



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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Appendix 2

to 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

"Statement of Obligations Undertaken by the Applicant"

Statement of Obligations Undertaken by the Applicant

This Appendix 1 is an integral part of the Application for the Award of the Rights to Use Radio Frequencies under Section 21 of the Act (hereinafter referred to as the “**Application**”) submitted on the basis 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 (hereinafter referred to as the “**ITT**”) launched on **12 July 2012**

by the Czech Telecommunication Office seated at Sokolovská 219, Prague 9, P.O.Box 02, Post Code 225 02, Prague 025 (hereinafter referred to as the “**Office**”)

Identification data of the Applicant undertaking the obligations:

Company:
Address:
Company No. (IČO):
Person authorised to act on the Applicant’s behalf:
(hereinafter referred to as the “**Applicant**”)

Terms not defined in this Appendix 1 to the Application submitted on the basis of the ITT have the same meaning as defined or indicated in the ITT and/or in the Application.

Content of the Obligation undertaken by the Applicant:

I, the Applicant, hereby undertake the following obligations associated with the award of the rights to use radio frequencies in the 800 and/or 1800 and/or 2600 MHz on the basis of the tender described in the ITT and agree to fulfil them in a due and timely manner:

1. National roaming

I, the Applicant, hereby undertake the National Roaming Obligation in the event that I acquire in the tender a radio frequency allocation in the 800 MHz band of at least 2 x 10 MHz in size.

I agree to commence the provision of the network access services to the benefit of Claimants who after the day of the announcement of this tender will acquire:

(i) a radio frequency allocation of at least 2 × 15.6 MHz in the 1800 MHz band and will not acquire at the same time any frequency allocation in the 800 MHz band and/or

(ii) a radio frequency allocation in the paired part of the spectrum of at least 2 × 20 MHz in the 2600 MHz band and will not acquire at the same time any frequency allocation in the 800 MHz band and/or

(iii) a radio frequency allocation in the unpaired part of the spectrum of 50 MHz in 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 is not at the same time a holder of radio frequency allocation in the 900 MHz band.

I hereby undertake, on the basis of this National Roaming Obligation, to fulfil the following independent duties:

- i. providing Rightful Claimants for National Roaming with the National Roaming for the 2G networks for a period of 10 years after coming into force of the radio frequency allocation on the basis of this tender;
- ii. providing Rightful Claimants for National Roaming with the National Roaming for the 3G network for a period of 10 years after coming into force of the radio frequency allocation on the basis of this tender; and
- iii. providing Rightful Claimants for National Roaming with the National Roaming for the 4G networks for the whole period of force of the radio frequency allocation on the basis of this tender.

Unless otherwise agreed with the opposite party, I agree to commence the provision of the network access services on the basis of my National Roaming Obligation for each Rightful Claimant for National Roaming at the latest at the day when the following conditions are fulfilled:

1. the period has elapsed in which I undertook to publish a reference offer in relation to the networks concerned on the fulfilment of the National Roaming Obligation according to the chapter 5.7.3 of the ITT, and
2. the Rightful Claimant for National Roaming covers, through a public communications network operated by the Claimant with the use of any technology and the Claimant's own radio frequency allocations acquired after the day of the tender announcement in the 800 MHz, 1800 MHz and/or 2600MHz bands, at least 20% of the population of the Czech Republic. I acknowledge that in the case of a dispute the compliance with the coverage requirement by the Rightful Claimant for National Roaming will be confirmed by the Office on the basis of the procedure laid down in the ITT chapter 5.1.5 (Coverage verification).

Hereby, I agree to conduct negotiations in good faith towards concluding an agreement on the access (in the form of National Roaming) with each Rightful Claimant for National Roaming irrespective of whether such a Rightful Claimant fulfilled the requirement to cover at least 20% of the population of the Czech Republic. I acknowledge that this condition of covering at least 20% of the population of the Czech Republic may be agreed as a suspensive condition for the operation of an agreement on access (in the form of National Roaming).

