



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

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

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

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1 LIST OF DEFINITIONS AND ACRONYMS

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

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

4G – fourth generation of the wireless cellular (mobile) technology, meeting the IMT-Advanced specification (IMT-Advanced = International Mobile Telecommunications-Advanced) and specified by the ITU (International Telecommunication Union). 4G services should reach transmission speeds of up to 1 Gbit/s. The technologies that should ensure that the IMT-Advanced specification are met include, in particular, LTE Advanced (of the 3GPP family) and WiMAX 2.0¹ (of the IEEE family). The direct predecessors of the 4G technologies include LTE and Mobile WiMAX (IEEE 802.16e); wireless internet access services at theoretical speeds of up to 100 Mbit/s, based on these technologies, are already being offered on a commercial basis. For the purposes this tender, especially for defining the concept of 4G National Roaming, these standards are also included among the definition of 4G services.

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

Activity – the range of the Bid of the auction Participant in the Auction Round calculated as the sum of the activity points of all Auction lots included in the Offer. Every Auction lot has a determined number of activity points according to the Category of auction lots in which it is classified. The activity of an auction Participant in a given Auction round may not exceed his Eligibility.

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

Applicant – a person/entity that submits an Application.

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

Auction – a form of evaluation of applications for the award of the rights to use radio frequencies. Auction is a part of the tender for the award of the rights to use radio frequencies, which represent the object of the tender. Its purpose is to determine the price and identify the holders of the individual radio frequency segments. The Auction takes place in two steps: the Auction Phase and the Frequency Distribution phase.

Auction Categories – see Auction Lot Categories.

Auction Lot – radio spectrum block being offered in the Auction. Radio frequency segments representing the object of the tender correspond to the individual radio spectrum blocks. Where an Auction Lot is defined as a real (concrete) block, a specific radio frequency segment is allocated to such a block. Where an Auction Lot is defined

¹ Referred to as WirelessMAN-Advanced and corresponding to the IEEE 802.16m standard.

as an abstract lot, an unspecified radio frequency segment of defined size will be allocated to this lot; the specific radio frequency segment will be allocated to such bloc only on the basis of the second Auction phase - Frequencies distribution process.

Auction Lot Category – a set of Auction Lots of the same size and the same technological determination from one frequency band. A total of 7 Auction Lot Categories in three frequency bands are offered in total in the Auction.

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

Auction Phase – the phase of the Auction in which the Auction Lots are distributed by the SMRA Auction method among the auction Participants. The Auction Phase is split into several Auction Rounds.

Auction Round – within an Auction Round, the Auction Participants may offer a price bid for the individual Auction Lots being offered in the Auction. Each Auction Participant may submit only one Bid in an Auction Round. At the end of each Auction Round, the Electronic Auction System will define, according to the rules set out in the Appendix 4 to the Invitation to Tender (ITT), the Highest Bid Holder and the amount of the Highest Bid for all Auction Lots offered.

Auction Rules – the document defining the rules of an Auction phase and the Frequency Distribution phase. This document is in the Appendix 4 to the Invitation to Tender.

Auction Winner – an Auction Participant who is after the final round of the Auction phase the Highest Bid Holder for the Auction Lot according to the conditions set out in the Auction Rules.

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

Bid – a binding price offer submitted by an Auction Participant in an Auction Round for a selected combination of Auction Lots.

Business Grouping – complies with the definition of Business Groupings in Section 66a of the Commercial Code, including, in particular, the controlling person and controlled person, persons constituting a concern (holding-type group), linked persons, or persons involved in concerted action. Beneficiaries in whose favor a trust (trust fund)² or any other similar construct was established under a foreign legal system (e.g., a foundation), or who are to be recipients of supply from the trust, are considered members of the Business Grouping whose member the Applicant is.

CEPT – European Conference of Postal & Telecommunications Administrations.

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

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

Difference – the difference between prices, which occurs when the Highest Bid Withdrawal option is used, as described in Chapter 4.4.6 of the Auction Rules.

Digital Czechia – document “National Policy in Electronic Communications – Digital Czechia”, whose object is to evaluate the current situation as to the access to and

² A trust is understood to be a structure based on foreign legal systems (trust fund within the meaning of Act No. 89/2012, the Civil Code) and other funds of a similar type, managed by a trustee in favour of another person (beneficiary / beneficial owner).

development of the selected electronic communications areas in the Czech Republic with the highest growth potential and to propose the tools necessary for ensuring that the realistic targets of providing adequate support to the economic, cultural and social development of the Czech society are met. The document was approved by the Czech Government on the basis of government resolution No. 50 of 19 January 2011. This document was updated by the paper “Digital Czechia in 2.0. The Way to a Digital Economy”, approved by the Czech Republic Government on the basis of the government resolution No 203 of 20 March 2013.

Electronic Auction System – the EAS, an information system that enables to organize and ensure the proper course of an Auction phase via remote access.

Eligibility – Auction Participant authorization to submit bids in an Auction. Round. The numbers of Eligibility points define the maximum number of the activity points that may be used to submit a Bid in an Auction Round.

ETSI – European Telecommunications Standards Institute.

EU – European Union.

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

Frequencies Distribution – phase of the Auction aimed at allocating specific radio frequency segments to Auction Winners.

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

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

Highest Bid – bid with the highest price for an Auction lot.

Highest Bid Holder – an Auction Participant who submitted the highest bid in the Auction Round for an Auction Lot and, on the basis of the Auction Round evaluation, was identified as the Highest Bid Holder for the given Auction Lot according to the rules set out in the Auction Rules.

Highest Bid Withdrawal – option by which an Auction Participant may withdraw the Highest Bid for one or more Auction Lots for which the Auction Participant is the Highest Bid Holder on the basis of the previous Auction Round according to the conditions of Chapter 4.4.6 of the Auction Rules.

Incumbent Operator – legal or natural person that at the last day of the period available for the submission of the Application form defined in Chapter 6.4 of the ITT has been a holder of radio frequencies in the 900MHz, 1800 MHz or 2100 MHz.

IO – individual authorization to use radio frequencies.

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

ITU – International Telecommunication Union.

MVNE – „Mobile Virtual Network Enabler“ is a company that provides operational support to virtual mobile operators’ services – for instance the connection to the

operational and commercial systems of a hosting operator, administration, operation and support of the necessary network elements and information systems (OSS/BSS), billing, etc.

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

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

National roaming on 2G networks – access to public communication network(s) used for the provision of the publicly available 2G service and operated with the use of radio frequencies in the 900 MHz and 1800 MHz bands, to which the Applicant has the right of use.

National roaming on 3G networks – access to public communication network(s) used for the provision of the publicly available 3G service and operated with the use of radio frequencies in the 2100 MHz band, to which the Applicant has the right of use.

National roaming on 4G networks – access to public communication network(s) operated by the Applicant with the use of radio frequencies in the 800 MHz, 1800 and 2600 MHz bands, obtained on the basis of this tender, which are used for the provision of publicly available 4G services.

Office – the Czech Telecommunication Office. It was established in accordance with the Act as of 1 May 2005 as a central administration authority to exercise state administration in matters specified by the Act, including market regulation and the determination of business conditions in the electronic communications and postal service area.

Qualification – the phase of the tender in which the Applicants are evaluated as to whether they meet the rules and conditions for the participation in the tender defined in Chapter 6 of the ITT.

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

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

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

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

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

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

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

Spectral Limits – limits on the maximum range, available to an Applicant, of Auction Lots within a given Auction Lot Category which an Applicant may acquire on the basis of the present tender.

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

Total Price – sum of the Applicant's Winning Bids and the Difference, if any.

Warranty – a financial warranty deposit deposited by the Applicant according to the conditions defined in Chapter 6.3 of the ITT. The warranty deposit is required as a condition for participation in the Auction.

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

Winning Bid – the Bid submitted by the Auction Winner in the final Auction Round.

2 INTRODUCTION

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

The Office launches this tender for the purpose of awarding the rights for the use of radio frequencies in the **800 MHz, 1800 MHz and 2600 MHz** bands in order to meet the requirement to ensure that the radio frequencies are used efficiently under Section 15(1) and (2) of the Act and in compliance with the parts of the Radio Spectrum Utilization Plan No. PV-P/10/08.2012-11 for the 470–960 MHz frequency band (hereinafter referred to as “**RSUP 10**”)³, No. PV-P/12/04.2011-4 for the 1700–1900 MHz frequency band (hereinafter referred to as “**RSUP 12**”)⁴ and No. PV-P/14/11.2010-15 for the 2200–2700 MHz frequency band (hereinafter referred to as “**RSUP 14**”)⁵, by which the number of rights to use radio frequencies in the abovementioned parts of the radio spectrum is limited.

The Office launches this tender in accordance with Resolution of the Government of the Czech Republic of 12 June 2013 No. 450 on the Summary Information by the Czech Telecommunication Office on the course and results of the tender (auction) for the award of the rights to use radio frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands, and Resolution of the Government of the Czech Republic of 26 January 2011 No. 78⁶ on the actions of the Czech Telecommunication Office in the management of selected parts of the radio spectrum with focus on promoting the provision of high-speed access services; by this, the Government of the Czech Republic, among other things, expressed its consent to the proposed procedure of allocation of available frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands in a tender on the basis of the results of an auction.

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

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

- develop new electronic communications services by means of high-speed wireless networks, especially of mobile nature;
- create conditions for technological innovation;
- ensure that the individual parts of the frequency spectrum are used effectively in the interest of consumers according to the needs of the public communication networks operators;

³ http://www.ctu.eu/164/download/Measures/General_Nature/RSUP/RSUP-P_10_08-2012-11_en.pdf

⁴ http://www.ctu.eu/164/download/Measures/General_Nature/RSUP/RSUP-P_12_04-2011-04_en.pdf

⁵ http://www.ctu.eu/164/download/Measures/General_Nature/RSUP/RSUP-P_14_11-2010-15_eng_.pdf

⁶ [http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/\\$FILE/78%20uv110126.0078.pdf](http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/$FILE/78%20uv110126.0078.pdf) (Czech version only)

- encourage competition in the mobile services sector at the wholesale and retail level with impact on the entire electronic communications market, which, consequently will be beneficial for the end users;
- create conditions for possible new entrants to enter the market and for the creation of at least one new mobile services provider with nation-wide coverage, as within the set of frequencies being offered it will be possible to acquire radio frequency amounts (in terms of range, volume and quality) similar to those that are held in the Czech Republic by the incumbent operators.

The Office stipulates that within the meaning of Section 21(1) of the Act, the results of the Auction will be the only criteria for the evaluation of the Applications for the award of the rights to use radio frequencies.

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

The conditions of the „Invitation to tender for the award of the rights to use radio frequencies for providing a public communications network in the 800 MHz, 1800 MHz and 2600 MHz bands“ were the subject of a public consultation with the relevant entities according to the section 130 of the Act. These documents were released for consultation on 8 April 2013 at the Office’s sites. The Office settled and published the comments from the public consultation on 24 June 2013. The Office took into account the relevant comments from the public consultation while setting the final conditions of this tender.

