, the terms and conditions specified in ETSI standards or in other related Commission, CEPT or ITU documents¹⁰.

Among other, it ensues from the documents specified above that the base station in the 1805–1880 / 1710–1785 MHz band must operate in a duplex regime with duplex spacing of 95 MHz and must transmit at the higher radio frequency of the frequency pair.

The question of the co-existence of GSM systems and systems from the group of IMTb standards, in particular IMT-2000/UMTS and LTE, is dealt with in the above-mentioned documents. The co-existence of the above-mentioned systems in the 1800 MHz band is possible when ensuring the following technical parameters (if the operators of neighbouring systems do not agree otherwise):

⁷ An up-to-date version of this methodology is available at http://www.ctu.cz/cs/download/radiove_ruseni/measurement_interference_15_08_2013.pdf

⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:106:0009:0010:EN:PDF>

⁹ <http://www.erdocdb.dk/docs/doc98/official/pdf/Rec0802.pdf>

¹⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:117:0095:0101:EN:PDF>

Systems	Technical specifications
UMTS in accordance with standards relating to UMTS issued by ETSI, in particular EN 301908-1, EN 301908-2, EN 301908-3 and EN 301908-11 standards	<ol style="list-style-type: none"> 1. Spacing of carrier frequencies of at least 5 MHz between two neighbouring UMTS networks. 2. Spacing of carrier frequencies of at least 2.8 MHz between a UMTS network and a neighbouring GSM network.
LTE in accordance with standards relating to LTE issued by ETSI, in particular EN 301908-1, EN 301908-13, EN 301908-14 and EN 301908-11 standards	<ol style="list-style-type: none"> 1. Spacing of at least 200 kHz between the boundary of the LTE channel and the boundary of the GSM carrier frequency channel between neighbouring LTE and GSM networks. 2. Frequency spacing between the boundary of the LTE channel and the boundary of the UMTS carrier frequency and neighbouring LTE and UMTS networks is not required. 3. Frequency spacing between the boundaries of the LTE channels of two neighbouring LTE networks is not required.
WiMAX in accordance with standards relating to WiMAX issued by ETSI, in particular EN 301908-1, EN 301908-21 and EN 301908-22 standards	<ol style="list-style-type: none"> 1. Spacing of at least 200 kHz between the boundary of the WiMAX channel and the boundary of the GSM carrier frequency channel between neighbouring WiMAX and GSM networks. 2. Frequency spacing between the boundary of the WiMAX channel and the boundary of the UMTS carrier frequency between neighbouring WiMAX and UMTS networks is not required. 3. Frequency spacing between the boundaries of the WiMAX channels of two neighbouring WiMAX networks is not required.

7.1.2 Terms and conditions of the use of radio frequencies in the 2600 MHz band

The terms and conditions of using radio frequencies in the 2600 MHz band are presented in PVRS 14 and will be projected in the IO or, as the case may be, in other documents issued based on the Act. From the technical perspective, the public communication network operated in the 2600 MHz band must comply with the terms and conditions specified in Commission Decision 2008/477/EC¹¹, in the ERC REC (11)05¹² recommendation and, within the bounds of the standard chosen by the Applicant, the terms and conditions specified in ETSI standards or in other related Commission, CEPT or ITU documents¹³.

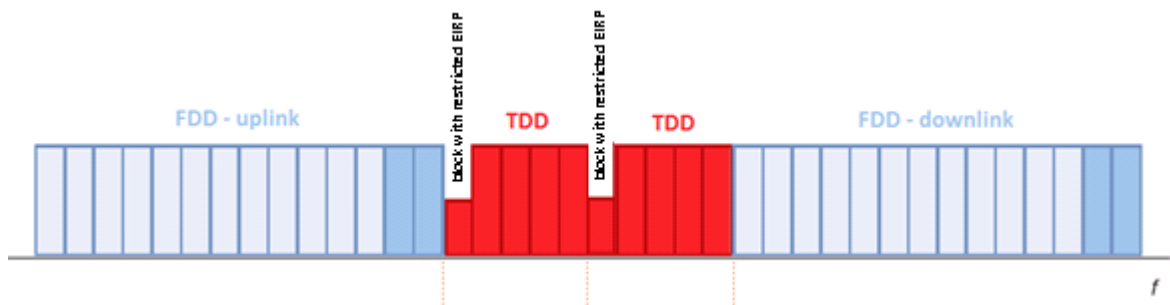
¹¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:163:0037:0041:EN:PDF>

¹² <http://www.erodocdb.dk/docs/doc98/official/pdf/Rec1105.pdf>

¹³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:117:0095:0101:EN:PDF>

The terms and conditions of using the 2600 MHz band are coordinated in the Czech Republic in accordance with the above-mentioned documents, based on which the following terms and conditions of use are defined:

- a station in the 2620–2690 / 2500–2570 MHz band works in a duplex regime with duplex spacing of 120 MHz. Base stations transmit at the higher radio frequency of the frequency pair. Stations in the 2570–2620 MHz work in a simplex regime.
- the EIRP limit value for base stations within the block = +61 dBm/(5 MHz), with the following exception:
 - the radio frequency sections 2570.0-2575.0 MHz and 2595.0-2600.0 MHz where the value of EIRP is limited to +25 dBm/ (5 MHz) – see figure.



This limitation is based on the need to secure favourable technical conditions for the co-existence of systems that use radio frequencies in neighbouring blocks that are used for the unlimited operation of TDD and FDD or for the case of two unsynchronised networks operated in the TDD regime for ensuring compatibility defined in Commission Decision 2008/477/EC¹⁴. The limitation of part of the frequency section D-1 will not be applied in the case that the same Applicant becomes the Holder of the allocation of radio frequencies in the C-1 and D-1 frequency sections. The limitation of frequency section D-2 shall not apply in case that the same Applicant becomes the Holder of the allocation of radio frequencies in the D-1 and D-2 frequency sections.

- with respect to the fact that the frequency section of the paired part of the 2600 MHz band, for which no EIRP restriction is imposed, borders the D-2 frequency section at the upper boundary of the frequency section (i.e. at a frequency of 2620 MHz), there is the increased likelihood of interference in the upper part of the D-2 section. A basic EIRP limit value is applied to the part of the D-2 frequency section within the 2615.0-2620.0 MHz frequencies at base stations within the block = +61 dBm/ (5 MHz).

7.1.3 The issuance of IO

Commencing the use of radio frequencies awarded by allocation based on the results of the Tender is conditional on the issuance of IO.

IO will be issued individually for each of the allocated frequency bands, just as for the paired and unpaired part of the 2600 MHz band. The following additional terms and conditions, among other, are determined in the process of issuing IO:

- a) The condition imposing on the Holders of an allocation in the 1800 MHz and 2600 MHz bands the obligation to invariably provide the Office, at the end of the calendar

¹⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:163:0037:0041:EN:PDF>

month¹⁵, with a list of the base stations presently operated in a format which is suitable for a batch calculation of coverage¹⁶, including all changes to the information presented below relating to base stations already having been put into operation in the space of the past month. A description of the base stations operated according to such notification shall constitute an inseparable part of IO. Notification will comprise the following information in relation to each base station:

1. the district identifier according to a list supplied by the Office;
2. the unique name of the site (must be maintained in the case of a change to the technical parameters of the station);
3. Address of the site:
4. the coordinates of the site (WGS 84 system, degree, minute, second);
5. the altitude of the stand above sea level (m);
6. the radio frequency of the transmitter and the receiver (frequency range in MHz);
7. height of the centre of the aerial system above the ground (m);
8. the radiation characteristics of the aerial system (code designation according to HCM agreement, Annex 6¹⁷);
9. azimuth of maximum radiation in individual sectors (°);
10. mechanically-set elevation at azimuth of maximum radiation in individual sectors (°);
11. maximum radiated output of ERP in the sector (W).

7.1.4 Checking coverage

The Office shall, at the request of the Holder of an allocation, carry out a check of the extent of coverage of the network of the Holder of the allocation, for example for the needs of complying with development criteria or complying with the terms and conditions of coverage by an Eligible Applicant for national roaming. The Office shall inform the Holder of the allocation of the outcome. The inspection will proceed in accordance with Act No. 255/2012 Sb., on inspection (Inspection Code).

The following information must be provided in relation to the application, if not presented to the Office at the same time according to section 7.3 of the Call for Offers:

1. For all stations for which confirmation of the extent of coverage of the network is required according to section 11 of the Call for Offers, the technical parameters of the stations according to section 7.1.3 (a) of the Call for Offers. Information will be provided for all relevant stations in a format which is suitable for the batch calculation of coverage¹⁶.
2. The results of measuring the speed of data flow according to the methodology presented in Annex 3 to the Call for Offers, proving compliance with the minimum required speed of service according to section¹⁶ of the Call for Offers.

¹⁵ This time limit may be changed subject to mutual agreement with the Office.

¹⁶ In csv format (a comma as the column separator, a decimal point) or in another format agreed with the Office.