I acknowledge that the National Roaming Obligation for the 4G networks does not concern the territories that a Rightful Claimant for National Roaming declares as covered for the purposes of the fulfilment of the coverage requirement for at least 20% of the Czech Republic population and for the purpose of meeting the development criteria. I acknowledge that the National Roaming Obligation for the 2G networks and the National Roaming Obligation for the 3G networks is not limited in respect of a territory.

In order to meet the National Roaming Obligation I agree to negotiate in good faith when invited by a Rightful Claimant for National Roaming with each Rightful Claimant for National Roaming about entering into an agreement or agreements on

enabling of the National Roaming for the 2G networks and/or National Roaming for the 3G networks and/or the National Roaming for the 4G networks, which enable the Rightful Claimant for National Roaming – with respect to technical capabilities of the host network and to the business plans of the Rightful Claimant for National Roaming – to provide electronic communications services in an independent manner and on a whole-area scale. I agree to ensure that, in particular, the price for enabling this access to the network (in the form of National Roaming) corresponds to this and that the price is reasonable with respect to the extent and nature of the services to be provided on the basis of this access (in the form of National Roaming) and to the costs incurred by the National Roaming Provider in enabling such access. I agree to ensure that the level of the price for the provision of access (in the form of National Roaming) on the basis of the National Roaming Obligation does not (with respect to the preceding sentence) hinder the development of competition in any subordinate market(s) and that it enables an equally effective operator to operate its business in a profitable manner as the Rightful Claimant for National Roaming in the subordinate market(s).

Under the National Roaming Obligation, I undertake not to do anything to restrict the purpose, extent, quality and structure of the services provided by the Rightful Claimant for National Roaming. If it is impossible for objectively identifiable capacity reasons to fulfil the National Roaming Obligation over the entire geographical extent of the host network, I 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 me and the opposite party, I agree to ensure that the agreement to be concluded on the basis of the National Roaming Obligation meets at least the following conditions:

- It will enable Customers of the Rightful Claimant for National Roaming access to the voice services using any technology operated in the communications network, to which the access is provided, so that the Rightful Claimant for National Roaming is able to provide voice, facsimile and SMS services, including call forwarding, call blocking and calling party identification, to the same extent as provided by me, and the agreement also enables the Rightful Claimant for National Roaming to provide its own value-added services, thanks to access to the necessary transmission capacity;
- It will provide Customers of the Rightful Claimant for National Roaming with access to the transmission capacity available on the basis of any technology operated in the communications network, to which access is provided, so that the Rightful Claimant for National Roaming is able to provide access to the transmission capacity, including value-added services, in the same extend as provided by me;
- Clear pricing conditions, based on a unit charge specified according to the nature of service (such as a minute, data volume unit, SMS), will be laid down;
- It will provide for gradual reduction of National Roaming, initiated by the Rightful Claimant for National Roaming with respect to the progression of the construction of the Rightful Claimant's own network.

I agree to conclude an agreement or agreements for an effective period of at least two years on the basis of the National Roaming Obligation, unless the Rightful Claimant for National Roaming requests a shorter effective period. If this minimum two year effective period of the agreement exceeds the term of the Applicant's obligation, it undertakes to conclude an agreement for an effective period lasting at least till the termination of my Obligation, unless a longer effective period is agreed with the opposite party.

2. The Wholesale Offer

I, the Applicant, hereby undertake the Wholesale Offer Obligation.

To meet the Wholesale Offer Obligation under this article, I agree upon request from a claimant interested in a wholesale offer to negotiate in good faith for a period of 12 years after coming into force of the radio frequency allocation with each such a claimant about concluding an agreement on enabling access to the public communications network operated with the use of the radio frequencies acquired in this tender, which reflects and enables the interested claimant – with respect to the technical capabilities of the network concerned and the interested claimant's business plans – to provide its electronic communications services in an independent manner and on a whole-area scale. I agree to ensure that the price for enabling this access to the network corresponds to this. The price will be reasonable with respect to the extent and nature of the services to be provided through the host network and to the costs incurred by the Wholesale Offer Provider in enabling such access and subsequent traffic. I agree to ensure that the level of the price for the wholesale offer under this article enables an equally effective operator to operate its business in a profitable manner as the Wholesale Offer Claimant in the subordinate market(s).

