

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, Postcode 225 02, Prague 025

Prague 7 October 2009
Ref. 44 424/2009-611

The Czech Telecommunication Office (the "Office") as the appropriate state administration body under Section 108(1)(b) of the Act No. 127/2005 Coll. on electronic communications and on amendment to certain related acts (the Electronic Communications Act), as amended, ("Act"), on the basis of the results of public consultation carried under Section 130 of the Act, the decision of the Council of the Office under Section 107(8)(b)(2) of the Act, and in order to implement Section 49(7) of the Act issues

**Measure of General Nature No. OOP/17/10.2009-14,
laying down the percentage shares of revenue from the provision of services referred
to in Section 49(5) of the Act for the year 2007**

Article 1

Introductory provisions

This Measure of General Nature lays down the individual payers' percentage shares of revenues generated from the provision of the services referred to in Section 49(5) of the Act out of the total revenue from the provision of the services referred to in Section 49(5) generated by all payers in the given accounting period.

Article 2

Determination of individual payers' percentage shares of the total revenue

The following percentage shares of revenues under Section 49(7) of the Act out of the total revenue of CZK 124,477,162.000 for the accounting period of the calendar year 2007:

Order number	Payer	Company number (IČ)	Percentage shares
a	b	c	d
1	Advantel, a.s.	25766937	0.01878
2	Aston com s.r.o.	26915588	0.01129
3	AT & T Global Network Services Czech Republic s.r.o.	25785435	0.08294
4	AVONET, s.r.o.	25322478	0.03492
5	BOHEMIA TELEKOM s.r.o.	25732048	0.01270
6	BroadNet Czech, a.s.	26201224	0.15082
7	BT Global Česká republika s.r.o.	26209101	0.02805
8	BT Limited, organizační složka	70802025	0.30053
9	CASABLANCA INT s.r.o.	25079832	0.05501
10	CERBEROS s.r.o.	27071324	0.00984
11	CL-NET s.r.o.	25011022	0.05668

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

Order number	Payer	Company number (IČ)	Percentage shares
a	b	c	d
12	COMA s.r.o.	47471557	0.05617
13	COPROSYS a.s.	45534152	0.04854
14	Coprosys-LVI s.r.o.	27304230	0.00824
15	Coprosys NeTron, s.r.o.	25864980	0.01050
16	ČD - Telematika a.s.	61459445	0.17234
17	Česká síť s.r.o.	26088983	0.01006
18	České Radiokomunikace a.s.	27444902	1.36914
19	Český bezdrát s.r.o.	25902415	0.00947
20	ČEZ ICT Services, a.s.	26470411	0.87346
21	Dat, s.r.o.	25521233	0.01476
22	Dial Telecom, a.s. ¹⁾	25135198	0.30671
23	Dragon Internet a.s.	27237800	0.03630
24	EMEA s.r.o.	26898101	0.03654
25	eNET, s.r.o.	26458837	0.01977
26	ERKOR, spol. s r.o.	47472995	0.02339
27	ERKOR OLOMOUC, s.r.o.	27466442	0.00940
28	ERKOR OSTRAVA, s.r.o.	27467163	0.01027
29	ETEL, s.r.o. ²⁾	25630636	0.09768
30	ETT ENERGETIKA, a.s.	26463806	0.00996
31	Euphony Czech Republic a.s.	27645690	0.16134
32	F.C.A. a.s.	61858137	0.01422
33	Faster CZ spol. s r.o.	60722266	0.02041
34	FOFRNET spol. s r.o.	25835548	0.01050
35	FORTECH, spol. s r.o.	48155811	0.03055
36	Freebone s.r.o.	25503286	0.00931
37	GiTy,a.s.	25302400	0.09886
38	GTS NOVERA a.s. ³⁾	61058904	4.51225
39	ha-vel internet s r.o.	25354973	0.06227
40	INet Home Cz, s.r.o.	27136108	0.01217
41	Ing. Jan Rýznar	46101802	0.01164
42	Ing. Martin Richtarik	73311693	0.00826
43	INTERNET Pb,spol. s r.o.	25729934	0.01382
44	INTERNEXT 2000, s.r.o.	25352288	0.03572
45	IPEX a.s.	45021295	0.03612
46	JaroNet s.r.o.	26969866	0.00856
47	JHComp s.r.o.	26051362	0.00889
48	KABELOVÁ TELEVIZE CZ s.r.o.	48150029	0.01017
49	Kabelová televize Kadaň, a.s.	46709584	0.01305
50	Kabelová televize Karviná, a.s.	25878310	0.01641
51	Kabelová televize Kopřivnice, s.r.o.	60318988	0.00805
52	Kabelová televize Přerov, a.s.	47672099	0.02856
53	Kabelová televize Třinec, spol. s r.o.	48394980	0.01682
54	Karneval Media s.r.o. ⁴⁾	61776203	0.27661
55	KNET INT s.r.o.	27074269	0.00839
56	LICA s.r.o.	47542756	0.00925
57	Master internet, s.r.o.	26277557	0.02715
58	MATTES AD, spol. s r.o.	42868602	0.07182
59	MAXPROGRES, s.r.o.	25307126	0.01326