¹⁷ http://www.hcm-agreement.eu/http/englisch/verwaltung/index_berliner_vereinbarung.htm

7.2 Technology and services for which the rights to use radio frequencies shall be awarded

The Office, in accordance with the principle of technological neutrality, shall not set out any terms and conditions or restrictions in relation to the technology that the Applicant plans to use in the use of the auctioned radio frequencies for the provision of publicly-accessible electronic communication services. The provisions of the relevant PVRS are not affected by this.

All facilities operated with the use of frequencies that are the subject of this Tender must comply with all applied technical standards for the entire period of their operation and with other generally-binding legal or other regulations, as amended.

7.3 Terms and conditions for the practical use of radio frequencies

Binding criteria shall be specified for the purposes of using radio frequencies from the perspective of satisfying the terms and conditions of the practical use of the radio frequencies obtained in this Tender:

- the commencement of practical use of radio frequencies, i.e. commencing the provision of commercial public communication services with the use of the public communication networks operated on the allocated radio frequencies within a time limit of 2 years of the date on which the decision to award an allocation comes into legal force. The obligation to commence the use of radio frequencies applies separately to each frequency band which the Applicant obtains in the Tender. The Holder of the allocation need not use the entire width of the frequency allocation in the relevant band in order to satisfy this condition – it may use only part of the allocated frequencies in order to provide publicly-accessible commercial services;
- the commencement of use of radio frequencies in accordance with Section 22b(2) of the Act, i.e. the provision of electronic communication services with the use of the public communication networks with the use of the entire scope of the allocated radio frequencies, within a time limit of 6 years of the date on which the decision to award an allocation comes into legal force;
- ensuring coverage of the area and the population with an offer of services – development criteria – to the extent defined for individual frequency bands in sections 7.3.1 to **Chyba! Nenalezen zdroj odkazů.** of the Call for Offers;
- in case an Applicant acquires, on the basis of this tender, radio frequency allocations in both 1800 MHz and 2600 MHz bands, only one development criteria are valid as follows:
 - If an applicant acquires, on the basis of this tender, a radio allocation of at least 2×5 MHz in size in the 1800 MHz band, then the development criteria specified in section 7.3.1 of the Call for Offers are mandatory for the entire allocation acquired.
 - For all other cases, the development criteria specified in section **Chyba! Nenalezen zdroj odkazů.** of the Call for Offers are mandatory for the entire allocation acquired.
- In the event of a failure to meet the specified development criteria, it is considered that the condition has not been met for the entire frequency allocation acquired on the basis of this tender within the same frequency band.

The Office will check satisfaction of the terms and conditions of the practical use of radio frequencies based on the information supplied by the Holder of an allocation.

The Holder of an allocation shall invariably submit this information not later than at the time of complying with developmental criteria according to sections 7.3.1 and **Chyba! Nenalezen zdroj odkazů.** of the Call for Offers.

7.3.1 Development criteria for the use of radio frequencies in the 1800 MHz band

The following obligations of territorial coverage apply to the allocation of radio frequencies within the 1800 MHz band:

- Within 7 years from the effective date of the decision about radio frequency allocation, the Allocation Holder must cover at least 20% of population of the Czech Republic.

Covering (coverage) is understood as the operation of a public network of electronic communications using own radio frequency allocations in the 1800 MHz band acquired both in this Tender and before that, which is capable to provide a high speed internet access with the required speed, with 75 % probability of indoor reception (indoor coverage) without the use of an external aerial and 85 % probability of indoor reception with the use of an external aerial. The minimum required speed of the service mandatory to meet the coverage requirement is defined as follows:

- within 7 years from the effective date of the decision about radio frequency allocation is the minimum required speed of the service set at 2 Mbit/s (download);
- in the subsequent period is the minimum required speed set at 5 Mbit/s (download).

7.3.2 Development criteria for the use of radio frequencies in the 2600 MHz band

The following obligations of territorial coverage apply to the allocation of radio frequencies within the 2600 MHz band:

- Within 7 years from the effective date of the decision about radio frequency allocation, the Allocation Holder must cover at least 10% of population of the Czech Republic.

Covering (coverage) is understood as the operation of a public network of electronic communications using own radio frequency allocations in the 2600 MHz band acquired both in this Tender and before that, which is capable to provide a high speed internet access with the required speed, with 75 % probability of indoor reception (indoor coverage) without the use of an external aerial and 85 % probability of indoor reception with the use of an external aerial. The minimum required speed of the service mandatory to meet the coverage requirement is defined as follows:

- within 7 years from the effective date of the decision about radio frequency allocation is the minimum required speed of the service set at 2 Mbit/s (download);
- in the subsequent period is the minimum required speed set at 5 Mbit/s (download).

7.4 The change, expiration of validity, passage, transfer or lease of the allocation of radio frequencies

The change, expiration of validity, passage, transfer or lease of the allocation of radio frequencies is regulated in the provisions of Section 22a, 22c, 22d and 23 of the Act.

To ensure that any transfer of the allocation of radio frequencies does not disrupt economic competition or endanger the purposefulness of the use of radio frequencies, Applicants shall accept the undertaking not to transfer to a third party or lease to a third party the radio frequencies that are the subject of this Tender for a period of 7 years as of the date on which the allocation of radio frequencies enters into legal force. This does not preclude cases of sharing the frequencies obtained in cases of building a joint infrastructure if this sharing is not in conflict with the legislation to concern the protection of competition.

No change in the holder of an IO or lease of the rights arising from the IO is permitted in the IO relating to the use of the radio frequencies which are the subject of this Tender for a period of 7 years as of the date on which the allocation of radio frequencies comes into legal force, this in accordance with Section 18(1) (h) of the Act.

It is essential, with regard to the provisions of Section 19(4) and Section 22b (1) of the Act, for the Holder of an allocation (Applicant and/or its successor or any other party to which the allocation of radio frequencies is transferred, passed or leased) to satisfy and, for lasting conditions, continue satisfying for the entire period of duration of the allocation all of the conditions based on which the Applicant is awarded an allocation of radio frequencies and spectrum caps specified in section 6.1 of the Call for Offers. This involves adhering to the obligations accepted in accordance with section 7.7 of the Call for Offers (wholesale offer and refarming) regardless of disposal of the frequencies which the obligations concern. In order to ensure that economic competition is not disrupted or the purposefulness of the use of radio frequencies or another objective of the Tender is not jeopardised and with regard to the provisions of Section 19(4) and Section 22b(1) of the Act, a Holder of an allocation (Applicant and/or its successor or any other party to which the allocation of radio frequencies is passed) must continue to comply with the terms and conditions of the economic independence of the Holders of an allocation of radio frequencies laid down as a condition of participation in section 8.5 of the Call for Offers for a period of 7 years following the date on which the allocation of radio frequencies enters into legal force; a condition that a Business Grouping of which an Existing Operator is a member may hold an allocation of radio frequencies obtained based on this Tender for a period of 7 years as of the date on which the allocation of radio frequencies enters into legal force only through the Existing Operator that obtains the allocation of radio frequencies based on this Tender must also be met.

The procedure of the Office according to Section 23(5) of the Act is not affected by the terms and conditions laid down in this section of the Call for Offers.

7.5 The period for which the allocation of radio frequencies is valid

The allocations of radio frequencies which are the subject of the Tender shall be awarded with validity to **30 June 2029**.

7.6 Terms and conditions arising from international agreements on the use of radio frequencies

The use of radio frequencies is conditional on adherence to the terms and conditions laid down in binding international and bilateral agreements which coordinate the technical parameters of transmitters on the borders of the Czech Republic. The international coordination of radio frequencies of mobile terrestrial services and fixed-line services is governed by the HCM Agreement, as amended¹⁷. Agreements on the mutual coordination of radio frequencies between the Czech Republic and surrounding states take precedence over the HCM Agreement. Such an agreement is currently in place with all surrounding states in the 2600 MHz band.

7.6.1 The terms and conditions of using frequency bands on borders

The terms and conditions of using radio frequencies arising from bilateral agreements with Germany, Austria, Poland and Slovakia are laid down for individual frequency bands as follows:

- The 1800 MHz band:
 - The terms and conditions for the use of radio frequencies in the 1800 MHz band for LTE or WiMAX systems are not part of bilateral agreements. The basic parameters laid down in recommendation CEPT ERC/REC/(08)02 for UMTS systems when coordinating radio frequencies in the 1800 MHz band – these

values are at the level of noise and do not allow for coverage as far as the state border.

- The intensity of the electromagnetic field may not exceed a value of 39 dB μ V/m at a height of 3 metres above the ground in a 5 MHz reference section at the state border.
- The methodology in the HCM Agreement is used for calculations.
- Transmission curves with probability of 50 % of places and 10 % of the time are used for calculations.
- GSM systems can also be operated according to bilateral agreements and recommendation CEPT ERC/REC/ (05)08.
- The 2600 MHz band:
 - The intensity of the electromagnetic field may not exceed a value of 65 dB μ V/m at a height of 3 metres above the ground in a 5 MHz reference section at the state border and a value of 39 dB μ V/m at a distance of 5 km from the state border. For TDD systems, these values do not guarantee uninterrupted operation close to state borders without bilateral network synchronisation.
 - The methodology in the HCM Agreement is used for calculations.
 - Transmission curves with probability of 50 % of places and 10 % of the time are used for calculations.