In accordance with the Act, the Office notified the consultation version of the tender conditions to the Office for the Protection of Economic Competition (the “ÚOHS”). The conclusions of the settlement of the public consultation were reflected in the tender conditions and then, on 10 July 2013, the Office submitted the modified proposal of the tender conditions to the ÚOHS with request for its opinion. The comments by the ÚOHS on the tender conditions were included in the opinion of 8 August 2013. The Office evaluated the received comments and informed the ÚOHS in a letter on 14 August 2013. The Office took into account the relevant comments from the public consultation while setting the final conditions of this tender. The received comments from ÚOHS and the information on the evaluation were published by the Office on Office’s sites.

Ministry of Industry and Trade (The “MPO”) sent on 14 August 2013 its comment asking for prolongation of the period for submitting Application to the tender. The Office took this comment into account and reflected it in the relevant parts of the ITT. The Office informed the MPO about settling of this comment and published the comment and answer on Office’s sites.

The Office also informed the relevant bodies of the European Commission about the conditions of the tender. On the basis of the obtained recommendations, the Office modified certain conditions concerning national roaming. The duration of the national roaming obligation in respect of the 4G networks was reduced to 8 years. One of the defined traits of the Rightful Claimant (in Chapter 5.7.1 of the ITT) was modified so as to ensure that none of the potential participants of the tender is discriminated against in terms of the possible gain of radio frequencies in the 1800 MHz band.

3 GENERAL PROVISIONS

3.1 Tender background

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

1. A process of harmonization of spectrum management is under way in the European context, coordinated through the CEPT (European Conference of Postal & Telecommunications Administrations) and the Commission bodies, including the RSPG (Radio Spectrum Policy Group) and RSC (Radio Spectrum Committee). Further, the European Parliament and the Council adopted Decision No. 243/2012/EU of 14 March 2012⁷ to create a multiannual Radio Spectrum Policy Programme (the “**Radio Spectrum Policy**”). A wireless access policy for electronic communications services (WAPECS) and a technologically neutral method of determination of minimum technical conditions based on the definition of the block edge mask (BEM) have been worked out within the scheme of international cooperation, and harmonization documents on a number of frequency bands have been issued.
2. Document entitled “Spectrum Management Strategy (3S Strategy) – support to developing a competitive environment and optimization of the conditions of using the frequencies in selected parts of the radio spectrum”⁸, issued by the Office, addresses the strategy of spectrum management. The conclusions contained in this document are based on the evaluation of the electronic communications market, in particular the market for mobile services and broadband services provided via radio networks with respect to the ongoing process of European harmonization in the management of the relevant spectrum segments. In this document, the Office defined the following development objectives:
 - **create conditions for strengthening competition and for technological innovation**, to enable, through the application of new technologies, further development of the broadband services to be provided via radio networks;
 - **meet the European harmonization requirements in the relevant frequency bands** in compliance with the Act’s requirement to ensure effective utilization of radio frequencies.

On the basis of the above strategic initiatives and in coordination and compliance with the National Policy in Electronic Communications – Digital Czechia (in the version approved by the Czech Republic government on 19 January 2011), the Office drew up and submitted to the Czech Government for consideration its document “Policy of the Czech Telecommunication Office in the Management of Selected Parts of the Radio Spectrum Focused on Support to the Provision of High-speed Access Services”, where the basic principles of this tender were contained.

The Government considered this document at its meeting on 26 January 2011 and expressed, in its Resolution⁹ No. 78, its consent to the proposed procedure of allocation of the available frequencies in the 800 MHz, 1800 MHz and 2600 MHz through a tender based on Auction.

⁷ Decision No. 243/2012/EU of the European Parliament and of the Council establishing a multiannual radio spectrum policy programme.

⁸ http://www.ctu.cz/cs/download/aktualni_informace/3s_strategie-29_03_2010.pdf (Czech version only)

⁹ [http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/\\$FILE/78%20uv110126.0078.pdf](http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/$FILE/78%20uv110126.0078.pdf) (Czech version only)

With reference to the Decision of the Chairman of the Office's Council to cancel the auction and suspend the initial tender for the available frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands, which became final on 26 March 2013¹⁰, the Office drew up a document entitled "Summary Information by the Czech Telecommunication Office on the course and results of the tender (auction) for the award of the rights to use radio frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands, proposing the Office's next steps in allocating the available radio frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands. The Office submitted this document to the government, which considered it and approved it at its meeting on 12 June 2013. By its Resolution No. 450¹¹, the government gave its consent to the proposed process of allocating the available radio frequencies in the 800 MHz, 1800 MHz and 2600 MHz bands in a tender in the form of an auction, the purpose being to enable at least one new nation-wide mobile electronic communication network operator to arise.

The method of evaluation of the Applications for the award of the rights to use radio frequencies is defined in the Government Resolution on the basis of the Office's proposal, where the results of the Auction were determined as the only criteria to evaluate the Applications. Auction was preferred, as distinct from a multi-criteria evaluation of Applications under Section 21(3) of the Act, because the Office believes that Auction is an effective and transparent method to achieve the objectives of this tender.

The Office assumes that in the future further frequencies will be assigned in the bands under 1 GHz, suitable for the operation of mobile communication networks (e.g. thanks to the availability of frequencies under digital dividend II); and due to the similar nature of the bands, adequate conditions will be applied to allow all Applicants to apply for an amount of the spectrum in the bands under 1 GHz comparable to the amount of the spectrum held by the entities who already will be the holders of some radio frequency allocations.

As to the 1800 MHz frequency band, the Office presumes that by 2017 at the latest there will be a change in the individual allocation of radio frequencies in the band so as the individual radio frequency allocation holders may hold compact segments of radio frequency bands following one another without interruption in this order (from the beginning of the defined radio frequency band 1800 MHz): Telefonica Czech Republic, a.s., T-Mobile Czech Republic, a.s., other radio frequency allocation holders, Vodafone Czech Republic, a.s., or possibly their legal successors (refarming).

The Office presumes that a similar procedure will be used in the case of the 900 MHz band.

3.2 Objectives of the tender

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

- development of new electronic communications services by means of high-speed wireless networks, especially of a mobile nature;
- create conditions for technological innovation;

¹⁰http://www.ctu.cz/cs/download/vyberova_rizeni/vyhlaseni_vyberoveho_rizeni_12_07_2012_zprava_prubeh-vysledky_vyberoveho_rizeni.pdf (Czech version only)

¹¹[http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/0/C58EEA86AF3E804EC1257B87003E82EA/\\$FILE/450%20uv130612.0450.pdf](http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/0/C58EEA86AF3E804EC1257B87003E82EA/$FILE/450%20uv130612.0450.pdf) (Czech version only)

- ensure that the individual parts of the frequency spectrum are used effectively according to the needs of the public communication networks operators;
- encourage competition in the mobile services sector at the wholesale and retail level with impact on the entire electronic communications market, which, consequently, will be beneficial for the end users;
- create conditions for possible new entrants to enter the market and for the creation of at least one new mobile services provider with nation-wide coverage with the use of his own infrastructure, as within the set of radio frequencies being offered it will be possible to acquire radio frequency amounts (in terms of range, volume and quality) similar to those that are held in the Czech Republic by the Incumbent operators.

3.2.1 Developing new services and supporting technological innovation

Implementation of new technologies and the building of high-speed networks are among the top priorities in European countries, including the Czech Republic. According to the “Digital Agenda for Europe”, prepared by the Commission, the development of high-speed networks (including radio networks), which provide access to high-speed and super high-speed Internet, is essential “to ensure that the economy grows reliably, jobs are created and citizens have access to information and services of their choice”. The Agenda seeks to make broadband connection available to all inhabitants of Europe and to ensure that (i) all Europeans have access to a much faster Internet (over 30 Mbit/s) – the so-called **universal broadband coverage**, and (ii) at least a half of European households have an Internet connection faster than 100 Mbit/s – the so-called **capacity coverage**, all by the year 2020. Both fixed and wireless connection technologies should contribute to achieving these objectives. Recent advances in high-speed technologies (e.g. the LTE technology) have proved that wireless communications will play an important role in these efforts.

Similarly, it follows from the document entitled “ICT and the Competitiveness of the Czech Republic”¹², prepared for the Czech Government, that electronic communications networks provide a basis for the technological infrastructure necessary to improve the competitiveness of the Czech Republic.

The “Digital Czechia” document specifies the details of the objectives defined in the “Digital Agenda for Europe” with priority emphasis on bridging the “digital divide” in access to high-speed Internet between urban and rural areas. To achieve this objective, it is necessary to ensure by the year 2020 that the high-speed Internet access service is available at a minimum transmission speed of at least 30 Mbit/s (download) at all inhabited sites of the Czech Republic and at least 100 Mbit/s for at least one half of the households,

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

As to achieving the objective of providing universal broadband coverage, the Office expects that within the radio frequencies offered in the tender the radio spectrum in 800 MHz band will be primarily used for this purpose.

¹² Study by the Prague School of Economics and partners (ČSSI [Czech Society for System Integration], ICTU), 2010 (<http://www.cssi.cz/cssi/studie-ict-konkurenceschopnosti>, Czech version only)

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

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

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

The range of radio frequencies that are the subject-matter of the tender in all frequency bands enables new entrants to enter the market.¹³ In compliance with the objectives of the tender, the Office seeks, in particular, to ensure that the tender conditions determined by the Office encourage the creation of at least one new operator with the rights to radio frequencies allowing for the building of a network with national-wide coverage. The Office plans to achieve this goal by allowing to the Applicants that are not incumbent operators at present to acquire radio frequencies and to provide electronic services and networks.

Support to effective and sustainable competition for the provision of high-speed mobile access services in compliance with the EU's Radio Spectrum Policy is one of the main objectives of the tender. However, it is clear that the new entrants in the electronic communications service market provided through public mobile communication network in the Czech Republic will be disadvantaged vis à vis the incumbent operators. If the incumbent operators enter in the market for high-speed mobile access operated on the radio frequencies that are the subject-matter of the tender, they will benefit from the existing coverage of the Czech territory by their existing public communication networks and from the use of their existing infrastructure. The radio spectrum policy expects a number of tools to be used to support and maintain competition in the electronic communications market, including the possible earmarking of a compact radio frequency block in the 800 MHz band for the entities newly entering the market, the setting of the Spectral Limits and determination of commitments associated with the award of the rights to use radio frequencies in the form of national or regional roaming or the commitment to provide wholesale access.

Seeking to enable the participation of Applicants that do not hold allocations of the radio frequencies in the 900 MHz, 1800 MHz and 2100 MHz bands in the Czech Republic at present, in order to support the creation of other mobile services providers with nation-wide coverage who will be able to provide wholesale and retail services and to ensure a maximum effectiveness of the use of the assigned radio frequencies and to encourage effective and sustainable competition in the electronic communications mobile service market, the Office applies the following tools in the tender:

- *by earmarking a compact radio frequency block 2 x 10 MHz in size in the 800 MHz band for the Applicants who are not radio frequencies allocation holders in the 900 MHz band in the Czech Republic, and by earmarking a radio frequency block 2 x 15.8 MHz in size in the 1800 MHz band so as to allow the creation of at least one new mobile electronic communication services provider with nation-wide coverage, thus encouraging effective economic competition in*

¹³[http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/\\$FILE/78%20uv110126.0078.pdf](http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/7F6EA75AB33B2514C1257823002F78DE/$FILE/78%20uv110126.0078.pdf) (Czech version only)

the market for retail and wholesale services provided through mobile nationwide communication networks.