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

Order number	Payer	Company number (IČ)	Percentage shares
a	b	c	d
60	Mikenopa a.s.	26467704	0.02122
61	MobilKom, a.s.	48171000	0.03928
62	M - SOFT, spol. s r.o.	49434853	0.02483
63	NEW TELEKOM, spol. s r.o.	26690471	0.06223
64	NWT Computer s.r.o.	63469511	0.01490
65	OHŘE MEDIA spol. s r. o.	25452584	0.00886
66	OpavaNet a.s.	25860011	0.01417
67	OVANET a.s.	25857568	0.03114
68	Petr Golasovský	73188905	0.00818
69	PODA s.r.o.	25816179	0.06216
70	POHODA - SERVIS spol. s r.o.	62497901	0.01680
71	Radim Pytela	10106456	0.00831
72	RETE internet, s.r.o.	26404524	0.00821
73	RTV - 5, spol. s r.o. ⁵⁾	15528901	0.01023
74	SATT a.s.	60749105	0.01315
75	SELECT SYSTEM, s.r.o.	25382292	0.01169
76	SELF servis, spol. s r.o.	18826016	0.05182
77	SilesNet s.r.o.	25392280	0.01224
78	SkyNet, a.s.	25346687	0.08844
79	Sloane Park Property Trust, a.s.	25036459	0.11512
80	SMART Comp. a.s.	25517767	0.06289
81	SOFTEX NCP, s.r.o	62243608	0.01193
82	STARNET, s.r.o.	26041561	0.02400
83	Telefónica O2 Czech Republic, a.s.	60193336	46.29021
84	Telekom Austria Czech Republic, a.s. ⁶⁾	63080150	0.61893
85	TELEST, spol. s r.o.	47907665	0.00868
86	TERMS a.s.	14499037	0.02474
87	TISCALI Telekomunikace Česká republika s.r.o. ⁷⁾	64788610	0.14402
88	T-Mobile Czech Republic a.s.	64949681	26.28535
89	T-Systems Czech Republic a.s.	61059382	0.07929
90	Unient Communications, a.s.	63078171	0.02367
91	UPC Česká republika, a.s.	00562262	1.21425
92	VBC CZECH s.r.o.	26783801	0.01239
93	VIDEON Networking s.r.o.	26295954	0.01089
94	Vodafone Czech Republic a.s.	25788001	15.10958
95	WMS s.r.o.	48289957	0.00860
96	WOLFSTEIN s.r.o.	27080552	0.00891

Notes:

- ¹⁾ The assets of Dial Telecom, a.s. (Company No. [IČ]: 251 35 198) were transferred to Dial Telecom, a.s. (Company No. [IČ]: 281 75 492).
- ²⁾ ETEL merged with Czech On Line a.s. (currently: VOLNÝ, a.s.) as at 27 September 2007.
- ³⁾ GTS NOVERA a.s. (Company No. [IČ]: 610 58 904) merged by absorption with GTS NOVERA s.r.o. (Company No. [IČ]: 284 92 170) as at 1 July 2009.
- ⁴⁾ Karneval Media s.r.o. merged with UPC Česká republika, a.s. as at 1 September 2007.
- ⁵⁾ RTV – 5, spol. s r.o. merged with BKS Capital Partners a.s. as at 1 June 2008.
- ⁶⁾ Telekom Austria Czech Republic, a.s. changed its name to VOLNÝ, a.s. as at 21 January 2009.
- ⁷⁾ TISCALI Telekomunikace Česká republika s.r.o. changed its name to TS-Telekomunikace, s.r.o. as at 23 March 2009.

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

Article 3

Entry into force

This Measure of General Nature shall enter into force on the fifteenth day after being published in Telekomunikační věstník [Telecommunications Bulletin].

Explanatory Memorandum

In order to implement Section 49(7) of the Act, the Office issues hereby this Measure laying down the percentage shares of revenue from the provision of services referred to in Section 49(5) of the Act out of the total revenue from these services as provided by all payers in the accounting period of the year 2007.