7.7 The obligation to provide a wholesale offer and refarming which the Applicant accepts in the course of the Tender

To ensure the practical use of the radio spectrum, the development of competition on the market of new services provided on the radio frequencies which are the subject of this Tender and in order to achieve the other objectives of the Tender set out in section 2 of the Call for Offers, Applicants accept the obligation to provide a wholesale offer and undertake refarming during the Tender, this under the terms and conditions described hereunder in this section 7.7 of the Call for Offers.

7.7.1 Wholesale offer

When submitting an Application to take part in the Tender, Applicants accept the obligation to provide a wholesale offer.

In order to comply with the obligation to provide a wholesale offer according to this section 7.7.1 of the Call for Offers, Applicants undertake, for a period of 12 years as of the date on which the allocation of radio frequencies enters into legal force, at the call of a party interested in a wholesale offer, to deal with each interested party in good faith in relation to entering into an agreement to afford access to the public communication network operated with the use of the radio frequencies obtained based on this Tender that respects and enables (with consideration for the technical possibilities of the affected network) the provision of independent and blanket electronic communication services by the interested party. The price of enabling access to its own network must primarily correspond to this and must be commensurate to the extent (in the sense of the share of its own infrastructure) and the nature of the services that are to be provided through the host network. The price for the provision of a wholesale offer according to this section 7.7.1 of the Call for Offers must allow an equally-as-effective operator to undertake in profitable business on the subordinate market or markets.

For the purpose of complying with the obligation to provide a wholesale offer according to this section 7.7.1 of the Call for Offers, Applicants undertake to act in accordance with this section 7.7.1 of the Call for Offers with potential interested parties on enabling access (in the form of a wholesale offer) to the public communication network operated

with the use of the radio frequencies allocated based on this Tender regardless of the purpose and scope of services and the intended way of using their public communication network for the provision of 4G services by the interested party; i.e. they are, in particular, obliged to act with potential virtual mobile operators (MVNO), whether with MVNE, Full MVNO or MVNO with a smaller share of its own infrastructure and operating systems.

For the purpose of complying with the obligation to provide a wholesale offer according to this section 7.7.1 of the Call for Offers, the successful Applicants undertake to offer, at their request, the parties interested access to their public communication network operated with the use of the radio frequencies allocated based on this Tender, allowing interested parties to provide services through this network to the same extent and quality as the successful Applicant provides its own final customers, unless the interested party asks the Applicant for a lesser extent or quality of services based on a wholesale offer. If the scope of services which the successful Applicant provides its customers with the use of the radio frequencies allocated in this Tender is broadened or otherwise amended in the course of the duration of the contract on the provision of a wholesale offer, the Applicant undertakes, at the request of the interested party, to also broaden or amend the scope of the wholesale offer or the contract entered into on its basis such that the interested party has at every instant of the duration of the wholesale offer or contract entered into on its basis the opportunity to provide services of at least the same extent as the applicant which is the provider of the wholesale offer, if the interested party requests as such. In the case of broadening the wholesale offer, the Applicant may, if justifiable, also request the corresponding broadening of the items of the price of the wholesale offer.

The Applicant accepts the obligation to enter into a contract based on the obligation to provide a wholesale offer for a period of effect of a minimum length of 2 years, unless the interested party requests a shorter period of effect. If this minimum two-year length of contract runs beyond the period of duration of the obligation of the Applicant, the Applicant undertakes to enter into a contract with a minimum period of effect to the end of the period of effect of its obligation, unless the parties agree on a longer period of effect.

For the purpose of complying with the obligation to provide a wholesale offer according to section 7.7.1 of the Application, Applicants accept the obligation to make and publish in the relevant way a binding reference offer for access to the network in the format, extent and particulars laid down for the reference offer in the provisions of Section 82(4) of the Act, which are regulated according to the present wording of relevant measures of a general nature issued by the Office according to this provision of the Act¹⁸. The Reference offer for compliance with the obligation to provide a wholesale offer shall be defined within the scope of the wholesale services provided, corresponding to a Full MVNO type entity, in that Eligible applicants can request a wider context of wholesale services with a smaller share of own infrastructure and operating systems. The reference offer must comply with the terms and conditions and requirements on compliance with the assumed obligation specified above in section 7.7.1 of the Call for Offers.

Reference offers for compliance with the obligation to provide a wholesale offer must be made and published not later than within 6 months of the date on which the Applicant commences the provision of commercial services via the communication networks to which access is provided within the scope of the obligation.

¹⁸ Currently Measures of a General Nature OOP/7/07.2005-12, as amended by Measures of a General Nature OOP/7/01.2006-1 and OOP/7/07.2011-10.

If the Applicant has already published a reference offer on the grounds that it accepted the obligation to provide a wholesale offer in the 4G Auction 2013 and this offer concerns a public communication network operated using the radio frequencies obtained based on this Tender, the obligation to issue a reference offer according to this section 7.7.1 is considered to have been fulfilled with the issue of a reference offer based on the obligation to provide a wholesale offer accepted by the Applicant according to the terms and conditions of the 4G Auction 2013.

If the Applicant obtains a number of allocations of radio frequencies, all time limits commencing on the date on which the allocation of radio frequencies enters into legal force are counted as of the date on which the first allocation of radio frequencies obtained based on this Tender enters into legal force.

In the event that not all the technical parameters of the reference offer are known within the above-mentioned time limits, the Applicant undertakes to publish a reference offer based on reasonable assumptions. For data about which the Applicant cannot make any reasonable assumptions, the Applicant undertakes to present a full list of such information in the reference offer and interested parties must present this together with the application to enter into a contract based on a reference offer so that the Applicant can complete the reference offer to become a full draft contract which respects the parameters presented by the interested party. The Applicant undertakes to submit such a complete draft contract to each interested party not later than within 3 months of the presentation of the application of the interested party containing all information required in the reference offer. In the event that the application of an Eligible Applicant (interested party) for a wholesale offer does not contain all the particulars required in the reference offer, the Applicant obliged to provide a wholesale offer shall call on the interested party to supplement the application. In such case the period of notice of 3 months is interrupted at the time of delivery of the call to the Eligible Applicant for a wholesale offer and shall continue from the time of delivery of the supplemented application to the Applicant.

An Applicant that has accepted the obligation to provide a wholesale offer is obliged to maintain the terms and conditions of contractual relations entered into based on the obligation to provide a wholesale offer (in particular the size of the agreed prices) for the entire period of duration of contractual relations in accordance with the terms and conditions of the assumed obligation.

Applicants undertake not to discriminate between individual interested parties and/or other parties with which they have entered into or shall enter into a contract to concern access in the form of a wholesale offer as part of the obligation to provide a wholesale offer without justification, meaning without objectively justifiable reasons.

Applicants that are asked to provide a wholesale offer according to section 7.7 of the Call for Offers undertake to inform the Office in writing of each application for the provision of a wholesale offer which they receive from the party interested in a wholesale offer and of the basic parameters of each application within 15 work days of the date of receiving the relevant application. The successful Applicants according to the preceding sentence subsequently undertake to regularly, a minimum of once a month, inform the Office of the development of negotiations regarding the provision of a wholesale offer. The other duties to inform which those parties have towards the Office shall not be affected by this obligation.

The information provided according to the preceding paragraph may not be withheld from the Office with regard to its confidential nature.

Each Applicant accepts an unconditional obligation that it will not place any administrative, legal or other barriers against parties interested in a wholesale offer in the process of negotiating the conclusion of a contract based on the obligation to provide a wholesale offer and that it shall not demand the satisfaction of terms and conditions which are not absolutely required for the process of entering into a contract.

The Office favours the situation in which contracts based on the obligation to provide a wholesale offer are entered into based on commercial negotiations.

The Office is prepared to decide on any dispute regarding the compliance of the level of the prices agreed or other terms and conditions of the wholesale offer with the terms and conditions of the obligation to provide a wholesale offer at the request of the parties using the procedure laid down in Section 127 of the Act. In the case that it decides on a dispute regarding the compliance of the level of the prices agreed with the terms and conditions of the obligation to provide a wholesale offer, the Office shall proceed mainly according to the methodology¹⁹ for the determination of prices based on the principle of prohibiting margin squeeze.

Failure to comply with the obligations laid down in the decision to award an allocation in accordance with Section 22b (1) (b) of the Act shall be considered Breach of the obligation to provide a wholesale offer. Should the Office identify any breach of the obligation to provide a wholesale offer, it shall call on the obliged Applicant to arrange for remedy in accordance with Section 22b (1) (b) of the Act.

If the Applicant does not arrange remedy of the breach of the obligation to provide a wholesale offer within the time limit laid down by the Office according to Section 114 of the Act, the Chairman of the Council of the Office shall proceed according to Section 22b of the Act.

The rights of the Office to the use of other statutory instruments are not affected by the provisions of this section 7.7.1 of the Call for Offers.

