



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

Prague, 1 July 2005
Ref.: 29454/2005-610

On the basis of public consultation under Section 130 of the Act No. 127/2005 Coll., on electronic communications and on amendment to certain related acts (the Electronic Communications Act) (the “Act”), and on the basis of the decision of the Council of the Czech Telecommunication Office (the “Office”) under Section 107(8)(b)(2) of the Act and in order to implement Section 85(7) of the Act, the Office as the appropriate state administration body under Section 108(1)(b) of the Act hereby issues this

Measure of General Nature No. OOP/08/07.2005-11
laying down the essentials and conditions of the reference offer of unbundled access to the local loop.

Article 1
Introductory Provisions

This Measure of General Nature (the “Measure”) lays down the essentials of the reference offer of unbundled access to the local loop (the “reference offer”) to be issued by any undertaking designated in accordance with Section 51 of the Act as an undertaking with significant market power on relevant market No. 4 – “wholesale (physical) access to the network infrastructure (including shared or full unbundling of the local loop) at a fixed location”, such an undertaking being subject to the obligation to provide unbundled access to its local loop under Section 51(3)(d) of the Act (the “designated operator”).

Article 2
Conditions and Essentials of the Reference Offer

(1) The reference offer:

- a) defines the network elements to which access is offered, including, but not limited to, access to the local loop (the “local loop”) and access to the local-loop’s non-voice band frequency spectrum in the case of shared access to the local loop;
- b) contains information about the physical access locations and about local loop accessibility in special parts of the access network;
- c) lays down the technical conditions related to access to local loops and the use thereof, including the technical characteristics of the lines in the local loop;
- d) regulates the procedures of local loop ordering and provision.

(2) The reference offer also sets out:

- a) conditions of access to supporting operating systems;
- b) conditions of access to information systems or databases for preparing the orders;
- c) procedure of ordering other services related to local loop unbundling;
- d) procedure of ordering a higher quality of service, e.g. a minimum guaranteed monthly availability in %;

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- e) method of maintenance and the procedure of applying for repair;
- f) the maximum time to repair a failure in the local loop;
- g) the mode of charging for the designated operator's services related to local loop unbundling.

(3) In its part concerning the collocation services, the reference offer:

- a) contains data about the designated operator's premises and about the possibility of collocation on those premises (including physical collocation, or remote, virtual or any other technical collocation solution);
- b) describes the properties of the equipment that can be used for collocation purposes, and the possible limitations thereof;
- c) lays down the security principles, standards and measures to be taken by the designated operator to ensure security;
- d) lays down the conditions for entry on the designated operator's premises in order to examine those premises in the case of rejection of collocation for reasons of lack of capacity;
- e) lays down the conditions for entry on the designated operator's premises in order to make use of the collocation services;
- f) lays down the rules for the allocation of space, if the space on the premises available for collocation is limited.

(4) In its part concerning the delivery conditions, the reference offer sets out:

- a) description of the designated operator's services related to local loop unbundling;
- b) periods in which the requests for service provision and equipment delivery are to be fulfilled;
- c) service quality indicators;
- d) price or the procedure of determination of the price of every service, function or equipment;
- e) payment terms and conditions, including, but not limited to, the form and due date of the payment for the services provided, as well as the terms and conditions for the use of financial or bank guarantees;
- f) repair of failures and procedures to return to the normal standard of service;
- g) contractual penalties for failure to respect, or breach of, contractual obligations, including failure to meet the service delivery date.

(5) The Reference Offer shall also contain rules and procedures:

- a) to be followed within co-operation, communication and delivery (service of documents), including contact persons;
- b) for handing-over technical and operating data;
- c) for securing the confidentiality of information;
- d) for negotiating changes;
- e) to be followed in the resolution of disputes;
- f) for securing receivables and obligations.

(6) The designated undertaking shall publish the local loop unbundling reference offer in a manner enabling remote access on its web pages and shall deliver it at the same time to the Office for publishing it in Telekomunikační věstník (Telecommunications Bulletin).

Article 3 **Entry into force**

This Measure of General Nature shall enter into force on 1 August 2005.

Explanatory Memorandum

To implement Section 85(7) of the Act, the Office issues Measure of General Nature No. OOP/08/07.2005-11 (the “Measure”), laying down the essentials and conditions of the reference offer of metallic local loop unbundling.

This Measure is based on the principles set out in the Act and in European legislation, including, but not limited to, Regulation (EC) No. 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop (the “Regulation”). This Measure was prepared with a view to providing for regulation in the electronic communications area, as defined in Section 4 of the Act, including, but not limited to, creating conditions for proper functioning of competition and for the protection of users and other market participants.

The area of local access is among the least competitive areas of the liberalised telecommunications market (as also referred to in the fifth report of the Commission); this Measure therefore sets out transparent, fair and non-discriminative conditions under which beneficiaries may request access to that market and under which the designated operator must satisfy the requirements raised by the beneficiaries. However, the obligation to unbundle local loops does not mean that designated operators must install entirely new local network infrastructures to meet what the beneficiaries require.

In determining the conditions, the Office relied on its previous experience. The conditions for local loop unbundling are specified on a general basis – a more specific indication of the conditions will be contained in the reference offer of unbundling. If these conditions are not reflected in an appropriate manner, the Office is entitled to intervene in the reference offer.

Article 1 is based on the provisions of Section 86 of the Act and defines the entities to which the Measure applies.

Article 2 determines the conditions and essentials of the reference offer, defined in compliance with the Annex to the Regulation. At the same time it is set out in Article 2 that the reference offer must include certain additional items in order to provide rules for the delivery of information between the entities involved and in order to ensure more certainty for specific fulfilment of mutual obligations.

This Measure does not hinder the designated operator from updating the reference offer as necessary, even several times a year.

On the basis of Section 130 of the Act and in accordance with the Czech Telecommunication Office’s Rules for maintaining consultations with the affected parties at the discussion site, the Office published on 6 May 2005 at the discussion site its draft Measure No. OOP/8/XX.2005, laying down the essentials and conditions of the reference offer of metallic local loop unbundling and an invitation for comments on the draft Measure.

During the public consultation period the Office received comments focused both on the general principles of this Measure and on its individual provisions. Comments that were relevant and could make the text more precise were accepted and the Office reflected them in the final version of the Measure. The comments that required the Measure to be more detailed were only accepted where the need for detailed formulations was supported by previous experience with established processes.

As a response to the comments, Article 2(2)(d) contains a provision on a procedure of ordering a higher quality of service – e.g. a higher availability on a monthly basis – should be included in the reference offer.

One of the comments contained the proposal to indicate in the text of the Measure that lines that are not active, i.e. those on which no electronic communication service is provided, may also be unbundled. However, such a provision would be redundant, because, as follows from the definition of

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the local loop (contained both in the Regulation and in the Act), the obligation to unbundle the metallic local loop also applies to local loops that are not active.

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

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Czech Telecommunication Office
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[*signature*] *D. Stádník*
David Stádník
Chairman of the Council of the
Czech Telecommunication Office