Payers are obliged to contribute to covering the net costs. Under Section 49(5) of the Act, payers are the undertakings that, regardless of whether they are or are not based in the Czech Republic, provide the following services in the Czech territory during the relevant accounting period: interconnection and access to the publicly accessible electronic communication network, publicly available telephone service, leased lines service, internet access service or any other publicly available data service.

It is stipulated in Section 49(6) of the Act that an undertaking whose total revenues from the provision of publicly available telephone service, internet access services or any other publicly available data services for the relevant period are smaller than CZK 10,000,000 in aggregate should not be regarded as payers. Consequently, the calculation covered only the undertakings listed in Article 2 of this Measure, each of which had revenues at or above CZK 10,000,000.

For the purposes of this Measure, total revenues should be understood to mean the sum of payers' revenues for the services specified in Section 49(5) of the Act. Revenue shares should be understood to mean, for the purposes hereof, the shares of the revenues of the individual undertakings out of the total revenues defined above.

In determining the range of undertakings, the Office based its considerations on the list of undertakings maintained by the Office in accordance with Section 14(3) of the Act.

The Office addressed 1329 undertakings which had notified authorities about their electronic communication business in accordance with Section 13 of the Act and which, in the relevant period of time, conducted the notified electronic communications business activities to the extent defined in Section 49(5) of the Act. The Office requested these companies under Section 115 of the Act to submit the information, data and evidence necessary for determining the amount to be paid to the universal service account. This information was used for the calculation of each provider's percentage share out of the total revenues from the electronic communications services indicated below and for the subsequent calculation of the contribution to covering the net costs incurred by the universal service provider in 2007.

As to revenues from the provision of access to the publicly accessible electronic communications network, the publicly available telephone service, leased lines service,

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

internet access service or another publicly available data service, the Office included in these revenues those that were earned from the sale of such services, which were accounted for in accordance with Act No. 563/1991 on accounting, as amended, in the calendar year 2007. From the addressed undertakings, the Office requested information about the individual types of revenues, including the sales revenues related to the following electronic communications services in the following order:

Interconnection:

- Wholesale sales revenue for traffic originated in the operator's network;
- Wholesale sales revenue for traffic terminated in the operator's network;
- Wholesale sales revenue for transit;
- Wholesale sales revenue for leased lines for interconnection purposes.

The individual items also comprise sales revenue for roaming, dial-up, virtual calling cards, SMS and MMS.

Access to public electronic communications network:

- Wholesale sales revenue for local copper loop unbundling, both full and shared access;
- Wholesale sales revenue for co-location;
- Wholesale sales for broadband access;
- Other revenues from access-related services and activities that are not comprised in other items of the sales revenue for access to public electronic communications network.

Publicly available telephone service:

- Retail sales revenue for installing, re-laying, transfer and removal of subscriber lines;
- Retail sales revenue for the use of subscriber lines;
- Retail sales revenue for mobile station and service activation (e.g., SIM cards);
- Retail sales revenue from fixed network subscribers or end users for calls;
- Retail sales revenue from mobile network subscribers or end users for calls;
- Retail sales revenue for number porting;
- Wholesale sales revenue for number porting;
- Retail sales revenue for telephone service resale;
- Other retail sales revenues for publicly available telephone service.

Leased lines service:

- Wholesale sales revenue for leased lines (not including loops used for interconnection);
- Retail sales revenue for leased lines;
- Sales revenue from leased lines resale.

Internet access service:

- Wholesale sales revenue for Internet access, including dial-up;
- Retail sales revenue for Internet access, including dial-up;
- Sales revenue from Internet access resale.

Other publicly available data services:

- Retail sales revenue for the short message service (SMS);
- Retail sales revenue for multimedia service (MMS);
- Retail sales revenue for VoIP (calls for number 910 and 970);
- Other retail sales revenues for other publicly available data services;
- Wholesale sales revenue for data transmission;
- Sales revenue from data services resale.

Other electronic communications activities:

- Sales revenue and income from other activities in the electronic communications sector, not included in the lines above

Other activities of the undertaking:

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

- Sales revenue and income from other activities within the undertaking, including extraordinary and financial income.

The submitted data was assessed for compliance with the list of undertakings. The range of the indicated revenue data was checked by the Office against the range of services whose provision was notified by the undertaking under Section 13 of the Act. The sum of all the above revenues was checked on the basis of the internal sources available to the Office and on the basis of the local investigations conducted at some of the undertakings.