- *Setting the Spectral Limits in the individual frequency bands.* Spectral limits in the 800 MHz and 2600 MHz bands are set so as to ensure that the maximum size of the radio frequency allocation enables to build an equal-standard new-generation electronic communications network and that radio spectrum hoarding by individual Applicants is prevented. In the 1800 MHz band, the Spectral Limits are set so as to ensure that a contiguous segment of radio frequencies in this band can be used for the building of another full-fledged radio communication network in this frequency band.
- *Setting a maximum number of Eligibility points to limit the total amount of radio frequencies for which one Applicant may apply in the tender.* The maximum amount of radio frequencies for which one Applicant may apply in the tender on the basis of the maximum number of Eligibility points is set at a level that prevents radio spectrum hoarding by individual Applicants.
- *Requirement for the National Roaming Obligation to be undertaken by the Applicants that acquire a radio frequency allocation in the 800 MHz band* to the benefit of the Applicants who fulfil the conditions imposed on the Rightful Claimants for the National Roaming under Chapter 5.7.1 so as they can be given access to effective nation-wide coverage of the population. The National Roaming Obligation is a necessary tool to ensure that an Applicant newly entering the market is able to provide the entire range of services provided on electronic communications mobile networks that compete effectively with those provided by incumbent operators.
- *Requirement for the Wholesale Offer Obligation in respect of services to be provided on public mobile communications networks* using the radio frequencies allocated on the basis of the tender in order to ensure – on the basis of the wholesale offer – the maximum possible wholesale access to electronic communications services operated on the allocated radio frequency segments also for others who are interested in providing such services.

3.3 Scope of the tender

In the tender, radio frequencies from the 800 MHz, 1800 MHz and 2600 MHz frequency bands are being offered:

- 3 categories of blocks in the 800 MHz band:
 - 1 block 2 x 5 MHz in size (Auction Category **A1**);
 - 3 blocks, each 2 x 5 MHz in size (Auction Category **A2**);
 - 1 block 2 x 10 MHz in size (Auction Category **A3**);
- 2 categories of blocks in the 1800 MHz band:
 - 1 block composed of two frequency segments with a total size of 2 x 15.8 MHz (Auction Category **B1**),
 - 9 blocks, each 2 x 1 MHz in size (Auction Category **B2**),
- 2 categories of blocks in the 2600 MHz band:
 - 14 blocks in the paired part of the spectrum, the size of each being 2 x 5 MHz (Auction Category **C**),
 - 10 blocks in the unpaired part of the spectrum, the size of each being 5 MHz (Auction Category **D**).

3.4 Basic principles of the tender

- a) The tender will take the form of an Auction. The selected Auction format is simultaneous multiple-round Auction (hereinafter referred to as the “SMRA”). The Auction will be carried out by means of the Electronic Auction System. The

principles of the Auction are described in Chapter 7 of the ITT and in the Auction Rules, attached hereto as Appendix 4.

- b) To be admitted to the tender, the interested entity must meet the qualification requirements specified in Chapter 6 of the ITT. For participation in the tender, an Application that absolutely meets the requirements of this ITT must be submitted. The requirements set out in this ITT may not be adjusted or qualified in any manner whatsoever by the Applicant in the Application.
- c) The tender will take place in three parts: **Qualification, Auction** and the **Office's Action after the Closing of the Auction**. In the first part the Office considers whether the Applicants that submitted their Applications by the end of the time period for the submission of Applications determined in Chapter 6.4 of the ITT meet the conditions of participation in the tender, as determined in Chapter 6 of the ITT. Should an Applicant fail to meet these conditions, or should he stop meeting them any time the course of the tender, the Office will decide to exclude such an Applicant from further participation in the tender. Filing an appeal against the elimination from further participation in the tender decision does not have a suspensory effect. In the second part of the tender all the qualified Applicants take part in the Auction. A full text of the Auction rules is available in Appendix No. 4 to the ITT. In the third part the Office will proceed in accordance with Chapter 8 of the ITT.
- d) Each Applicant's costs related to participation in the tender shall be borne by the Applicant itself.
- e) The Office will answer written questions sent within the period set out in Chapter 3.6 of the ITT to the contact electronic address aukce@ctu.cz. The inquiries delivered must bear the reference number of this tender.
- f) The Office may cancel this tender and may do so even after expiry of the Application submission period. Further details of the cancellation of the tender are defined in Chapter 10 of the ITT.
- g) The Office shall bear no financial obligations or any other obligations arising from the cancellation of this tender.

3.5 Tender organizer

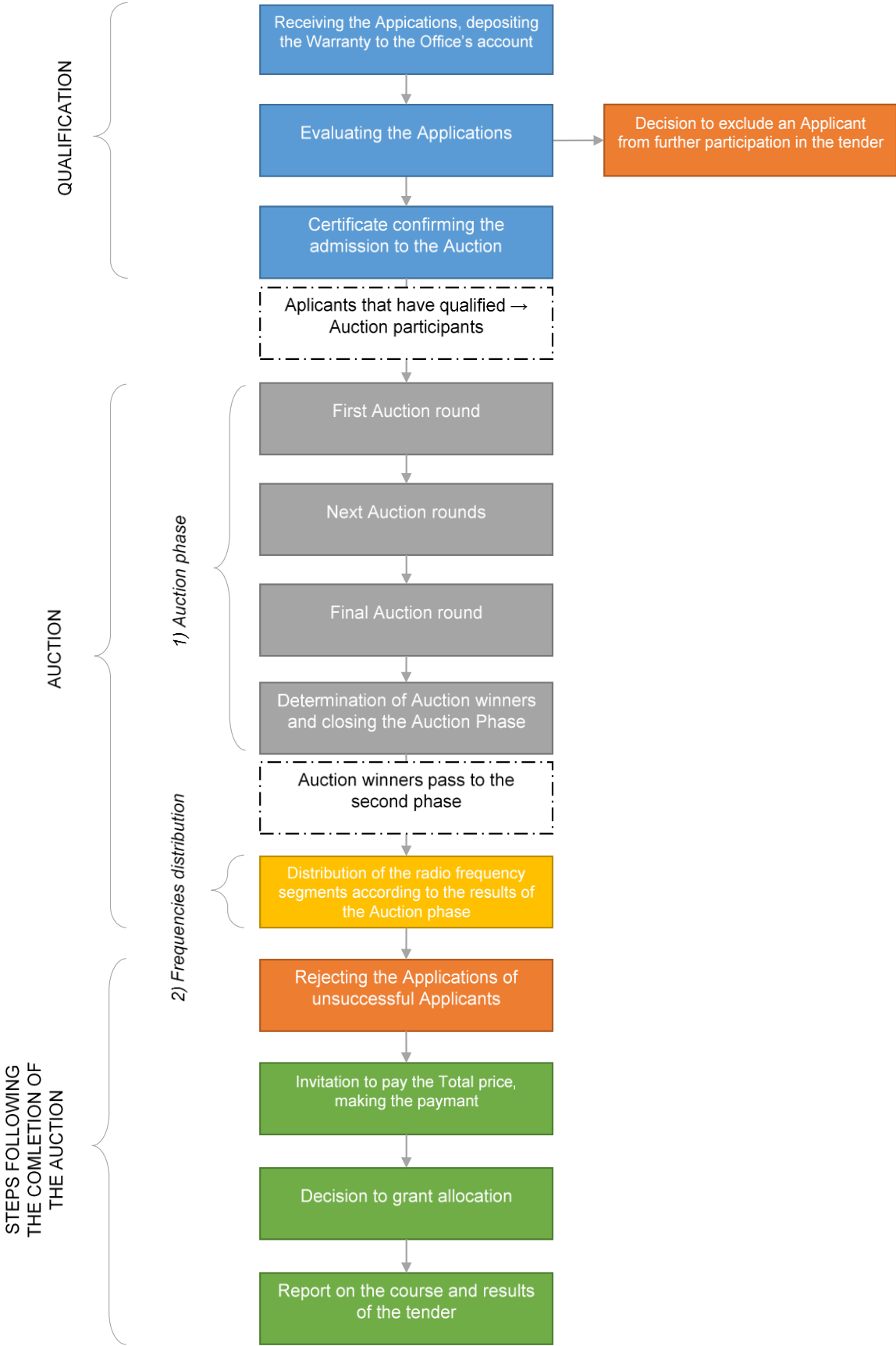
Office name:	Czech Telecommunication Office
Represented by:	Ing. Mgr. Jaromír Novák
Registered office:	Sokolovská 58/219 190 00 Praha 9
Address for the delivery of documents in paper form:	Český telekomunikační úřad Poštovní příhrádka 02 225 02 Praha 025
Address for the delivery of documents in electronic form:	E-mail: podatelna@ctu.cz Data box: a9qaats
Reg. No. (IČO):	70106975
Tax Reg. No. (DIČ):	CZ70106975
Bank account No. to deposit the warranty according to Chapter 6.3 of the ITT:	6015-725001/0710 maintained with the Czech National Bank (ČNB), Prague Branch
Bank account number to pay the Total Price:	19-725001/0710 maintained with the Czech National Bank (ČNB), Prague Branch

3.6 Tender dates

Ref.	Activity	Date
a.	Invitation to Tender	15 August 2013
b.	Delivery of questions according to Chapter 3.4, clause (e) of the ITT	29 August 2013
c.	Publishing the answers to questions as referred to in clause (b)	3 September 2013
d.	Delivery of Application for the award of the rights to use radio frequencies in accordance with Chapter 6 of the ITT	30 September 2013 by 12.00 h
e.	Opening the envelopes with the Applications	1 October 2013 at 09.00 h in the Office's reg. office

The actual time schedule of the tender procedure will be published at the web sites of the Office. Unless specified otherwise, Section 40 of the Rules of Administrative Procedure will be applied to the computation of the deadlines. It holds, in particular, that the day when the event determining the commencement of a time limit occurred is not included in the time limit itself. Should the end of a time limit fall upon a Saturday, Sunday or national holiday, the next working day will be considered as the last day of the time limit. Unless specified otherwise, a day means a calendar day.

3.7 Diagram of basic steps of the tender, split into phases



4 SUBJECT MATTER OF THE TENDER

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

4.1.1 The 800 MHz band

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

Radio frequencies in the 800 MHz frequency band will be split into 3 Auction Lot Categories:

- **1 independent concrete Auction Lot 2 × 5 MHz in size** (791.0–796.0 / 832.0–837.0 MHz);
- **3 independent abstract Auction Lots, each being 2 × 5 MHz in size**
- **1 independent concrete Auction Lot 2 × 10 MHz in size** (811.0–821.0 / 852.0–862.0 MHz).

