

This is an unofficial translation. The legally binding text is the original Czech version.



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

Prague, 30 June 2005
Ref.: 29450/2005-613

On the basis of public consultation under Section 130 of the Act No. 127/2005 Coll., on electronic communications and on amendment to certain related acts (the Electronic Communications Act) (the “Act”) and on the basis of the decision of the Council of the Czech Telecommunication Office (the “Office”) under Section 107(8)(b)(2) of the Act, and in order to implement Section 23 of the Act, the Office as the appropriate state administration body under Section 108(1)(b) of the Act hereby issues this

Measure of General Nature No. OOP/12/07.2005-6
laying down the conditions and procedures needed for the transfer of the rights resulting from
the allocation of radio frequencies.

Article 1

Introductory Provisions

This Measure of General Nature lays down the conditions and procedures needed for the transfer of the rights resulting from radio frequency allocation (“transfer of rights”) to another undertaking.

Article 2

Application for Consent to the Transfer of Rights

(1) An undertaking which is the holder of rights based on radio frequency allocation (the “current holder”) and the undertaking to which the current holder wishes to transfer those rights (the “recipient”) shall submit to the Office a joint application for consent to the transfer of rights.

(2) The current holder shall indicate in the application:

- a) its identification data under Section 13(2) or (3) of the Act;
- b) indication of the decision on the allocation of radio frequencies that are the subject of the transfer of rights;
- c) designation of the service, network type or technology related to the rights to be transferred.

(3) The recipient shall indicate in the application:

- a) its identification data under Section 13(2) or (3) of the Act;
- b) statement of having been notified about the obligations related to the rights and about the ability to meet them;
- c) the financial, technical and professional preconditions for utilising the radio frequencies to be transferred;
- d) the time of commencement of the utilisation of the radio frequencies to be transferred.

This is an unofficial translation. The legally binding text is the original Czech version.

Article 3

Conditions for Granting Consent to the Transfer of Rights

- (1) The recipient meets the conditions for running a business under Section 22(4) of the Act.
- (2) The recipient is able to fulfil the obligations related to the rights.
- (3) The recipient meets the financial, technical and professional preconditions for the utilisation of the radio frequencies to be transferred.
- (4) The time of commencement of the utilisation of the radio frequencies to be transferred and the mode of such utilisation are in keeping with the principle of reasonable radio frequency utilisation.
- (5) No change is to occur in the radio frequency utilisation conditions as defined in the Radio Spectrum Utilisation Plan.

Article 4

The Course of Action by the Office

In administrative proceedings, the Office shall consider how the conditions set out in Section 23(1)(a) and (b) of the Act and the conditions under Article 3 above are met. The validity of the consent to the transfer of rights is limited to sixty days after the finality of the Office's decision.

Article 5

Further Course of Action by the Current Holder and the Recipient

The current holder or recipient shall submit to the Office the decision on radio frequency allocation to indicate the changes in it, and shall do so within seven days after the entry into effect of the contract on the transfer of rights.

Article 6

Effect

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

Explanatory Memorandum

To implement Section 23(2) of the Act, the Office issues Measure of General Nature No. OOP/12/07.2005-6 (the "Measure"), laying down the conditions and procedures needed for the transfer of the rights resulting from the allocation of radio frequencies.

This Measure is based on the provisions of the Act, which reflect the principles of radio frequency administration for electronic communication services as set out in the European legislation, including, but not limited to, Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks (the Framework Directive).

The purpose is to determine the course of action in transferring the rights resulting from radio frequency allocations. These transfers of rights were impossible under the previous legislation.

This is an unofficial translation. The legally binding text is the original Czech version.

Article 2 of the Measure indicates the data that must be contained in the application to be submitted by the current holder and the new recipient of the rights. Article 3 specifies the conditions to be met by the recipient in order that the Office can grant its consent to the requested transfer of rights.

On the basis of Section 130 of the Act and in accordance with the Czech Telecommunication Office's Rules for maintaining consultations with the affected parties at the discussion site, the Office published on 9 May 2005 at the discussion site its draft Measure No. OOP/12/XX.2005, laying down the conditions and procedures needed for the transfer of the rights resulting from the allocation of radio frequencies and an invitation for comments on the draft Measure.

The majority of the comments were reflected in the formulation in the Measure, because they proposed more precise formulations or, on the other hand, exclusion of certain provisions that are already contained in Section 23 of the Act. The comments raised by the Ministry of Informatics were discussed on 13 June 2005. The comment concerning the definition of the procedure for partial transfer of rights was accepted and reflected in the Measure. The answer to the question whether a frequency allocation can be split (and thereby a part of the allocation can be transferred) depends on the purpose of the use of the radio frequencies and must be considered in proceedings on the specific transfer of rights.

The validity of the consent granted by the Office to the transfer of the rights is limited in time, because the conditions keep changing and the assessment of impacts on competition must always be up-to-date.

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

[*round seal*]
Czech Telecommunication Office
-1-

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