As stated above, only the undertakings referred to in Article 2 of this Measure, whose income is (as the Office found) at or above CZK 10,000,000, were included in further calculations for the purposes hereof. The Office had to identify the services from which to take the undertaking's income to be considered when checking whether the CZK 10,000,000 level was reached in the accounting period under Section 49(6) of the Act and when determining the percentage share of the aggregate revenue. The Office decided to take into account those services (both retail and wholesale) whose revenues are charged by the undertaking in the Czech Republic and are subject to income tax as that undertaking's income from sources located in the Czech Republic. Even in the case that a part of a service is used abroad, e.g. the international roaming services, the Office includes the revenue from such a service in the calculation because, as the Office explains, it is a service that is provided by the undertaking in the Czech territory. In addition, in the case of roaming calls from/to the Czech Republic, transfer and processing of operational data is made also on the territory of the Czech Republic. In the case of retail services, the services are provided under the conditions proclaimed in the Czech Republic.

As to the individual services specified in Section 49(5) of the Act, the Office included in the revenues also the sales revenue generated from setting up the connection to an electronic communication network for the purpose of the provision of electronic communications services, e.g. access to internet or public telephone service, as it is impossible without such connection to provide electronic communications services.

The total income, from which the percentage shares of individual payers were determined, was calculated as the sum of the revenues earned by the payers from the above-mentioned electronic communications services. The sum of the individual payers' revenues was **CZK 124,477,162.000**, as stated in the first sentence of Article 2 of this Measure.

The individual payers' percentage shares, shown in the table in Article 2 of this Measure, were determined as the ratio between the individual payers' revenues to all payers' total revenues from the provision of all payers' services referred to in Section 49(5) for the given accounting period, based on the following formula:

$$P_i = \frac{V_i}{\sum V_i}$$

where:

P_i the share of the i^{th} payer,

V_i payer's revenues from the provision of the services indicated in Section 49(5) of the Act

$\sum V_i$ sum of all payers' revenues.

The individual undertakings' shares are stated as percentages with accuracy to five decimal places.

Entry into force of the Measure is determined in Article 3 of the Measure in compliance with Section 124(2) of the Act.

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

On the basis of Section 130(1) of the Act and in accordance with Article 5(1) of the Czech Telecommunication Office's Rules for maintaining consultations with stakeholders at the discussion site, the Office published at the discussion site its draft Measure of General Nature No. OOP/XX/XX.2019-Y on 25 May 2009.

During the consultation, the Office learned that in the case of one of the companies there were reasons to modify its share of the revenues from the provision of the services indicated in Section 49(5) of the Act, and therefore the Office re-calculated the shares of all payers referred to in Article 2 of this Measure.

On the basis of Section 130(1) of the Act and in accordance with the Czech Telecommunication Office's Rules for maintaining consultations with stakeholders at the discussion site, the Office published at the discussion site on 14 August 2009 its new draft Regulation of General Application No. OOP/17/XX.2009-Y.

Within the one-month period of public consultation, the Office received one comment, which claimed that the Office acted wrongly when determining the range of revenues. The commenter believed that roaming services are not a kind of services that are provided in the territory of the Czech Republic. To support this view, the commenter claimed that the definition of publicly available telephone service in Section 2(p) of the Act does not include roaming services provided abroad.

The Office did not accept this comment and did not meet the request to reduce the revenues by excluding those generated from the roaming services. The method used by the Office to calculate the percentage shares of revenues is in keeping with Section 49(7) of the Act. The term "services provided in the territory of the Czech Republic" must be understood to cover all wholesale and retail services whose revenues are stated in the undertaking's books maintained in the Czech Republic as revenues generated from sources in the Czech territory and are at the same time included in the income tax basis in respect of income tax paid in the Czech Republic as tax on income generated from sources in the Czech territory. This does not exclude that part of such services may in fact be used outside the Czech territory. The key aspect for including revenues in the calculation of the percentage shares to be paid by payers to the universal service account is that the service is offered, provided and charged for in the Czech territory. Without the provision of a service in the Czech Republic, it would be impossible to use the service in roaming abroad.

A definition of roaming can be found in Regulation (EC) No. 717/2007 of the European Parliament and of the Council on roaming on public mobile telephone networks within the Community and on amending Directive 2002/21/EC. It is stated in the Regulation that roaming calls are mobile voice telephony calls. In Section 2(s) of the Act, call is defined as connection established by means of a publicly available telephone service allowing for two-way communication in real time. From this it follows that roaming calls are an integral part of publicly available telephone service.

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

For the Council of the
Czech Telecommunication Office

PhDr. Pavel Dvořák, CSc.
President of the Council of the
Czech Telecommunication Office