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

Auction Lot Category	Frequency segment identifier	Frequency range downlink, in MHz	Frequency range uplink, in MHz	Segment size, in MHz
A1	A1.1	791.0–796.0	832.0–837.0	2 × 5.0
A2	A2.1	796.0–801.0	837.0–842.0	2 × 5.0
	A2.2	801.0–806.0	842.0–847.0	2 × 5.0
	A2.3	806.0–811.0	847.0–852.0	2 × 5.0
A3	A3.1	811.0–821.0	852.0–862.0	2 × 10.0

A maximum spectral limit for the submission of bids for radio frequencies from the 800 MHz band is determined so that the **total quantity of radio frequencies allocated to one Applicant on the basis of this tender does not exceed 2 × 10 MHz**.

The Auction Lots in the category A2 are offered as abstract lots in the Auction Phase, the Auction lots A1 and A3 are offered as real (concrete) lots.

The possibility to submit Bids for Auction Lot in category 3 is based on the rules defined in Chapter 4.4.7 of the Auction Rules.

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

4.1.2 The 1800 MHz band

The 1800 MHz band is a paired band delineated by the 1805–1880/1710–1785 MHz radio frequencies. This band is intended for the operation of electronic communications networks within a mobile service.

A substantial part of the radio frequencies in this frequency band is being used by the Incumbent Operators who operate, on these frequencies, public communication networks in the GSM standard and/or the services of high speed access to the internet network using the LTE technology. No radio frequency allocations have been granted yet in the bands of 1805.1–1806.3 / 1710.1–1711.3 MHz, 1816.9–1818.9 / 1721.9–

1723.9 MHz, 1822.3–1824.3 / 1727.3–1729.3 MHz, 1842.3–1857.9 / 1747.3–1762.9 MHz and 1875.9–1879.9 / 1780.9–1784.9 MHz.

Within the 1800 MHz frequency band the radio frequencies will be split into 2 Auction Lot categories:

- **9 separate abstract Auction Lots, each being 2 × 1 MHz in size**
- **1 concrete Auction Lot comprising 2 concrete spectrum segments with the total size of 2 × 15.8 MHz (1805.1–1805.3 / 1710.1–1710.3 MHz and 1842.3–1857.9/1747.3–1762.9 MHz).**

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

Auction Lot Category	Frequency segment identifier	Frequency range downlink, in MHz	Frequency range uplink, in MHz	Segment size, in MHz
B1	B1.1	1805.1–1805.3 1842.3–1857.9	1710.1–1710.3 1747.3–1762.9	2 × 15,8
B2	B2.1	1805.3–1806.3	1710.3–1711.3	2 × 1.0
	B2.2	1816.9–1817.9	1721.9–1722.9	2 × 1.0
	B2.3	1817.9–1818.9	1722.9–1723.9	2 × 1.0
	B2.4	1822.3–1823.3	1727.3–1728.3	2 × 1.0
	B2.5	1823.3–1824.3	1728.3–1729.3	2 × 1.0
	B2.6	1875.9–1876.9	1780.9–1781.9	2 × 1.0
	B2.7	1876.9–1877.9	1781.9–1782.9	2 × 1.0
	B2.8	1877.9–1878.9	1782.9–1783.9	2 × 1.0
	B2.9	1878.9–1879.9	1783.9–1784.9	2 × 1.0

A maximum spectral limit for the submission of bids for radio frequencies in the 1800 MHz frequency 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 × 23 MHz in aggregate with the radio frequency allocation in the 1800 MHz band already held by the Applicant.** This Spectral Limit is determined so as to make it possible for all Auction Participants to bid for radio frequencies in a range of at least 2 × 5 MHz.

In the Auction Phase, the segments in the category B2 in the 1800 MHz frequency band are offered as abstract lots. Lot B1 is offered as a concrete lot.

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

4.1.3 The 2600 MHz band:

The 2600 MHz frequency band is delineated by the radio frequencies of 2500–2690 MHz and includes both a paired and unpaired part of the spectrum. The band is dedicated for terrestrial wireless access networks to provide electronic communications services.

Within the 2600 MHz frequency band, radio frequencies will be split into 2 Auction Lot categories:

- paired part: **14 separate abstract Auction Lots, each being 2 × 5 MHz** in size.
- unpaired part: **9 separate abstract Auction Lots, each being 5 MHz** in size. A lot delineated by the frequencies of 2615.0–2620.0 MHz will also be automatically allocated free of charge to the Applicant to whom the Lot delineated by the frequencies of 2610.0–2615.0 MHz (D10) was assigned in the second phase of the Auction (Frequencies Distribution). The reason is the increased risk of interference, which significantly limits the possibilities to use that Lot. The conditions of the use of the D10 lot are specified in more detail in Chapter 5.1 of the ITT.

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

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

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

A maximum Spectral limit for the submission of Bids for radio **frequencies in the paired part of the 2600 MHz frequency band** is determined so that **the total quantity of radio frequencies allocated to one Applicant on the basis of the tender may not exceed 2 × 20 MHz in the paired part of the 2600 MHz frequency band**. No Spectral limit is set for the radio frequencies in the unpaired part of the 2600 MHz frequency band.

In the Auction Phase, Auction Lots in this frequency band are offered as abstract lots.

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

In the **unpaired part of the 2600 MHz frequency band**, the minimum Bid size condition in the tender is for **3 unpaired blocks, i.e. 1 x 15 MHz**. The D10 frequency segment is not taken into account when determining the Bid scope for the purpose of establishing the compliance with the condition of a minimum bid.

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

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

The price for the award of the rights to use radio frequencies will be equal to the sum of the Winning Bids of the Applicant.

The Bids amount in the Auction phase must not be smaller than the minimum price of the Auction Lots laid down in this Chapter 4.2 of the ITT.

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

Auction Lot Category	Minimum price for 1 lot [in CZK]
A1	CZK 1.010.000.000
A2	CZK 1.110.000.000
A3	CZK 2.220.000.000
B1	CZK 500.000.000
B2	CZK 30.000.000
C	CZK 80.000.000
D	CZK 30.000.000

The minimum price has been determined on the basis of a benchmark analysis of the final price of radio frequencies for the next generation networks in relevant European countries, in which auctions for radio frequencies in the 800 MHz, 1800 MHz and 2600 MHz frequency bands were carried out by the end of July 2013.

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

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

5.1 Basic conditions for using the assigned radio frequencies

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

Any investigation for a complaint of interference on radio reception from the operation of the radio transmitting stations that use the radio frequency allocations that are the subject matter of this tender will be governed by the Act and the methodological procedure published by the Office¹⁴.

5.1.1 Conditions for using radio frequencies in the 800 MHz band

The conditions of using radio frequencies are specified in RSUP 10 and will be reflected in the individual authorizations for the use of radio frequencies (IO) and possibly in other documents to be issued on the basis of the Act. A public communication network operated in the 800 MHz band must meet, from the technical viewpoint, the conditions set out in Commission Decision 2010/267/EU¹⁵, and within the standard chosen by the Applicant it must meet the conditions set out in ETSI Standards and possibly also in other related documents of the Commission, CEPT or ITU¹⁶.

Commission Decision 2010/267/EU¹⁵ specifies the basic technical conditions for the use of the 800 MHz band on the basis of the BEM concept. With authorization from the European Commission, the technical conditions for the 800 MHz band were created within the European Conference of Postal & Telecommunications Administrations (CEPT). On the basis of this authorization, the CEPT adopted four reports (CEPT Reports Nos. 29, 30, 31 and 32).

CEPT Report No. 29¹⁷ provides instructions on the issues of international coordination, which is of extraordinary importance in the coexistence phase, i.e. in the situation where the technical conditions have already been optimized in certain Member States for fixed and/or radio communication networks, whereas other Member States still operate, in the 800 MHz band, high-power transmitters in the broadcasting service. International coordination conditions based on international agreements on using radio frequencies are specified in detail in Chapter 5.6 of the ITT with respect to using the frequencies in the 800 MHz band, which are the subject-matter of the tender.

CEPT Report No. 30¹⁸ specifies the least-limiting technical conditions, using the BEM concept – these conditions represent the regulatory requirements focused on managing the risk of harmful interference between adjacent networks with special emphasis on

¹⁴ The current version of this methodology is available at http://www.ctu.cz/cs/download/radiove_ruseni/measurement_interference_15_08_2013.pdf

¹⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:117:0095:0101:EN:PDF>

¹⁶ These documents are available in summary form, for example, at <http://www.erodocdb.dk/default.aspx>

¹⁷ <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP029.PDF>

¹⁸ <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP030.PDF>

the protection of the digital terrestrial television service (and/or cable television service) provided in the frequency bands below 790 MHz.

CEPT Report No. 31¹⁹ contains a conclusion that a preferable arrangement of radio frequencies for the 800 MHz band should be based on frequency division duplex, FDD, as distinct from time division duplex, TDD, in order to facilitate international coordination with radio broadcasting services.

CEPT Report No. 32²⁰ respects the interest in the continued operation of PMSE applications (Programme-Making and Special Events).

The conditions of using the 800 MHz band are coordinated in the Czech Republic in compliance with Commission Decision 2010/267/EU¹⁵ and with the above CEPT reports, on whose basis the conditions of use are defined, including, but not limited to:

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

¹⁹ <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP031.PDF>

²⁰ <http://www.erodocdb.dk/Docs/doc98/official/pdf/CEPTREP032.PDF>

- limit values outside the block are determined as follows:

Frequency range of radiation outside the block	Maximum mean EIRP outside the block
Guard band between the edge of the radio broadcasting service band on the 790 MHz frequency and the edge of the band of the FDD downlink mode (790–791 MHz)	+17.4 dBm/MHz
Frequencies used for the FDD downlink mode (791–821 MHz)	+22 dBm/(5 MHz) in the range of –5 to 0 MHz from the lower edge of the block and in the range of 0 to +5 MHz from the upper edge of the block +18 dBm/(5 MHz) in the range of –10 to –5 MHz from the lower edge of the block and in the range of +5 to +10 MHz from the upper edge of the block +11 dBm/(MHz) for the remaining frequencies for transmission from base stations (downlink)
Guard band between the edge of the band of the FDD downlink mode and the edge of the band of the FDD uplink mode (duplex gap) (821–832 MHz)	+15 dBm/MHz
Frequencies used for the FDD uplink mode (832–862 MHz)	-49.5 dBm/(5 MHz)

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

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

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

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

5.1.2 Conditions for using radio frequencies in the 1800 MHz band

The conditions of using the 1800 MHz band radio frequencies are specified in RSUP 12 and will be reflected in the individual authorizations for the use of radio frequencies (IO) and possibly in other documents to be issued on the basis of the Act. A public

communication network operated in the 1800 MHz band must meet, from the technical viewpoint, the conditions specified in Commission Decision 2011/251/EU²¹, in the ERC/REC/(08)02 Recommendation²², and within the standard chosen by the Applicant it must meet the conditions set out in ETSI Standards and possibly also in other related documents of the Commission, CEPT or ITU¹¹.