7.7.2 The obligation of refarming

Applicants are aware that the objective of the Office in this Tender is to ensure the practical use of radio frequencies in the 1800 MHz band by uniting the allocations of radio frequencies of individual Holders within this band. It is essential in ensuring this objective for the “refarming” of the 1800 MHz band to occur after the issuance of allocations of radio frequencies in this band, meaning the re-distribution of the radio frequencies allocated in this band based on this Tender and based on previous tenders such that the wholeness of all allocations of radio frequencies issued to one Holder of allocations in this band is ensured. In order to achieve this objective, each Applicant to which an allocation of radio frequencies in the 1800 MHz band is issued based on this Tender (hereinafter referred to as an “Allocation of radio frequencies based on the Tender”) undertakes to submit to the Office an application for a change to the Allocation of radio frequencies based on this Tender which complies with all statutory requirements and which complies with the requirements of content described in this section 7.7.2 of the Call for Offers; this it shall do at the request of the Office according to section 11.1 of the Call for Offers and in accordance with Section 22a of the Act not later than within 30 days of the date of delivery of the call of the Office. In order to achieve this objective, each Applicant to which an allocation of radio frequencies in the 1800 MHz band was issued before the date of the commencement of this Tender (hereinafter referred to as an “Existing Allocation of radio frequencies”) undertakes to submit to the Office a full application for a change to the Existing Allocation of radio frequencies which complies with all statutory requirements and which complies with the requirements of content described hereunder in this section; this it shall do at the request of the Office according to section 11.1 of the Call for Offers and in accordance with Section 22a of the Act not later than within 30 days of the date of delivery of the call of the Office. Content of the Applications according to this obligation: a change to the specification of radio frequencies such that, when maintaining the overall scope

¹⁹ An up-to-date version of this methodology is available at http://www.ctu.cz/cs/download/ostatni/cenove_vyhodnocovani_postup_ctu_cj_ctu-43738_2011-611.pdf (Czech language only)

and the other content of the allocation, individual allocations in the 1800 MHz band (Allocations of radio frequencies based on the Tender and Existing Allocations of radio frequencies) are arranged in such a way that individual Holders of allocations of radio frequencies or their legal successors have undivided, consecutive sections of radio frequencies without interruption.

The Office admits that all Allocation Holders in the 1800 MHz band may agree on allocation of their individual compact frequency sections.

The refarming procedure shall be based on the following principles:

1. The Allocation Holders in the 1800 MHz band will be given an opportunity to agree on the division of the 1800 MHz band within 30 days following the publication of information on the target division of frequencies in the 1800 MHz in accordance with section 11.1 of the Call for Offers. Such agreement must be made by all Allocation Holders in the 1800 MHz band freely and only in order to effectively divide frequency segments. The distribution of frequencies based on such agreement must respect the rule of frequency allocation coherence. The Office expects that on the basis of such agreement, a proposal confirmed by all Allocation Holders in written form and showing the distribution of all frequency sections in the 1800 MHz band will be submitted to the Office within the time period specified in this paragraph above along with requests for 1800 MHz spectrum allocations amendments.
2. In case the Office receives no such agreement and or requests within the period specified in para 1, the frequency segments in the 1800 MHz band will be arranged in the following order (starting from the beginning of the 1800 MHz band):

- O2 Czech Republic a.s.
- T-Mobile Czech Republic a.s.
- other Holders of radio frequency allocations;
- Vodafone Czech Republic a.s.

or the legal successors of these Holders of allocations.

The requests for amendment to the spectrum allocations shall be based on the above mentioned agreement or from the information about the target division of radio frequencies in the 1800 MHz band (refarming) issued by the Office according to section 11.1 of the Call for Offers.

Applicants undertake to submit an application according to this section in the form appended as Annex 5 to this Call for Offers.

Applicants further undertake, within the scope of proceedings relating to their applications according to this obligation, to take all steps and measures and provide all coercion and cooperation required to ensure that the Office is able to accommodate an application with a final and conclusive decision and change the allocations of radio frequencies of individual Applicants in the 1800 MHz band as is specified above.

Each Applicant shall cover its own costs associated with compliance with the obligation laid down in this section 7.7.2 of the Call for Offers and any subsequent implementation within its own communication network.

8 THE RULES AND THE TERMS AND CONDITIONS OF PARTICIPATION IN THE TENDER (QUALIFICATION)

8.1 Qualification requirements

8.1.1 The general rules of proving qualification

The Office lays down the terms and conditions of participation in the Tender in accordance with the provisions of Section 21(2) of the Act with consideration for meeting the objectives set out in Section 5(2) to (4) of the Act and in accordance with the principles laid down in Section 6 of the Act.

All terms and conditions of participation in the Tender according to section 8 of the Call for Offers must have been satisfied by the time of the passing of the time limit for the submission of the Applications set out in section 8.4 of the Call for Offers. If there is a change in the qualification of an Applicant in the course of this Tender which means or could mean failure to comply with the rules and terms and conditions of participation according to section 8 of the Call for Offers, the relevant Applicant is obliged to report this fact to the Office in writing without delay, not later than within 7 days. If the Applicant ceases to comply with the rules and terms and conditions of participation in the Tender at any time in the course of the Tender, the Office shall decide on its elimination from the Tender.

An Applicant that does not prove satisfaction of the terms and conditions of participation in the Tender not later than within the time limit for the submission of Applications or these terms and conditions or ceases to satisfy these terms and conditions during the Tender shall be called on by the Office to eliminate the shortcomings identified and if the shortcomings are not eliminated within a reasonable time limit specified by the Office, shall be eliminated from further participation in the Tender.

8.1.2 The basic terms and conditions of participation in the Tender

The basic terms and conditions of participation in the Tender are satisfied by an Applicant

- a) against whose assets insolvency proceedings are not being conducted on the date of submission of the Application, nor have such insolvency proceedings been conducted against these assets during the 3 years prior to the submission of the Application, in which a decision on the declaration of bankruptcy was issued, nor has an application for insolvency been rejected on the grounds that the assets were insufficient to cover the costs of insolvency proceedings, nor were bankruptcy proceedings cancelled because the assets were entirely insufficient, nor was compulsory administration introduced according to special legal regulations; the Applicant substantiates this with an **affirmation**;
- b) that is not in the process of being wound up on the date of submitting the Application; the Applicant shall document this with an **affirmation**, and;
- c) that is not, on the date of submitting the Application, registered in the register of persons prohibited from undertaking public contracts; the Applicant shall document this with an **affirmation**.

8.1.3 The specialised and technical terms and conditions of participation in the Tender

The specialised and technical terms and conditions of participation in the Tender are satisfied by an Applicant that, on the date of submission of the Application, is authorised to undertake business in electronic communication according to Section 8 and Section 13 of the Act; the Applicant shall document this with an **affirmation**.

8.1.4 The economic and financial terms and conditions of participation in the Tender

The economic and financial conditions of participation in the Tender are satisfied by an Applicant that, not later than on the final day of the time limit for the submission of the Application according to section 8.4 of the Call for Offers, pays into the bank account of the Office (for the purposes of depositing the guarantee specified in section 4 of the Call for Offers) a Guarantee in the amount laid down in section 8.3 of the Call for Offers and proves this with **confirmation of the bank** of having sent the corresponding amount into the specified bank account of the Office. It must be clear from confirmation that the amount of the Guarantee has been irreversibly deducted from the account of the Applicant and sent to the specified account of the Office. The Guarantee must be credited to the specified account of the Office in full not later than on the final day of the time limit for the submission of the Application according to section 8.4 of the Call for Offers.

8.2 Application for the award of rights to use radio frequencies

8.2.1 The formal particulars of the Application

Applications are submitted on paper in 2 (two) counterparts, one of which may be marked as an original and the second as a copy. The Applicant is responsible for the fact that both counterparts are the same. The original Application must be appended with originals of documents or their officially-authenticated copies. Simple, unauthenticated copies of the relevant documents may be appended to the copy Application. The original Application must be secured against the removal or insertion of pages. The Applicant shall, together with printed documents, also submit a full electronic version of the Application in PDF format on a physical data carrier which does not permit rewriting (for example, CD-R, DVD-R).

If the Application or its annexes includes information whose disclosure to third parties could lead to damage to the justified interests of the Applicant or which could jeopardise or frustrate the development or outcome of the Tender, the Applicant shall append another copy of the Application to its Application which does not contain this information in order that the Office may use this version of the Application for the purposes of file viewing in accordance with Section 21(7) of the Act. In accordance with Section 21(7) of the Act, the version of the Application intended for file viewing may not contain, among other, information about the size of the Guarantee or the Eligibility points of the Applicant. The Applicant shall also append to the Application a report containing a clear list of the information which is to be excluded from file viewing according to Section 21(7) of the Act and brief justification of the exclusion of individual parts of the Application. The Office is not bound by the restriction of information which is, in the opinion of the Applicant, to be excluded from file viewing according to this section 8.2.1 of the Application.

Applications must be made in Czech. Documents and other documents appended to the Application may be in another language with official translation into Czech. Documents appended to the Application in Slovak do not need to be translated.

Applications must be delivered to the address of the registered office of the Office specified in section 4 of the Call for Offers prior to the expiration of the time limit for the delivery of the Application laid down in section 8.4 of the Call for Offers. The original Application and the copy must both be delivered to the Office together in one sealed or otherwise suitably closed envelope on which the Company Registration Number (IČO) of the Applicant is stated, the file number of this Call for Offers and the clear wording "NEOTVÍRAT – VÝBĚROVÉ ŘÍZENÍ 1800 MHZ, 2600 MHZ" (DO NOT OPEN – TENDER 1800 MHZ, 2600 MHZ).

Specimen Application and its Annexes are found in Annexes 1 and 2 of the Call for Offers.

8.2.2 Compulsory annexes to the Application

An Applicant **shall append to the Application all documents required in order to comply with the terms and conditions of participation in the Tender according to section 8.1** of the Call for Offers, as well as:

- a) In the case of legal persons, **a copy of an entry in the Commercial Register** or another, similar register having been issued not more than 90 days prior to the final day of the time limit for submitting Applications according to section 5 of the Call for Offers;
- b) in the case of legal persons whose Application is not signed by a person or persons authorised to do so in accordance with an entry in the Czech Commercial Register, **power of attorney** proving the authorisation to sign the Application of the natural persons having appended their signature;
- c) in the case of Applicants who are part of a business group, **a clear graphical representation of the business group which the Applicant is a member of, with indication of the controlling entity and the amount of individual shares (participation) of all members of the business group within the Applicant in excess of 10%**, regardless of whether it is share in the Applicant held directly or indirectly. If the proportion within the Applicant directly or indirectly held through one or more trusts (trust funds)²⁰ or other similar construct in the Czech or foreign law (e. g. foundation), then the tenure or ownership is counted towards the mentioned 10% threshold, and the Applicant should specify not only the information on the person of the trustee (trustee), but also information about the person or persons for whose benefit was the trust created, respectively, who must be from the trust fulfilled ("trust beneficiary"), and that through such a "trust beneficiary "directly or indirectly, holds / has a stake in the Applicant exceeding in the aggregate 10% limit. If in the ownership structure of the Applicant or the Applicant company holding the stake above the 10% threshold is a publicly quoted company, the applicant shall state the shares in this company based on the latest available data, e. g. the last general meeting of shareholders or a report submitted to the exchange. Furthermore, the Applicant shall submit an affirmation that material provided under this paragraph corresponds to reality;
- d) **a declaration of consent to the right of the Office to use all data presented in the Application and its annexes for this Tender** signed by a person or persons authorised to act on behalf of the Applicant or represent it;
- e) **a declaration of having accepted the obligations which the Applicant accepts in the course of the Tender, specified in section 7.4 and 7.7 of the Call for Offers** in the form of Annex 2 to the Call for Offers, signed by a person or persons authorised to act on behalf of the Applicant or represent it.

8.2.3 The bindingness of Applications

The Applicant is authorised to change or retract its Application at any time prior to the passing of the time limit for submitting Applications according to section 8.4 of the Call for Offers. An Application must be signed by a person or persons authorised to act on behalf of the Applicant or represent it and must be delivered to the registered office of the Office as specified in section 4 of the Call for Offers.

²⁰ Trust based on foreign legislation (Trust Fund pursuant to Act 89/2012 Coll., Civil Code) and other similar types of funds, managed by the trustee (trustee) for the benefit of another person (Beneficiary / beneficial owner).

Changes to an Application initiated by the Applicant are not permissible following the passing of the time limit for submitting Applications according to section 8.4 of the Call for Offers, neither will omission of action be waived.

8.3 Guarantee

Participation in the Tender according to section 8.1.4 of the Call for Offers is conditional on the payment of a financial Guarantee (“the **Guarantee**”). The Guarantee is intended to secure the obligations of the Applicant to pay the Total Price or, for unsuccessful Applicants, to secure the obligation to pay the Difference and to secure the obligations of the Applicant according to section 12 to refrain from action which would jeopardise or frustrate the course or result of the Tender in accordance with Section 21(6) of the Act.

The size of the Guarantee paid by the Applicant corresponds to the number of Eligibility points which the Applicant states in the Application. The total size of the Guarantee is calculated as a multiple of CZK 5,000,000 (five million Czech koruna) and the number of Eligibility points stated in the Application. The number of Eligibility points corresponding to individual Auction Block categories is specified in the section 9.1 of the Call for Offers

To ensure the adequacy of the size of the Guarantee in relation to the secured obligations of the Applicant within the scope of the Tender, the Office has determined that the minimum size of the Guarantee is CZK 100,000,000 (one hundred thousand Czech koruna), which corresponds to 20 Eligibility points.

The Office has also determined the maximum number of Eligibility points as limiting the total quantity of radio frequencies obtained within the scope of the Tender to 100 points, which corresponds to a maximum Guarantee of CZK 500,000,000 (five hundred million Czech koruna).

The Guarantee must be paid by credit transfer and must be credited to the account of the Office intended for the payment of the Deposit specified in section 4 of the Call for Offers prior to the passing of the time limit for submitting Applications according to section 8.4 of the Call for Offers. The Applicant must use as the payment identification code (“variabilní symbol”) its Company Registration Number (“IČO”) (or other identification data for Applicants that do not have a Company Registration Number). All bank charges and other costs associated with the payment of the Guarantee shall be covered by the Applicant. The Applicant is responsible for the fact that the Guarantee shall be credited to the account of the Office on time and in full.

If the Guarantee is not paid in relation to the Application on time, this will be considered failure to satisfy the terms and conditions of participation in the Tender and the Office shall decide to eliminate the Applicant from further participation in proceedings. Lodging an appeal against this decision shall not have suspensory effect. The account used for the depositing of the Guarantee does not accrue interest.

The Guarantee shall be forfeited in the following cases:

- a) the Office calls on a successful Applicant, based on the results of the Auction, to pay the Total Price and the Applicant fails to pay the Total Price or its part within the time limit laid down in section 10 of the Call for Offers, or;
- b) the Office calls on an unsuccessful Applicant, based on the results of the Auction, to pay the Difference and the Applicant fails to pay the Difference or its part within the time limit laid down in section 10 of the Call for Offers, or;
- c) the Applicant commits an act according to section 12 of the Call for Offers.

A forfeited Guarantee according to this section of the Call for Offers becomes income for the national revenue of the Czech Republic.

If there is no reason for the forfeiture of the Guarantee, the Guarantee shall be returned to the Applicants:

- a) following the time at which a decision to eliminate the Applicant from further participation in the Tender according to Section 21(2) of the Act or according to section 8.5 of the Call for Offers enters into legal force;
- b) following the time at which a decision to eliminate the Applicant from further participation in the Tender according to Section 21(6) of the Act enters into legal force;
- c) following the time of the rejection of the Application of an unsuccessful Applicant according to Section 21(8) of the Act entering into legal force;
- d) following the time at which the decision of the Office to cancel the Tender enters into legal force, or;
- e) following the payment of the Total Price according to section 10 of the Call for Offers.

The Guarantee shall be returned to Applicant into the bank account from which it was sent to the Office, not later than within 14 days of the date on which one of the above-mentioned situations occurs.

The Office shall cover the costs associated with returning a Guarantee.

8.4 The time limit for submitting Applications in the Tender

Applications must be delivered to the Office by **March 22, 2016, 12:00 noon**.

Applicants may send their Applications to the address of the registered office of the Office according to section 4 of the Call for Offers or submit it in person to the registered office of the Office on weekdays from 9 a.m. to 3 p.m. and on the final day for the submission of Applications from **9 a.m. to midday**.

8.5 Multiple participation in the Tender, participation on behalf of a Business Grouping

Only entities that are economically independent of each other may take part in the tender. Business Groupings may only submit one Application in this Tender through only one entity.

If an Existing Operator is a member of a Business Grouping, this Business Grouping may only participate through this Existing Operator.

In the event of submission of Applications to this Tender by more than one member of a Business group or by an Applicant with a relation to a Business group, whose members include a Current operator, by other member of the Business group than the Current operator, the Office shall decide to eliminate all Applicants who are members of this Business group from participation in the Tender.

8.6 Opening envelopes containing Applications in the Tender

The opening of all envelopes containing submitted Applications and delivered on time shall proceed on the work day following the day on which the time limit is determined for submitting Applications in the Tender according to section 8.4 of the Call for Offers, i.e. at **9 a.m. on March 23, 2016**.

The opening of envelopes shall be attended by a notary, who shall write a notarial deed regarding the entire process, and by the members of the Selection Committee. All Applicants that submit Applications on time may also attend the opening of envelopes, in that only 1 person authorised to perform this activity based on written power of attorney may attend on behalf of each Applicant. The Office shall open individual envelopes in the presence of the Selection Committee successively according to serial

number and shall check for each that it complies with **the following requirements as placed on an Application**, i.e.:

- a) whether the Application has been written in Czech language and whether annexes to the Application that may be in other languages are accompanied by an official translation (this does not apply to annexes in Slovak language);
- b) whether the Application and all relevant annexes have been signed by persons authorised to do so, and;
- c) whether the Application comprises all parts and annexes required in this Call for Offers.