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

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

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

²¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:274:0032:0035:EN:PDF>

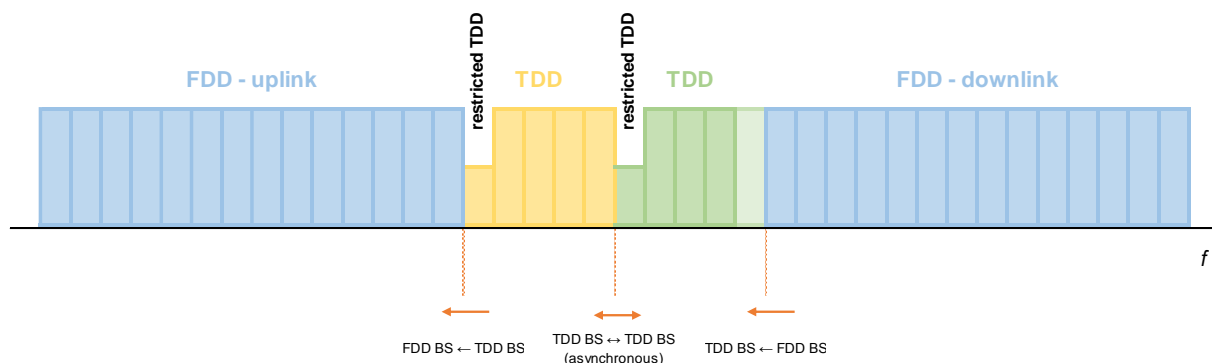
²² <http://www.erodocdb.dk/docs/doc98/official/pdf/Rec0802.pdf>

5.1.3 Conditions for using radio frequencies in the 2600 MHz band

The conditions of using the 2600 MHz band radio frequencies are specified in RSUP 14 and will be reflected in the individual authorisations for the use of radio frequencies (IO) and possibly in other documents to be issued on the basis of the Act. A public communication network operated in the 2600 MHz band must meet, from the technical viewpoint, the conditions specified in Commission Decision 2008/477/ES²³, in the ERC/REC/(11)05 Recommendation²⁴ and within the standard chosen by the Applicant it must meet the conditions set out in ETSI Standards and possibly also in other related documents of the Commission, CEPT or ITU.

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

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



This restriction is due to the need to ensure suitable technical conditions for the coexistence of systems using frequencies in adjacent blocks serving for unlimited TDD and FDD traffic, or – in the case of two unsynchronized networks operating in the TDD mode – to ensure the compatibility defined in Commission Decision 2008/477/EC²³. D1 segment restriction will not be applied where the same Applicant becomes the Allocation Holder of the D1 and C14 segments.

- Due to the fact that frequency segment C1, in which the EIRP is not limited, is adjacent to frequency segment D10, there is an increased probability of interference to the D10 frequency segment. For this reason, the D10 segment is not an Auction Lot – it will be automatically assigned to the segment D9

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

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

Allocation Holder. A basic in-block EIRP limit value for base stations is applied to the D10 frequency segment: its level is +61 dBm/(5 MHz).

5.1.4 Issuance of individual authorizations (IO)

The use of the radio frequencies that are the subject matter of the tender is specified on the basis of the Office's decision in the form of an IO. IOs will be issued separately for each of the allocated frequency bands. The following additional conditions will be set in the IO:

- a) In the 800 MHz band the condition imposing on the Allocation Holders the obligation to provide to the Office, by the end of each calendar month, the list of the base stations which the Allocation Holder plans to put into operation during the subsequent period. The list will be provided to the Office in the electronic form in the chart format. On the basis of this notification the Office will inform, through its internet sites, the other entities concerned about the planned start of the test operation of base stations in the given locality.
- b) In the 800 MHz, 1800 MHz and 2600 MHz bands the condition imposing on the Allocation Holders the obligation to provide to the Office, at the end of each calendar month²⁵, the list of currently operating base stations in a format suitable for batch calculation of coverage²⁶, including any changes which occurred during the previous month in the data below about the stations that are already in operation. The description of the base stations in operation according to these notifications will be an integral part of the IOs. In the 800 MHz band the notification will be made only about the base stations in which the test operation was terminated according to the provisions of Chapter 5.1.4 point c) of the ITT. The announcement for each base station will comprise the following data:
 1. District identifier according to the list provided by the Office;
 2. Unique name of the site (location). In the case of a change in technical parameters this name must be maintained;
 3. Address of the site;
 4. Geographic coordinates of the site (WGS 84 system, in degrees, minutes, seconds);
 5. Altitude of the location above the sea level (m);
 6. The transmitter's and receiver's radio frequency (frequency range in MHz);
 7. Height of the antenna system centre above the ground (m);
 8. Radiation characteristics of the antenna system (code description according the HCM agreement, appendix 6)²⁷
 9. Azimuth of maximum radiation in each sector (°);
 10. Mechanically set elevation in the radiation azimuth in each sector (°);
 11. Maximum radiated power ERP in the sector (W).
- c) In the 800 MHz band the conditions imposing on the IO Holder the obligation to verify the impact on adjacent bands by at least two-month trial operation of each base station. The stations operated in the test operation mode will not be included in the fulfilment of the conditions of the purposeful use of the radio frequencies according to Chapter 5.3 of the ITT.

²⁵ This time limit may be changed, if agreed with the Office.

²⁶ In the csv format (comma separates columns, tenths are separated by point), or possibly in another format agreed on with the Office.

²⁷ http://www.hcm-agreement.eu/http/englisch/verwaltung/index_berliner_vereinbarung.htm

- d) I acknowledge that the Individual Authorizations (IA) issued on the basis of this tender will not – in compliance with Section 18(1)(h) of the Act – allow to change the holder of the IA or to lease the rights ensuing therefrom for the obligation period defined in Chapter 5.7 of the ITT which prohibits transfer of the radio frequencies that are the subject of this tender to the third party or to lease the radio frequencies to a third party.

Within the notification under Chapter 5.1.4, point b) of the ITT, the IO Holder must notify the exact dates of commencement and termination of the operation of the individual pieces of radio transmitting equipment (network base stations) and any significant events concerning the operation of the terminals, e.g., stress tests.

5.1.5 Verification of the coverage

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

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

1. For all the stations for which a certificate is required about the scope of the network coverage under Chapter 5.1.5 of the ITT, the technical parameters of the stations mentioned Chapter 5.1.4, point b) of the ITT. The data will be provided for all relevant stations (i.e. stations in the 800 MHz, 1800 MHz, 2600 MHz and possibly 2100 MHz bands) in a format suitable for the batch calculation of coverage²⁶.
2. Furthermore, for all stations in the 800 MHz band, information about the results of the test operation of the stations have to be provided, including information about any cases of incompatibility or interference with other frequency spectrum users.
3. The results of the data flow speed measurements according to the methodology mentioned in the Appendix 3 to the ITT proving the fulfilment of the minimum required speed of the service according to Chapter 5.3 of the ITT.

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

In compliance with the technological neutrality principle, the Office does not lay down any conditions or limitations in respect of the technologies the Applicant intends to use with the auctioned radio frequencies for the provision of publicly available electronic communications services. This is without prejudice to the provisions of the relevant RSUPs.

All and any equipment operated on the radio frequency blocks that are the subject matter of the tender must meet the technical standards currently in force and other generally binding legal regulations. The Office reserves the right at any time to modify the requirements for the technical equipment associated with the use of these radio frequency blocks.

5.3 Conditions of effective use of radio frequencies

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

- Commencement of effective utilization of the radio frequencies, i.e. the provision of commercial services with the use of public communication networks operated on the allocated frequencies, within 2 years from the coming into effect of the radio frequency allocation. The obligation to start using commercial services applies separately to each of the frequency bands that the Applicant will acquire in the tender. To fulfil this condition, it is not obligatory for the Allocation Holder to use the entire range of the frequency allocation in the given band - he may use just a part of the allocated radio frequencies;
- Commencement of the utilization of the radio frequencies according to Section 22b(2) of the Act, i.e. the provision of electronic communications services via public communication networks with the use of the entire range of the allocated radio frequencies, within 7 years from the coming into effect of the radio frequency allocation;
- Service offer coverage in terms of territory and population – development criteria – provided to the extent defined for individual frequency bands. If an Applicant becomes an Allocation Holder of radio frequencies (which are the subject matter of the present tender) in several frequency bands, then only one set of development criteria is mandatory for meeting the condition of securing the coverage.
 - If an Applicant acquires, on the basis of this tender, a radio frequency allocation in the 800 MHz band and any radio frequency allocation in other radio frequency bands, then the development criteria specified in Chapter 5.3.1 of the ITT are mandatory for the entire allocation acquired.
 - If an Applicant acquires, on the basis of this tender, the B1.1 frequency segment in the 1800 MHz band and any radio frequency allocation in the 1800 and 2600 MHz bands, then the development criteria specified in Chapter 5.3.2 of the ITT are mandatory for his entire allocation.
 - If an Applicant acquires, on the basis of this tender, a radio frequency allocation in the 2600 MHz band and a radio frequency allocation in the 1800 MHz band outside the B1.1 radio frequency segment, then the development criteria specified in Chapter 5.3.3 of the ITT are mandatory for his entire radio frequency allocation.

In the event of failure to meet the coverage condition, it is considered that the condition has not been met for all radio frequencies within the same frequency band which the Applicant acquired in this tender.

For the purposes of verification of the reasonable use of the radio frequencies the Allocation Holder must submit to the Office the following data:

1. The coverage, according to the Applicant's calculation, plotted into a map (provided by the Office) with a 100 × 100 m grid. The Office will specify the number of inhabitants for each 100 × 100 m square on the basis of which it will be possible to define the coverage percentage of the given district.
2. For all stations through which the Allocation Holder proves to meet the coverage requirement, i.e. stations in the 800 MHz, 1800 MHz and 2600 MHz bands and possibly in 2100 MHz band, the stations' technical parameters according to point (b) in ITT Chapter 5.1.4. The data will be provided in a format suitable for batch calculation of the coverage²⁶.
3. For all stations in the 800 MHz band, also information about the results of the stations' test operation, including information about all the cases of incompatibility or interference with other users of the frequency spectrum.
4. The results of the data flow speed measurements according to the methodology described in the Appendix 3 to the ITT proving the fulfilment of the minimum required speed of the service according to Chapter 5.3 of the ITT.

The Allocation Holder must submit these data at least as of the following moments:

- Meeting the development criteria according to Chapter 5.3.1 (b), (c), (d) of the ITT;
- Meeting the development criteria according to Chapters 5.3.2 and 5.3.3 of the ITT.

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

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

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

The list of districts with inclusion in the above groups is contained in Appendix 5 to the ITT.

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

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

- a) Within 30 months from the effective date of the decision on radio frequency allocation, the Allocation Holder must cover at least 30 districts of Group A. A Holder of an Allocation in the 800 MHz band who is the operator of a 3G network in the 2100 MHz band may include in fulfilling the coverage obligations also the services provided on a public communication network with the use of radio frequencies in the 2100 MHz band if these services allow high speed connection for customers in the quality mentioned in this Chapter 5.3.1 of the ITT.
- b) Within 5 years from the effective date of the decision on radio frequency allocation the Allocation Holder must cover 100% of the districts of Group A, at least 22 districts of Group B, at least 50% of transit railway corridors I to IV, and motorways and express roads;
- c) Within 7 years from the effective date of the decision on radio frequency allocation, the Allocation Holder must cover 100% of Group A and Group B districts, transit railway corridors I to IV, motorways and express roads.

Covering (coverage) is understood to mean the operation of a public electronic communications network using own radio frequency allocations in the 800 MHz, 1800 MHz or 2600 MHz bands, capable to provide the high-speed Internet access service at a required speed, such service being available to at least 95% of the given district's population with a 75% probability of indoor coverage³⁵ without the use of an external antenna and with an 85% probability of indoor coverage with the use of an external antenna. The minimum required speed of the service, mandatory to meet the coverage requirement, is defined as follows:

- within 7 years from the effective date of the decision on the radio frequency allocation, the minimum required speed of the service is set at 2 Mbit/s (download);

³⁵ Indoor coverage means reception at the required transmission speed in at least one above-ground room of a flat.

- in the subsequent period, the minimum required speed of the service is set at 5 Mbit/s (download);

If a radio frequency allocation holder in the 800 MHz band acquires only a radio frequency segment of the 2 × 5 MHz range, he is not obliged to fulfil the obligations under (a) to meet the development criteria according to Chapter 5.3.1 of the ITT.

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

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

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

Radio frequency allocation in the 1800 MHz frequency band, corresponding to Auction Lot B1, will be associated with the coverage commitment to the following extent:

- Within 8 years from the effective date of the decision about the radio frequency allocation, the Allocation Holder must cover at least 50% of the population of the Czech Republic.

Covering (coverage) is understood to mean the operation of a public electronic communications network using own radio frequency allocations acquired in the tender in the 1800 MHz or 2600 MHz band, which is capable to provide the high-speed Internet access service with the required speed. The minimum required speed of the service mandatory to meet the coverage requirement is defined as follows:

- within 8 years after the effective date of the decision on the radio frequency allocation, the minimum required speed of the service is set at 2 Mbit/s (download);
- in the subsequent period, the minimum required speed of the service is set at 5 Mbit/s (download);

The development criteria according to Chapter 5.3.2 of the ITT are considered as fulfilled also in the case when only a part of the radio frequencies in the 1800 MHz band is used to provide high speed internet access services while the remaining part of the radio frequencies is used to provide other electronic communication services (e.g. telephone services provided with the use of GSM technology). Nevertheless, the required service quality of high speed internet access defined in Chapter 5.3.2 of the ITT is not affected by the above.

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

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

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

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

Covering (coverage) is understood to mean the operation of a public electronic communications network using own radio frequency allocations in the 2600 MHz band acquired in the tender which is capable to provide the high-speed Internet access service with the required speed. The minimum required speed of the service mandatory to meet the coverage requirement is defined as follows:

- Within 7 years after the decision on the radio frequency allocation coming into effect the minimum required speed of the service is set at the level of 2 Mbit/s (download);

- In the subsequent period, the minimum required speed of the service is set at the level of 5 Mbit/s (download)

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

5.4 Radio frequency allocation modification, loss of validity, conveyance, transfer and lease

Radio frequency allocation, modification, loss of validity, conveyance, transfer and lease for radio frequencies allocation are regulated by Sections 22a, 22c, 22d and 23 of the Act. The Office does not set out any additional conditions as to these issues.

As to the radio frequencies which are not the subject of the present tender procedure I agree, for the period of 7 years since the effect of the allocation to avoid to transfer this allocation or a part thereof to a third person or to lease these radio frequencies to a third person. The acceptance of this obligation does not exclude cases of sharing the acquired frequencies in the events of building common infrastructures, if such sharing is in accordance with protection of competition legislation.

With respect to the provisions of Section 19(4) and Section 22b(1) of the Act, it is necessary to ensure that the Allocation Holder (Applicant and/or his successor or any other person to whom the allocation is transferred, assigned or leased, as the case may be) does not cease at any time during the allocation's validity period to meet any of the conditions on whose basis the allocation was awarded to him. This specifically includes compliance with the conditions indicated in Chapter 5.7 of the ITT (national roaming and wholesale offer) regardless of how the frequencies involved in those obligations are handled, the spectral limits specified in Chapter 4.1 of the ITT, reservation of the A3 lot specified in Chapter 4.4.7 of the Auction Rules, the conditions of the Allocation Holders' economic independence as a condition underlying participation, as specified in Chapter 6.5; and it also includes the condition that the Business Grouping in which an Incumbent Operator is a member may hold an allocation obtained on the basis of this tender only through the Incumbent Operator, which obtained the allocation on the basis of this tender.

The Office's procedure according to section 23 (5) of the Act is not affected by the conditions set out in this Chapter of the ITT.

5.5 Validity period of radio frequency allocations

Radio frequency allocations, which are the subject matter of the tender, will remain in effect until **30 June 2029**.

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

The use of radio frequencies is contingent on compliance with the conditions set in binding international and bilateral agreements coordinating the technical parameters of transmitters on the Czech borders. International coordination of the radio frequencies of terrestrial mobile service and fixed service is governed by the HCM Agreement, as amended. Radio frequency coordination agreements between the Czech Republic and its neighbors override the HCM²⁷ Agreement. At present, such agreements (for the 800 MHz and 2600 MHz bands) are in effect with all neighboring countries.

5.6.1 Conditions of using frequency bands on the border

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

- The 800 MHz band:

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

5.7 National roaming and wholesale offer obligations to be undertaken by the Applicant during the tender

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

5.7.1 National Roaming

When submitting their Applications for the participation in the tender, the Applicants must undertake the obligation to provide National Roaming for the event that they will acquire in the tender a radio frequency allocation in the 800 MHz band of at least 2 x 5 MHz in size. According to the National Roaming Obligation the Rightful Claimants are the interested parties who will acquire, upon the date of the launching of this ITT:

- (i) a radio frequency allocation of at least 2 x 5 MHz in the 1800 MHz band and will not acquire at the same time any radio frequency allocation in the 800 MHz band and/or

- (ii) (ii) a radio frequency allocation of at least 2 × 20 MHz in the paired part of the 2600 MHz band and will not acquire at the same time any radio frequency allocation in the 800 MHz band and/or
- (iii) (ii) a radio frequency allocation of 50 MHz in the unpaired part of the 2600 MHz band and will not acquire at the same time any Frequency Allocation in the 800 MHz band and/or
- (iv) a radio frequency allocation in the 800 MHz band and/or are not Holders of radio frequency allocations in the 900 MHz band.

By the National Roaming Obligation³⁷, the Applicants agree to undertake the following separate obligations:

- a. to provide National Roaming on the 2G networks to the Rightful Claimants for National Roaming for an 8-year period from the effective date of the radio frequency allocation on the basis of this tender;
- b. to provide National Roaming on the 3G networks to the Rightful Claimants for National Roaming for an 8-year period from the effective date of the radio frequency allocation on the basis of this tender;
- c. in the case that they acquire in the tender a radio frequencies allocation in the 800 MHz band at least 2 × 10 MHz in size: to provide National Roaming on the 4G networks to the Rightful Claimants for National Roaming for a period of 8 years from the effective date of the radio frequency allocation on the basis of this tender.

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

- 1. the period has elapsed within which the Applicant undertook, in respect of the networks concerned, to publish a reference offer for the fulfilment of the National Roaming Obligation according to Chapter 5.7.3 of the ITT, and
- 2. the Rightful Claimant for National Roaming, operating a public communications network with the use of any technologies and its own radio frequency allocation in the 800 MHz, 1800 MHz and/or 2600 MHz, bands, acquired after the date of the launching of the tender, covers at least 20% of the population of the Czech Republic. The fulfilment of the coverage requirement by the Rightful Claimant for National Roaming will be, in the event of a dispute, confirmed by the Office according to the procedure described in Chapter 5.1.5 (coverage checking).

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

Compliance with the territory coverage condition by the Rightful Claimant for National Roaming will be confirmed by the Office for the purposes of evaluating the fulfilment of the precedent condition contained in the contract concluded on the basis of the National Roaming Obligation.

³⁷ The duration of the obligation related to the network operated on specific radio frequencies is conditioned by the authorization to use these radio frequencies.

The National Roaming Obligation does not apply to areas for which the Rightful Claimant already concluded another agreement on the access (in the form of national roaming) for the network type in question (2G, 3G and/or 4G network).

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

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

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

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

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

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

5.7.2 The Wholesale Offer Obligation

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

To meet the Wholesale Offer Obligation under this Chapter 5.7.2 of the ITT, Applicants will undertake, for a period of 12 years from the effective of the Radio Frequency Allocation, if so requested by a claimant interested in a Wholesale Offer, to negotiate in good faith with each such claimant about signing an agreement on access to the public communications network operated with the use of the radio frequencies acquired in this tender, which agreement enables the interested claimant, with respect to the technical possibilities of the given network, to provide its electronic communications services in an independent manner and on the national scale. The price for enabling access to the network must correspond to this; it must be reasonable with respect to the extent (i.e., the proportion of the own infrastructure) and nature of the services to be provided through the host network. The level of the price for the provision of a wholesale offer in accordance with this Chapter 5.7.2 of the ITT must enable an equally effective operator to operate its business in a profitable manner in a subordinate market or markets.

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

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

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

Applicant undertakes to conclude an agreement with the effective period valid at least until the end of the effective period of the obligation, unless the parties agree on a longer effective period.

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

To meet the National Roaming Obligation and Wholesale Offer Obligation under Chapters 5.7.1 and 5.7.2 of the ITT, the Applicants will undertake to make and duly publish a binding reference offer of access to the network. The form, extent and essential details of the reference offer must be as laid down for the reference offer purposes by the Measure of General Nature [Regulation of General Applicability] No. OOP/7/07.2005-12, as amended by OOP/7/01.2006-1 and OOP/7/07.2011-10, issued by the Office on the basis of Section 82(4) of the Act. The reference offer to fulfil the Wholesale Offer obligation will be defined within the extent of the provided wholesale services corresponding to the entity of the Full MVNO type with the understanding that the Rightful Claimants may ask for a broader scope of wholesale services with a smaller part of their own infrastructure and operational systems. The reference offer must meet the conditions and requirements for meeting the undertaken obligations, contained in Chapters 5.7.1 and 5.7.2 of the ITT.

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

- reference offer for National Roaming for 2G networks and National Roaming for 3G networks – at the latest within 6 months from the date of the entering into effect of the decision on the radio frequency allocation acquired in this tender;
- reference offer for National Roaming for 4G networks and reference offer to fulfil the Wholesale Offer Obligation – at the latest within 6 months from the date when the Applicant has started to provide commercial services through the communication networks to which access is provided under the obligation or within 6 months from the day the radio frequencies allocation acquired on the basis of the present tender took effect, where the Applicant started providing commercial services by the effective date of the radio frequency allocation.