The Office shall inform the Applicants in attendance, after checking compliance with the above-mentioned requirements for each Application, of the identification data of the Applicant whose Application has been checked and information on whether it complies with the above-mentioned requirements.

The Office may call on Applicants to clarify, correct or supplement, in writing, the submitted information or documents that prove compliance with the above-mentioned requirements placed on Applications.

The Applicant undertakes to accommodate this request within a reasonable time limit which the Office determines for it in which to do so. Further participation by the Applicant in the Tender is conditional on accommodating the request of the Office.

The Office shall decide to eliminate from participation in the Tender those Applicants that have submitted an Application that the Office determines, based on the recommendations of the Selection Committee, does not comply with the above-mentioned requirements placed on an Application and that have not clarified, corrected or supplemented the submitted information or documents proving compliance with the above-mentioned requirements placed on Applications within the time limit provided even following the call of the Office to do so.

The Office shall subsequently publish on its website a list of the Applicants whose Applications it has determined comply with the above-mentioned requirements placed on Applications.

8.7 The evaluation of Applications

The Office, based on the recommendations of the Selection Committee, shall evaluate whether the Applications not eliminated according to the preceding section 8.6 of the Call for Offers comply with the terms and conditions laid down for participation in the Tender according to section 8.1 of the Call for Offers.

The Office may call on Applicants to clarify, correct or supplement, in writing, the submitted information or documents proving compliance with the terms and conditions of participation in the Tender according to section 8.1 of the Call for Offers.

The Applicant undertakes to accommodate this request within a reasonable time limit which the Office determines for it in which to do so. Further participation by the Applicant in the Tender is conditional on accommodating the request of the Office.

The Office shall subsequently send **confirmation of entry in the Auction** or a **decision on elimination from further participation in the Tender** according to Section 21(2) of the Act to individual Applicants according to the result of this evaluation. The Office shall invariably state in the decision to eliminate an Applicant from further participation in proceedings according to the preceding sentence the reason for which the Application of the Applicant has been eliminated. Lodging an appeal against this decision shall not have suspensory effect, in accordance with Section 21(2) of the Act.

The Office shall subsequently publish a list of the Applicants that may participate in the Auction. In the case of doubt, the Office reserves the right to defer the publication of the list of Applicants until such time as any doubts have been eliminated.

9 THE AUCTION

9.1 The subject of the Auction

Auction Block Category	Frequency band	Frequencies [MHz]	Auction Blocks	Spectral limit	Minimum price [millions of CZK per block]	Activity points [points per 1 block]
A	1800 MHz paired spectrum	1805.1–1805.3/ 1710.1–1710.3 & 1842.3–1845.0/ 1747.3–1750.0	2 abstract blocks 2×2.9 MHz	2×30 MHz in aggregate with the radio frequency allocation in the 1800 MHz band already held by the Applicant	75.0	10
		1855.0–1857.9/ 1760.0–1762.9				
B		1845-1855/ 1750-1760	2 abstract blocks 2×5 MHz		130.0	20
C	2600 MHz paired spectrum	2680-2690 / 2560-2570	1 specific block 2×10 MHz	Not determined	138.0	20
D	2600 MHz unpaired spectrum	2570-2620	2 abstract blocks 25 MHz	Not determined	93.0	10

9.2 Basic information

The Auction is the part of the Tender whose objective it is to determine the price and the Holders of the individual sections of radio frequencies that are the subject of this Tender.

The Auction is divided into 2 stages:

1. The Auction Stage – the stage of the Auction in which Auction Blocks are divided among the Participants in the Auction that offered the highest price for individual Auction Blocks (the Winners of the Auction) using the SMRA auction method;
2. The Distribution of Frequencies – the stage of the Auction at which specific sections of the radio spectrums being offered are distributed to the Winners of the Auction to an extent and in a structure which corresponds to the Auction Blocks they won at the Auction Stage.

The full terms and conditions of the Auction are defined in the Auction Regulations, which constitute Annex 4 to the Call for Offers.

9.3 The ending of the Auction

The Office shall inform all Applicants of the ending of the Auction and of the distribution of radio frequencies to the Winners of the Auction using the procedure laid down in section 7 of the Auction Regulations.

10 THE PROCEDURE EMPLOYED BY THE OFFICE AFTER ENDING THE AUCTION

The Office shall decide on the result of the Tender based on the recommendations of the Selection Committee, presented in the form of a report on the course of the Auction and its results. The report shall comprise an overview of all Applications received, the result of the Auction and reasoning. This report is approved with a majority of the votes of the members of the Selection Committee, shall be confirmed with their signatures and shall be transferred, together with all documents, to the Office within 30 days of the ending of the Auction.

Following the presentation of the report of the Selection Committee, the Office shall decide on the result of the Tender using the procedure laid down in Section 21(8) of the Act.

The Office shall call on unsuccessful Applicants for whom an obligation has been established as arising from the use of the possibility to Withdraw the Highest Offer to pay the Difference. The total amount of the Difference must be paid in Czech koruna into the account intended for the payment of the price for awarding the right to use the radio frequencies stated in section 4 of the Call for Offers. The Company Registration Number (IČO) of the Applicant shall be inserted as the payment identification code ("variabilní symbol") for payment. The amount must be paid not later than within 15 days of the date of delivery of the call of the Office to pay. The amount is considered to have been paid with its crediting to the specified account of the Office. Provisions on the forfeiture of the Guarantee and other sanctions which the Office may apply in the case of delay in payment shall remain unaffected. In the case of paying only part of the Difference, the Office shall proceed in the same way as for payment of only part of the Total Price, in that the paid part of the Difference shall not be returned.

The Office shall reject the Applications of unsuccessful Applicants based on the results of the Auction in the report of the Selection Committee and shall do so within two months of the ending of the Auction. The Office shall call on the successful Applicants to pay the Total Price (including any Difference) following the time at which the decision to reject the Applications of unsuccessful Applicants enters into legal force. The Chairman of the Council of the Office shall decide within 30 days of the payment of the Total Price on the awarding of an allocation of radio frequencies according to Section 22 of the Act.

The Total Price must be paid in Czech koruna into the account intended for the payment of the price for awarding the right to use the radio frequencies stated in section 4 of the Call for Offers. The Company Registration Number (IČO) of the Applicant shall be inserted as the payment identification code ("variabilní symbol") for payment. The amount must be paid not later than within 15 days of the date of delivery of the call to pay. The amount is considered to have been paid with its crediting to the specified account of the Office.

In the case that an Applicant to which radio frequencies are to be allocated based on the result of the Auction fails to pay the Total Price within 15 days of the date of delivery of the call to do so, the radio frequencies that were to be allocated to such an Applicant in the Tender shall not be allocated. In the case that the Applicant pays only part of the Total Price, the Office shall use the paid amount of the Total Price firstly to offset the payment of any Difference and the remainder to pay the price of the award of the right to use radio frequencies.

In the case that the Applicant pays only part of the Total Price by the end of a time limit of fifteen days of the date of delivery of the call to pay, the Office shall call on the Applicant to pay the remaining part of the Total Price within an additional time limit of three days. If the Applicant fails to pay the remaining part of the Total Price even within this additional time limit, the Office shall proceed as if the Applicant has failed to pay

the Total Price and shall return the part of the price (reduced, as the case may be, by the Difference) to the account from which this part of the price was paid. The Office shall reject an Application in the case of failure to pay part of or the whole Total Price within this set additional time limit. Provisions on the forfeiture of the Guarantee and other sanctions which the Office may apply in such a case shall remain unaffected.

The Guarantee is not used against the obligation to pay the Total Price or its outstanding part (including the Difference).

The Office shall, within one month of the end of the Tender and the awarding of an allocation of radio frequencies to the winning Applicants, publish a report on the course of the Tender and the results. If one or more allocations of radio frequencies is/are awarded based on the Tender, the Office shall publish a comprehensive record (log) of the Auction, made by the Electronic Auction System, within the same time limit.

11 THE PROCEDURE OF THE OFFICE AIMED AT REFARMING THE 1800 MHZ BAND

11.1 Information about the target division of radio frequencies and calls to submit applications

The Office shall issue information on the target division of frequencies in the 1800 MHz band within 10 days of the date on which the final decision on the award of an allocation of radio frequencies based on the Tender enters into legal force. This information will also include a call to for submitting of requests for 1800 MHz spectrum allocations amendments in accordance with section 7.7.2 of the Call for Offers.

If, for objective reasons, it is not possible to achieve a situation in which individual Holders of allocations of radio frequencies or their legal successors have undivided, consecutive sections of radio frequencies in the 1800 MHz band, the Office will state this fact in the information on the target division of frequencies in the 1800 MHz band. The information will in this case not include a call to for submitting of requests for 1800 MHz spectrum allocations amendments according to the previous paragraph. Such a situation could occur, for example, if certain Holders of Existing Allocations of radio frequencies in the 1800 MHz band do not take part in the Tender and do not assume the obligation of refarming according to section 7.7.2 of this Call for Offers or do not win an allocation of radio frequencies in the Tender.

If there are no objective reasons to prevent the unification of individual frequency allocations of Allocation Holders in the 1800 MHz band, the Allocation Holders are obliged to submit written applications for changing of the existing allocations of radio frequencies immediately after the expiration of the period provided by the Office for achievement of spectrum allocation division agreement specified in the section 7.7.2 of the Call for Offers in accordance with the obligation of refarming specified in section 7.7.2 of the Call for Offers.

12 THE RULES OF CONDUCT FOR PARTICIPANTS IN THE COURSE OF THE TENDER

Throughout the Tender, Applicants must refrain from acting in such a way that would jeopardise or frustrate the course or outcome of this Tender. The following are primarily considered such conduct:

- a) the coordination of negotiations in the Tender with another Applicant, in particular in relation to the size of offers in the auction or their spreading (with the exception of the action predicted in section 5 of the Auction Regulations at the Distribution of Frequencies stage);
- b) obstructing or disrupting the course of the Tender;
- c) action which prevents or jeopardises the participation of another entity in the Tender;
- d) breach of the obligations and rules laid down by this Call for Offers and, in particular, the Auction Regulations.

An example of action which the Office would consider to be breach of the rules of conduct in the sense of this section 12 of the Call for Offers would be action resulting in a Participant in the Auction submitting an Offer in the Auction without being prepared to obtain the wanted combination of Auction Blocks that are the subject of the Offer for the offered price (in conflict with the principle of the bindingness of an Offer required in the Call for Offers), for example with the aim of prolonging the Auction, preventing another Participant in the Auction from obtaining the Auction Blocks or otherwise jeopardising or frustrating the course or outcome of the Auction.

In the situation in which a high number of Auction Rounds have already taken place, individual Participants in the Auction do not fundamentally change their own offer strategy and activity in the Auction has narrowed to a limited scope of Auction Blocks, the Office would primarily consider the following conduct to exhibit the features of the conduct described in this section 12 of the Call for Offers (for example, in the form of the action described in points b) or c) above):

- use of the right to Withdraw the Highest Offer for held Auction Blocks in one Auction category (or in Auction categories within one frequency band) in the situation in which another Participant in the Auction ceases to actively submit an offer in this Auction category and loses the relevant Eligibility points, in consequence of which there is (or could soon be) an alignment of supply and demand in this Auction category;
- use of the right to Withdraw the Highest Offer for held Auction Blocks in one Auction category (or in Auction categories within one frequency band) in the situation in which another Participant in the Auction uses the right to Withdraw the Highest Offer in this Auction category, in consequence of which there is (or could soon be) an alignment of supply and demand in this Auction category;
- using the right to Withdraw the Highest Offer in the situation in which the Participant in the Auction is the Holder of Auction Blocks to an extent that corresponds to its number of Eligibility points, etc.

The Office would consider further indications of conduct which violates the rules of conduct in the sense of this section 12 of the Call for Offers to be action whereby a Participant in the Auction submits at the Auction Stage an Offer whose amount is evidently without economic foundation; in particular the situation in which the Participant in the Auction submits an Offer for an Auction Block with a higher price without objective reason, in spite of the fact that it could have made an offer for an Auction Block with a lower price in a comparable Auction category.

In the case of conduct which violates the rules of this section 9 of the Call for Offers, the Office shall decide on the elimination of the Applicant from further participation in

the Tender in accordance with the provisions of Section 21(6) of the Act. In the case that an Applicant is guilty of conduct according to this section 9 of the Call for Offers, the Guarantee of the Applicant paid by the Applicant in accordance with section 8.3 of the Call for Offers shall be forfeited.

13 CANCELLATION OF THE TENDER

The Office is, in accordance with the provisions of Section 21(6) of the Act, authorised to cancel and discontinue this Tender. The Office may take this step at any time at its own discretion. The Tender may be cancelled, among other reasons, if the Tender cannot be carried out as a result of a technical error or other circumstances or this Tender is frustrated by the action of the Applicants or other persons etc.

14 COMMUNICATION DURING THE TENDER

The Office determines the possibilities of mutual communication in issues associated with the Tender in the following cases:

- General communication during the Tender – the Office shall provide information on the progress and deadlines of the Auction on its site on a regular basis.
- Communication at individual stages of the Tender:
 1. before submitting an Application – the chance to communicate with the Office according to section 3 (e) of the Call for Offers in the form of questions and answers to concern this Call for Offers and the particulars of an Application;
 2. the submission of an Application – the delivery of the document “Žádost o udělení práv k využívání rádiových kmitočtů“ (Application for the award of rights to use radio frequencies" according to section 8.2 of the Call for Offers to the Office and the possibility of being present at the opening of envelopes. The Applicant is, at the call of the Office, obliged to provide an additional explanation or supplementation in relation to the Application in the case that something is not clear;
 3. training in the Electronic Auction System and a trial auction, including the possibility of sending questions to concern the progress of the training and trial auctions carried out;
 4. the Auction Stage – information to the extent defined in the Auction Regulations;
 5. dealings relating to the distribution of sections of the radio spectrum.
- Information from the Office during the Tender about concluding individual stages of the Tender and about its results:
 1. information about the commencement of the Tender;
 2. information about evaluation of the qualification part of the Tender and about the results of qualification;
 3. information about the commencement of the Auction Stage of the Tender;
 4. information about the end of the Auction Stage of the Tender and information about the results of the Auction Stage;
 5. information about the end of the Auction and about the distribution of radio frequencies to the Winners of the Auction.
- Communication from the Office during procedure aimed at refarming the 1800 MHz band
 1. information about the distribution of the frequencies in the 1800 MHz band according to section 11.1 of the Call for Offers;
 2. calls to submit applications for the change of allocations of radio frequencies according to section 11.1 of the Call for Offers.

Applicants are obliged to maintain confidentiality as regards all facts which concern their participation in this Tender. According to section 5 of the Auction Regulations, the Office only permits the possibility of the coordination of the Winners of the Auction before dealings regarding the distribution of radio frequencies based on the results of the Auction, with the possibility of agreement on the final distribution of radio frequencies based on the results of the Auction.

The provisions of the Rules of Administrative Procedure and the Act which regulate the particulars of submission and the manner of delivery are not affected by this section 14 of the Call for Offers.

15 LIST OF DEFINITIONS AND ABBREVIATIONS

4G – fourth generation wireless cellular (mobile) technology which complies with the IMT-Advanced (International Mobile Telecommunications-Advanced) specifications specified by the ITU (International Telecommunication Union). 4G services should reach transmission speeds of up to 1 Gbit per second. Among the technology that ought to ensure that IMT-Advanced specifications are met is LTE Advanced (from the 3GPP family) and WiMAX 2.0²¹ (from the IEEE family). LTE and Mobile WiMAX (IEEE 802.16e) are among the direct predecessors of 4G technology and wireless Internet access services of a theoretical speed of up to 100 Mbit per second are already offered commercially.

These standards are also included in the definition of 4G services for the needs of this Tender.

4G Auction 2013 – a tender for the award of rights to use radio frequencies to ensure a public electronic communication network in the 800 MHz, 1800 MHz and 2600 MHz bands announced on 15.8.2013.

Act - Act No. 127/2005 Sb. on electronic communication and amending certain related acts (the Act on Electronic Communication), as amended

Activity – the scope of the Offer of the Participant in the Auction in the Auction Round, calculated as the sum of activity points of all Auction Blocks included in the Offer. Each Auction Block has a set number of activity points according to the Auction Block Category under which it is classified. The activity of a Participant in the Auction in an Auction Round may not exceed its Eligibility.

Allocation of radio frequencies based on the Tender – has the meaning defined in section 7.7.2 of the Call for Offers.

Applicant – an entity that submits an Application

Application – an application for the award of rights to use radio frequencies according to Section 21 of the Act

Auction – in the form of evaluation of applications for the award of rights to use radio frequencies. The Auction is the part of the Tender for the awarding of rights to use the radio frequencies that are the subject of this Tender. The aim is to determine the price and the Holders of individual sections of radio frequencies. The Auction is conducted in two stages: the Auction Stage and the Distribution of Frequencies Stage.

Auction Block – a radio spectrum block that is offered in the Auction. The sections of radio frequencies that are the subject of the Tender correspond to individual blocks of the radio spectrum. In the case that an Auction Block is defined as specific, a specific section of radio frequencies is then assigned to that block. In the case that the Auction Block is defined as abstract, a section of radio frequencies of a set size that is not specified in more detail is then assigned to this block; a specific section of radio frequencies will be allocated to such a block based on the second stage of the Auction – the Distribution of Frequencies.

Auction Block Category – a set of Auction Blocks of the same size and technological specification from one frequency band.

Auction Category – see Auction Block Category.

Auction Regulations – a document which lays down the rules of the Auction Stage and the Distribution of Frequencies Stage. This document constitutes Annex 4 to the Call for Offers.

²¹ Marked Wireless MAN-Advanced and corresponding to IEEE 802.16m standard.