Should the Applicant be granted more than one radio frequency allocation, all the periods starting on the effective day of the radio frequency allocation should be computed as starting from the effective day of the first radio frequency allocation the Applicant acquires in this tender.

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

complete the application. In such a case the 3 months period is suspended at the moment of the delivery of the notice to the Rightful Claimant for National Roaming/claimant for the Wholesale Offer and its course continues once the application has been completed by the Applicant.

The Applicant who undertook the National Roaming Obligation or Wholesale Offer obligation is obliged to respect the conditions of contractual relations concluded on the basis of the National Roaming Obligation or the Wholesale Offer Obligation (including, but not limited to, the agreed price level) for the whole duration of the contractual relation in compliance with the conditions of the undertaken Obligation.

By undertaking the National Roaming Obligation and Wholesale Offer Obligation, Applicants agree to avoid any ungrounded discrimination between individual claimants and/or any other persons with whom they have signed, or will sign, an agreement on access in the form of National Roaming or Wholesale Offer.

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

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

All the Applicants will unconditionally undertake not to lay any hindrances of administrative, legal or any other nature and not to require the parties interested in the national roaming or wholesale offer to fulfil any conditions that are not unavoidable for the process entering into any agreement on the basis of the National roaming or Wholesale Offer obligation.

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

Should a dispute arise in respect of the compliance of the prices agreed on above, or any other other conditions of the National Roaming or Wholesale Offer, with the conditions of the National Roaming Obligation or Wholesale Offer Obligation, the Office is ready, when asked by the litigants, to make a decision based on the procedure described in Section 127 of the Act. If a decision is to be made in a dispute about the compliance of the prices agreed on above and the conditions of the National Roaming Obligation or the Wholesale Offer Obligation, the Office will specifically apply, in particular, the pricing methodology³⁸ based of the principle of margin squeeze ban.

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

³⁸ This methodology is available at http://www.ctu.cz/cs/download/ostatni/cenove_vyhodnocovani_postup_ctu_cj_ctu-43738_2011-611.pdf (Czech version only)

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

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

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

6.1 Qualification requirements

6.1.1 General rules of proving qualification

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

All conditions of participation in the tender under Chapter 6 of the ITT must be met as at the moment of expiry of the period for the submission of Applications laid down in Chapter 6.4 of the ITT. If the Applicant's qualification changes during the course of the tender and the change results, or could result, in failure to meet the rules and conditions under Chapter 6 of the ITT, the Applicant concerned must notify this to the Office in writing without delay but within 7 days at the latest. If the Applicant, at any moment of the tender procedure, stops complying with the rules and conditions of participation in the tender, the Office will decide on its exclusion from the tender.

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

6.1.2 Basic conditions of participation in the tender

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

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

6.1.3 Professional and technical conditions of participation in the tender

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

6.1.4 Economic and financial conditions of participation in the tender

The economic and financial conditions of participation in the tender are met by an Applicant who – not later than as at the last day of the period for the submission of Applications under Chapter 6.4 of the ITT – deposits a warranty amount specified in Chapter 6.3 of the ITT on the Office's bank account for the purpose of depositing warranties indicated in Chapter 3.5 of the ITT. The Applicant should prove this by the **bank's certificate** of having sent the relevant amount to the Office's indicated bank account. The certificate must clearly indicate that the warranty amount has been irreversibly debited from the Applicant's account and sent to the relevant account of the

Office. The full amount of the warranty must be credited to the Office's indicated bank account no later than as at the last day of the period for the submission of Applications under Chapter 6.4 of the ITT.

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

6.2.1 Formal aspects of the Application

The applications must be submitted in writing in 2 (two) hardcopy counterparts, one of which can be denoted as original and the other as a copy. The Applicant is responsible for the identity of both counterparts. Originals of relevant documents, or officially authenticated copies thereof, must be attached to the original Application. Plain, unauthenticated copies of the documents may be attached to the copy of the Application. The original must be secured against the removal or addition of any sheets. Together with the printed document, the Applicant should also submit the Application in electronic form in the PDF format on a carrier where it is write-protected (e.g. CD-R, DVD-R).

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

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

The Applications must be delivered to the Office's registered office indicated in Chapter 3.5 of the ITT before the expiry of the period for the delivery of the Applications indicated in Chapter 6.4 of the ITT. The original Application as well as the copy must be delivered to the Office together in one envelope, which is sealed or closed in another suitable way, with the Applicant person's identification number (IČO) and the reference number of this Invitation to Tender inscribed on it; in addition, there must be a distinct inscription "*NEOTVÍRAT – VÝBĚROVÉ ŘÍZENÍ 800 MHz, 1800 MHz, 2600 MHz*" [Do not open – Tender 800 MHz, 1800 MHz, 2600 MHz].

A model Application and the annexes thereto are attached to the ITT as Appendix 1 and Appendix 2.

6.2.2 Mandatory appendices to the Application

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

- a) in the case of legal entities, the **certificate of incorporation** (extract from the Companies Register) or extract from any other similar register, which is not older than 90 days before the last day of the period for submission of Applications under Chapter 3.6 of the ITT;
- b) in the case of the legal entities whose Application is not signed by the person(s) authorized therefor according to the entry in the Czech the Companies Register,

a **power of attorney**, proving the subscribed persons' authorization to sign the Application;

- c) in the case of the Applicants that are members of a Business Grouping: **a clear graphical presentation of the Business Grouping** whose member the Applicant is, including the indication of the **governing persons and the individual ownership interests exceeding 10%, (shares) for all the members of the Business Grouping in the Applicant** irrespective of whether the interest in the Applicant is owned directly or indirectly. If the interest in the Applicant is held directly or indirectly through one or more trusts (trust funds)³⁹ or another similar construct of Czech or a foreign legal order (e.g. a foundation) then this interest or ownership is included into the 10% limit mentioned above and the Applicant has to mention not only the information about the person of the trustee but mainly the information about the person(s) to whose benefit the given trust has been set up or, better, who are the trust beneficiaries and who, even through such trust beneficiary directly or indirectly hold/own a share in the Applicant which exceeds the 10% limit. If there is a quoted company in the assets structure of the Applicant or a company holding in the Applicant a share that exceed the 10% limit, the Applicant will give the most recent available data about the shares in this company, e.g. from the last annual general meeting, or the reports submitted to the stock exchange. The Applicant will further submit a statutory declaration of the truth of the information in this paragraph.
- d) **statement of consent to the Office's right to use all and any information contained in the Application, and the appendices thereto, for the purposes of this tender** signed by the person(s) authorized to act on behalf of, or to represent, the Applicant;
- e) **statement of acceptance of the obligations undertaken by the Applicant in the tender**, as indicated in Chapter 5.7 of the ITT in the form of Appendix 2 to the ITT, signed by the person(s) authorized to act on behalf of, or to represent, the Applicant.

6.2.3 Binding nature of the Application

The Applicant may amend or withdraw its Application at any time before the expiry of the period for the submission of Applications under Chapter 6.4 of the ITT. The Application must be signed by the person(s) authorized to act on behalf of, or to represent, the Applicant; and must be delivered to the Office to the registered office indicated in Chapter 3.5 of the ITT.

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

6.3 Warranty

Participation in the tender under Chapter 6.1.4 of the ITT is contingent on the deposition of a financial warranty (the "**Warranty**"). The Warranty serves to secure the Applicant's obligation to pay the Total Price; in the case of unsuccessful applicants it serves to secure the obligation to pay the Difference; and also to secure the Applicant's obligation under Chapter 9 of the ITT to refrain from any action that endangers or compromises the course or result of the tender within the meaning of Section 21(6) of the Act.

The amount of the Warranty must correspond to the number of Eligibility points indicated by the Applicant in the Application. The total amount of the Warranty is

³⁹ A trust is understood to be a structure according to foreign legislations (trust under Act 89/2012, Civil Code) and other funds of similar type managed by a trustee to the benefit of a beneficiary/beneficial owner.

calculated as a multiple of CZK 10,000,000 (ten million Czech crowns) and the number of Eligibility points indicated in the Application.

To ensure that the amount of the Guarantee is adequate to the Applicant's obligations being secured in the tender, the Office set the minimum amount of the Warranty at CZK 100,000,000 (one hundred million Czech crowns), which corresponds to 10 Eligibility points.

The Office also determined the maximum number of Eligibility points, limiting the total amount of radio frequencies to be acquired in the tender to 50, which corresponds to a Warranty amount of CZK 500,000,000 (five hundred million Czech crowns). The maximum amount of Eligibility points number is determined so as to prevent, in accordance with Chapter 3.2.2 of the ITT, radio spectrum hoarding by the individual entities.

The Warranty must be deposited by direct debit and must be credited to the Office's account dedicated for Warranty deposit indicated in Chapter 3.5 of the ITT before the expiry of the period for the submission of Applications according to Chapter 6.4 of the ITT. The Applicant must use its company number (IČO) (or another identifier for Applicants not having an IČO), as the payment identification code ("variabilní symbol") in the payment of the Warranty. The Applicant will bear all the bank charges and other costs associated with the payment of the Warranty. The Applicant is responsible for ensuring that the entire amount of the Warranty is credited in time to the Office's account.

Failure to deposit the Warranty for the Application in time will be considered as failure to comply with the conditions of participation in the tender and the Office will decide to exclude the Applicant from further participation in the tender. Filing an appeal against the elimination decision will not have a suspensory effect. The account used for Warranty deposit bears no interests.

The Warranty will be forfeited in the following cases:

- a) the Office invites the successful Applicant on the basis of the results of the Auction to pay the Total Price and the Applicant fails to pay the Total Price or its part within the time period determined in Chapter 8 of the ITT; or
- b) the Office invites an unsuccessful Applicant on the basis of the results of the Auction to pay the Difference and the Applicant fails to pay the Difference or its part within the time period determined in Chapter 8 of the ITT; or
- c) the Applicant commits any action referred to in Chapter 9 of the ITT.

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

Unless there is a reason for forfeiting of The Warranty, The Warranty is returned to the Applicants in the following moments:

- a) upon the effective date of the decision to exclude an Applicant from further participation in the tender in accordance with Section 21(2) of the Act or according to Chapter 6.5 of the ITT;
- b) upon the effective date of the decision to exclude an Applicant from further participation in the tender in accordance with Section 21(6) of the Act;
- c) upon the effective date of rejecting an unsuccessful Applicant under Section 21(8) of the Act;
- d) after the effective date of the Office's decision to cancel the tender; or
- e) after the payment of the Total price according to Chapter 8 of the ITT.

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

The costs of returning the Warranty will be borne by the Office.

6.4 The period for submission of Applications to the tender

The Applications will be accepted until **30 September 2013** by **12.00 hours**.

Applicants can send their Applications to the Office's registered office indicated in Chapter 3.5 of the ITT or deliver them in person to the Office's registered office on weekdays from 9.00 to 15.00 hours and on the last day of the period for submission of Applications from **9.00 to 12.00 hours**.