Auction Round – Participants in the Auction may offer a price for the individual Auction Blocks offered in the Auction within an Auction Round. Each Participant has the opportunity to make only one Offer in an Auction Round. The Electronic Auction System will determine the Highest Bidder and the size of the Highest Offer for all Auction Blocks offered at the end of each Auction Round according to the rules laid down in Annex 4 to the Call for Offers.

Auction Stage – the stage of the Auction in which Auction Blocks are distributed among the Participants in the Auction using the SMRA auction method. The Auction Stage is divided into several Auction Rounds.

BEM – “Block Edge Mask”, the spectral block edge mask.

Business Grouping – complies with the definition for business groupings according to the provisions of Section 71 and subs. of Act No. 90/2012 on Business Corporations and Associations (Act on Business Corporations), in particular controlling and controlled company, managing and managed company constituting a concern, influenced companies or companies acting in concert. Parties to the benefit of which a trust²² or other similar construct of a foreign legal order (for example, a foundation) has been created or to which performance is to be provided from a trust are considered members of the Business Grouping of which the Applicant is a member.

Call for Offers – the document entitled “Call for Offers for the award of rights to use radio frequencies to ensure a public electronic communication network in the 1800 MHz and 2600 MHz bands”

CEPT – European Conference of Postal and Telecommunications Administrations

Commission – the European Commission is one of the main bodies of the European Union to represent and defend the interests of the Union as a whole. The Commission prepares proposals for new European legislation and is in charge of carrying out EU policies and using the financial resources of the Union.

Difference - the difference of prices according to section 4.4.6 of the Auction Regulations arising from the use of the possibility of Withdrawing the Highest Offer.

Digital Czech – the “Státní politiky v elektronických komunikacích – Digitální Česko” (State Policies in Electronic Communications – Digital Czech) document, the purpose of which is to evaluate the current level of availability and development of selected areas of electronic communication in the Czech Republic with the greatest potential growth and propose the required tools to comply with realistic objectives that would ensure adequate support for the economic, cultural and social development of Czech society. The document was approved by the Government of the Czech Republic based on Government Resolution 50 of 19 January 2011. This document was updated with “Digitální Česko v. 2.0, Cesta k digitální ekonomice” (Digital Czech version 2.0, the Path to a Digital Economy), approved by the Government of the Czech Republic based on Government Resolution 203 of 20 March 2013.

Distribution of Frequencies – the stage of the Auction whose aim it is to allocate specific sections of radio frequencies to the Winners of the Auction.

Electronic Auction System / EAS – an information system that enables the organisation and assurance of the Auction Stage via remote access.

²² A trust is understood to be a structure according to foreign legal regulations (a trust in accordance with Act No. 89/2012 Sb., the Civil Code), and other funds of a similar type administered by the trustee to the benefit of another person (beneficiary / beneficial owner).

Eligibility – the eligibility of a Participant in the Auction to carry out an Offer in an Auction Round. Numbers of Eligibility points determine the maximum number of active points used for submitting an Offer in an Auction Round.

Eligible Applicant – a person/entity interested in access to the network based on the Commitment of national roaming who fulfils the conditions set out in section 5.7.1 of Call for Offers for the awarding of rights to use radio frequencies to ensure the public communication network in the 800 MHz, 1800 MHz and 2600 MHz bands⁴

ETSI – “European Telecommunications Standards Institute”

EU - European Union

Existing allocation of radio frequencies – has the meaning defined in section 7.7.2 of the Call for Offers.

Existing Operator – a legal or natural person that, on the final day of the time limit for submitting Applications laid down in section 8.4 of the Call for Offers, is the Holder of an allocation of radio frequencies in the 800, 900 MHz, 1800 MHz, 2100 or 2600 MHz bands.

FDD – “Frequency Division Duplex”

Full MVNO – Full MVNO is the term used to indicate a type of virtual mobile operator that uses its own infrastructure to provide services to its customers, with the exception of a radio access network, which it leases based on a wholesale contract with a host operator. The Full MVNO ensures the remainder of the infrastructure and the operating systems, such as the network infrastructure, including GMSC and HLR and service provisioning systems (SMSC, MMSC, GGSN, IN, etc.), and all related processes (billing, customer care, marketing, sales) with its own resources outside the scope of the wholesale contract. A Full MVNO therefore practically has full control over the quality of the services it provides and issues its own SIM cards with a special mobile network code (MNC).

GPRS – “General Packet Radio Service”, i.e. a mobile data service operated on the GSM system.

Guarantee – a monetary Guarantee paid by the Applicant according to the terms and conditions laid down in section 8.3 of the Call for Offers. Participation in the Auction is conditional on the payment of the Guarantee.

Highest Bidder– the Participant in the Auction that submits the Highest Offer for an Auction Block within an Auction Round and that is designated the Highest Bidder for the relevant Auction Block after evaluation of the Auction Round according to the rules laid down in the Auction Regulations.

Highest Offer – the Offer for an Auction Block with the highest price in the relevant Auction Round.

Holder of an Allocation – a Winner of the Auction that complies with all the terms and conditions of the Tender and to which an allocation of the radio frequencies that are the subject of this Tender is awarded.

IO – individual authorisation to use radio frequencies.

ITU – “International Telecommunication Union”

MVNE – “Mobile Virtual Network Enabler”, is a company that operationally ensures services for virtual mobile operators, such as connection to the operating and commercial systems of the host operator and administration, operation and support of required network elements and information systems (OSS/BSS), billing etc.

MVNO – “Mobile Virtual Network Operator”, a virtual mobile operator, meaning a company that provides mobile electronic communication services to end users with the use of the network of the host public communication network operator. The services of

the host public communication network operator are provided to MNVO based on a wholesale contract.

Obligation to provide a wholesale offer – the obligation of an Applicant to provide, in accordance with the terms and conditions laid down in section 7.7 of the Call for Offers, access to the public communication network operated by the Applicant with the use of the radio frequencies obtained based on this Tender to an interested party that requests the facilitation of access to this network for the purpose of providing its own electronic communication services through the network of the Applicant.

Offer – a binding price offer submitted by a Participant in the Auction within an Auction Round for a selected combination of Auction Blocks.

Office - Czech Telecommunication Office. Established by the Act on 1 May 2005 as the central administrative body for the performance of state administration in the matters laid down by the Act, including market regulation and determining the terms and conditions for undertaking business in the sphere of electronic communication and postal services.

Participant in the Auction - an Applicant that complies with the qualification conditions according to section 8 and that has received confirmation of entry in the Auction from the Office.

PVRS - the Radio Spectrum Use Plan (PVRS) is issued by the Czech Telecommunication Office, as the competent body of state administration according to Section 108(1) (b) of the Act based on the results of public consultation conducted according to Section 130 of the Act, a decision by the Council of the Office according to Section 107(8) (b) (2) and in relation to the execution of Section 16(2) of the Act through measures of a general nature.

PVRS 12 – The part of Radio Spectrum Use Plan no. PV-P/12/06.2015-3 for frequency band 1700-1900 MHz.

PVRS 14 – The part of Radio Spectrum Use Plan no. PV-P/14/11.2010-15 for frequency band 2200-2700 MHz

Qualification – the stage of the Tender in which consideration is made of whether Applicants comply with the rules and terms and conditions of participation in the Tender defined in section 8 of the Call for Offers.

Radio Spectrum Policy - Decision of the European Parliament and of the Council establishing a multi-annual radio spectrum policy programme

RSC – Radio Spectrum Committee (a body of the Commission)

RSPG – Radio Spectrum Policy Group (a body of the Commission)

Rules of Administrative Procedure – Act No. 500/2004 Sb., the Rules of Administrative Procedure, as amended

Selection Committee – the three-member advisory body of the Office appointed by the Chairman of the Council of the Office in accordance with Section 146(6) of the Rules of Administrative Procedure. The Selection Committee is appointed before the Call for Offers.

SMRA – Simultaneous Multiple Round Auction (SMRA)

TDD – “Time Division Duplex”

Tender – the tender aimed at awarding the rights to use radio frequencies in the 1800 MHz and 2600 MHz bands announced in this Call for Offers.

Total Price - the sum of the Winning Offers of the Applicants and any Difference.

Winner of the Auction – a Participant in the Auction that is the Highest Bidder for an Auction Block according to the terms and conditions of the Auction Regulations after the final round of the Auction Stage.

Winning Offer – the Offer submitted by a Winner of the Auction in the final Auction Round.

Withdrawing the Highest Offer – the opportunity of a Participant in the Auction to withdraw the Highest Offer for one or more Auction Blocks for which it is the Highest Bidder based on the previous Auction Round according to the terms and conditions of section 4.4.6 of the Auction Regulations.

16 LIST OF ANNEXES

Annex 1 Specimen form, "Application for the award of rights to use radio frequencies"

Annex 2 - Declaration of the acceptance of obligations by the Applicant

Annex 3 - Calculation and measurement for the purposes of checking the coverage of the territory by the signals of mobile broadband data networks

Annex 4 Auction Regulations

Annex 5 - Specimen form, "Application for a change of frequency allocations"

Jaromír Novák
Chairman of the Council of the
Czech Telecommunication Office