6.5 Multiple participation in the tender, participation on behalf of a Business Grouping

No persons/entities other than those that are economically independent of each other may take part in the tender. Business Groupings may submit only one Application to this tender and may do so through only one person/entity.

If an incumbent operator is a member of a Business Grouping, the Business Grouping may participate in the tender only through the intermediary of this incumbent operator.

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

6.6 Joint participation of more than one person/entity

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

6.7 Opening the envelopes with Applications

The opening of the envelopes with applications submitted in time will take place on the working day that follows after the date of the application submission deadline according to Chapter 6.4 of the ITT, i.e. **1 October 2013 from 9.00 hours** at the Office's address.

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

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

After examining each Application for compliance with the above requirements, the Office will announce to the present Applicants the identification data of the Applicant whose Application has been checked and whether it meets the above requirements.

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

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

The Office will decide on the exclusion from participation in the tender of the Applicants who submitted an Application but the Office has found on the basis of the recommendation of the Selection Committee that the application fails to meet the above requirements on Applications and that the Applicant failed to complete within the determined period the submitted information or documents even after being invited to do so.

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

6.8 Evaluation of the Applications

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

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

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

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

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

7 AUCTION

7.1 Auction subject matter

Auction Lot category	Freq. band	Frequencies (MHZ)	Auction lots	Spectral limit	Minimum extent of offer	Minimum price (CZK '000,000 per Lot)	Activity points (points per Lot)
A1	800 MHz paired spectrum	791-796 / 832-837	1 concrete block 2×5 MHz	2×10 MHz	not determined	1,010	10
A2		796-811 / 837-852	3 abstract blocks 2×5 MHz			1,110	10
A3		811-821 / 852-862	1 concrete block 2×10 MHz			2,220	20
B1	1800 MHz paired spectrum	1842.3-1857.9/ 1747.3-1762.9 & 1805.1-1805.3/ 1710.1-1710.3	1 concrete block 2×15,8 MHz	2×23 MHz in aggregate with the radio frequencies held in the 1800 MHz band	not determined	500	5
B2		1805-1880 / 1710-1785 (unallocated part)	9 abstract blocks 2×1 MHz			30	1
C	2600 MHz paired spectrum	2620-2670 / 2500-2570	14 abstract blocks 2×5 MHz	2×20 MHz	2×10 MHz	80	1
D	2600 MHz paired spectrum	2570-2620	9 abstract blocks 5 MHz	not determined	15 MHz	30	0.5

7.2 Basic information

The auction is a part of the tender whose purpose is to determine the price and the holder of individual radio frequency segments which are the subject matter of the present tender.

The Auction is divided into 2 phases:

1. Auction phase – a phase of the Auction in which the auction lots are distributed, by the SMRA auction method, among the Auction Participants that offered the highest price for individual Auction Lots (Auction Winners);
2. Frequency Distribution – an Auction phase in which specific segments of the radio spectrum being offered are allocated to Auction Winners to the extent and in the structure corresponding to their gain of Auction Lots in the Auction Phase.

The comprehensive Auction conditions are defined in the Auction rules that are given in the Appendix 4 to the ITT.

7.3 Closing the Auction

The Office will inform all Applicants about the closing of the auction and the distribution of the radio frequencies won in the Auction by the Auction Winners. In doing so, the Office will proceed in accordance with Chapter 7 of the Auction Rules.

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

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

Once the Selection Committee's report is delivered, the Office will issue its decision on the result of the tender, following the procedure specified in Section 21(8) of the Act.

The unsuccessful Applicants who have the obligation resulting from the use of the Highest Bid Withdrawal option will be invited by the Office to pay the Difference. The entire amount of the Difference has to be paid in Czech crowns to the account dedicated for the settlement of the price for the award of the right to use radio frequencies mentioned in Chapter 3.5 of the ITT. In the payment form, please indicate as the "variabilni symbol" the company number (IČO) of the Applicant. The amount has to be paid at the latest within 15 days after the delivery of the Office's invitation to pay. The amount is considered as settled once it has been credited to the relevant Office's account. The provisions about the Warranty forfeiture and about other sanctions that the Office may apply in the event of late payment are not affected. The procedure used when only a part of the Difference is paid is the same as when only a part of the Total Price is paid. The part of the Difference that has been paid will not be returned.

On the basis of the result of the Auction, contained in the Selection Committee's report, the Office will reject the applications of unsuccessful Applicants within two months from the end of the Auction. Upon the effective date of the decision about the rejection of the unsuccessful Applicants the Office will invite the successful Applicants to pay the Total Price (including the Difference). Once the Total Price is paid, the Chairman of the Council of the Office will decide within 30 days on awarding the Allocations of radio frequencies under Section 22 of the Act.

The Total Price for the right to use radio frequencies must be paid in Czech crowns to the account dedicated to the payment of the price for the award of the right to use radio frequencies indicated in Chapter 3.5 of the ITT. When the payment is made, the Applicant's company number (IČO) should be entered as the payment identification code ["variabilní symbol"]. The amount must be paid within 15 days from the date of delivery of the invitation to pay. The amount will be considered as paid when it is credited to the indicated account of the Office.

Should an Applicant to whom radio frequencies are to be allocated on the basis of the result of the Auction fail to pay the Total Price within 15 days from the date of delivery of the invitation to pay, the radio frequencies that had to be allocated to such an Applicant within the tender will not be allocated. Should an Applicant fail to pay the entire Total Price, the amount that has been paid as part of the Total Price will be used by the Office to offset it against the payment of the Difference and the remaining part will be used to cover the price for the award of the right to use radio frequencies.

Should only a part of the Total Price is paid by an Applicant before the end of the fifteen-day period from the delivery of the invitation to pay, the Office will invite such an Applicant to pay within a three-day grace period the outstanding part of the Total Price. Should the Applicant fail to pay the outstanding part of the Total Price even within such a grace period, the Office will proceed as if the Applicant did not pay the Total Price, and the part of the price already paid (reduced by the Difference, as the case may be) will be returned by the Office to the Applicant's account from which that part of the price was sent. In the case of failure to pay within the required period of time the entire Total Price, or any part thereof, the Office will reject the Application. This is without prejudice

to the provisions concerning the forfeiture of the Warranty and other sanctions the Office may apply in such cases.

The Warranty is not offset against the obligation to pay the outstanding part of the Total Price (incl. the Difference).

The Office will publish a report on the course and results of the tender within a month from the completion of the tender. If one or more radio frequencies allocations are issued on the basis of the tender the Office will publish within the same time period a comprehensive Auction log established by the Electronic Auction System.

9 THE RULES OF CONDUCT OF PARTICIPANTS DURING THE TENDER

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

- a) acting in concert with another Applicant in the tender, especially in matters concerning the amounts of the bids in the Auction or the distribution thereof (with the exception of the conduct foreseen in Chapter 5 of the Auction rules within the Distribution of Frequencies phase);
- b) procrastination or disturbance of the tender;
- c) conduct preventing or hindering another entity from participation in the tender;
- d) breach of the obligations and rules specified by this ITT and especially by the Auction rules.

Examples of actions that would be treated by the Office as breach of the rules of conduct within the meaning of this Chapter 9 of the ITT include the ways of conduct as a result of which any Auction Participant submits a Bid in the Auction without being prepared to receive for the offered price the demanded combination of Auction Lots that are the object of the Bid (and therefore in contravention of the principle of the binding nature of the Bid, as required in the ITT), for example, for the purpose of procrastinating the Auction, hinder another Participant in obtaining Auction Lots, or otherwise endanger or frustrate the course or result of the Auction.

In a situation where a high number of Auction Rounds have been completed and the Auction Participants make no substantial changes in their long-term bidding strategies, and the Auction activities have narrowed down to a limited range of Auction Lots, the following ways of conduct would be considered by the Office as an indication of conduct within the meaning of this Chapter 9 of the ITT, e.g., in the form of conduct described in points (b) or (c) above:

- using the Highest Bid Withdrawal right in respect of the Auction Lots held in one Auction Category (or in Auction Categories within one frequency band) in a situation where another Auction Participant has ceased to actively submit bids in that Auction Category and has lost the Eligibility Points related thereto, which has led (or could soon lead) to the equalization of demand and supply in this Auction Category;
- using the Highest Bid Withdrawal right in respect of the Auction Lots held in one Auction Category (or in Auction Categories within one frequency band) in a situation where another Auction Participant has used his Highest Bid Withdrawal right in that Auction Category, which has led (or could soon lead) to the equalization of demand and supply in this Auction Category;
- using the Highest Bid Withdrawal right in a situation where the Auction Participant is a holder of Auction Lots to the extent corresponding to the number of his Eligibility points, etc.

In the case of conduct contravening the rules of this Chapter 9 of the ITT, the Office will decide in accordance with Section 21(6) of the Act to exclude the Applicant from further participation in the tender. If the Applicant commits any action referred to in this Chapter 9 of the ITT, the Applicant's Warranty, deposited according to Chapter 6.3 of the ITT, will be forfeited.

10 CANCELLATION OF THE TENDER

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

11 COMMUNICATION DURING THE TENDER

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

- General communication during the tender – the Office will provide information about the course and dates of the Auction on an ongoing basis at its website.
- Communication in the individual phases of the tender:
 1. Before submitting the Application – individual Applicants can communicate with the Office in accordance with Chapter 3.4 (f) of the ITT, in the form of questions to interpretation of this ITT and requisites of the Applications.
 2. Application submission – delivery to the Office of the “Application for the Award of the Rights to Use Radio Frequencies” document in accordance with Chapter 6.2 of the ITT and the possibility to participate in the envelope opening event. If so requested by the Office in the case of any uncertainty, the Applicant must provide additional explanation or amendment to the Application.
 3. Training for the Electronic Auction System and the performance of the test auction, including the possibility of sending inquiries related to the relevant training or test auction.
 4. Auction phase – information in the scope defined in the Auction rules.
 5. Negotiations about the distribution of the radio spectrum segments.
- The Office’s information during the tender about concluding the individual phases of the tender and the results thereof:
 1. Information about tender process commencement;
 2. Information about the evaluation of the qualification part of the tender and about the results of the qualification;
 3. Information about the commencement of the Auction phase of the tender;
 4. Information about the end of the Auction phase of the tender and the results thereof;
 5. Information about the closing of the Auction and the distribution of radio frequencies among Auction Winners.

The Applicants must respect the confidentiality of all circumstances related to their participation in the tender. According to Chapter 5 of the Auction Rules, the Office only admits the possibility for Auction Winners to coordinate their conduct before the negotiation on radio frequency distribution on the basis of the results of the Auction, and to agree on the final distribution of the spectrum on the basis of Auction results.

This Chapter 11 of the ITT is without prejudice to the provisions of the Rules of Administrative Procedure and of the Act, where the details of submissions and the methods of delivery thereof are described.

12 LIST OF APPENDICES

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

Appendix 2 – “Statement of Obligations Undertaken by the Applicant”

Appendix 3 – Calculation and measurements for the purposes of controlling mobile broadband data network signal coverage

Appendix 4 – Auction Rules

Appendix 5 – List of districts in the Czech Republic and their classification according to the population density criterion

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