To fulfil the Wholesale Offer Obligation under this article, I undertake to negotiate with the claimants, if any, interested in obtaining access (in the form of wholesale offer) to the public communications 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 its 4G services. I first of all agree to negotiate with potential virtual mobile operators (MVNOs), regardless of whether they are MVNEs, Full MVNOs, or MVNOs with a smaller share of their own infrastructure and operational systems.

To fulfil the Wholesale Offer Obligation under this article, I agree to offer an interested claimant, upon its request, access to my public communications network operated with the use of the radio frequencies allocated 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 I myself provide my services to my end customers, unless the interested claimant requests a smaller extent or lower quality of the services to be provided on the basis of the wholesale offer. If any extension or any other change is made to the extent of the services provided by me with the use of the radio frequencies acquired in this tender during the term of the agreement on wholesale offer, I agree, if so requested by an interested claimant, to adequately extend or change the range of the wholesale offer or agreement concluded on its basis in order to ensure that the interested claimant is able at any time during the term of the wholesale offer or agreement to provide its services at least to the same extent as I as a provider of the wholesale offer, am able to provide. I acknowledge that in the

event of an extension of the wholesale offer, I may, if there are good grounds therefor, request an adequate extension of the items of the wholesale offer price.

I agree to enter into 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. If this minimum two year effective period of the agreement exceeds the term of my obligation, I undertake to conclude an agreement for an effective period lasting at least till the termination of my Obligation, unless a longer effective period is agreed with the opposite party.

3. Joint provisions for the National Roaming Obligation and Wholesale Offer Obligation

To meet the National Roaming Obligation and Wholesale Offer Obligation under articles 1 and 2 above, I 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 being as laid down for the reference offer purposes by Regulation of General Application [Measure of General Nature] No. OOP/7/07.2005-12, as amended after changes done on the bases of Regulation of General Application 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. I agree to ensure that the reference offer for meeting the Wholesale Offer Obligation is defined to the extent of provided wholesale services corresponding to a Full MVNO kind of entity, the Rightful Claimants being allowed to request a broader range of wholesale services with a smaller share of their own infrastructure and operational systems. I agree to ensure that the reference offer meets the conditions and requirements for meeting the undertaken obligation, as indicated in articles 1 and 2 above.

I agree to ensure that the reference offers intended to ensure compliance with the National Roaming Obligation are made and published in the following periods of time:

- Reference offer for the National Roaming for the 2G networks and the National Roaming for the 3G networks are to be made at the latest within 6 months after coming into force of the radio frequency allocation on the basis of this tender;
- Reference offer for the National Roaming for the 4G networks and the reference offer intended to ensure compliance with the Wholesale Offer Obligation are to be made at the latest within 6 months from the date in which I commence to provide commercial services through communications networks, the access to which is available on the basis of the Obligation.

I promise to ensure that if I acquire more than one allocation; all periods beginning on the date of entering into force of the radio frequency allocations from the date of entering into force of the first allocation acquired in this tender are taken into account.

In the event that some of the technical parameters of the reference offer are not yet known to me in the periods mentioned above, I agree to publish a reference offer on the basis of reasonable assumptions. As to the data and information for which I shall be unable to make any reasonable assumption, I agree 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 I can complete my reference offer according to such data and information, and prepare a complete draft agreement, respecting the

parameters indicated by the interested claimant. I agree to submit such a complete draft agreement to any interested claimant within 3 months 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 case the application of a Rightful Claimant for National Roaming or an Interested Claimant for Wholesale Offer does not include all the essential details required by the Reference Offer, I shall invite the interested claimants to complete the application. I acknowledge that in such a case the three month period is interrupted at the moment of delivery of the invitation to the Rightful Claimant for National Roaming/ Claimant for Wholesale Offer and its running continues from the moment of delivery of the completed application.

I undertake to observe the terms and conditions of contractual relations concluded on the basis of the National Roaming Obligations or Wholesale Offer Obligation (especially the agreed level of prices) during the whole period of the contractual relations in accordance with the conditions of undertaken obligations.

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

If I am requested to provide national roaming or a wholesale offer, I agree to inform the Office in writing about any request for the provision of national roaming or a wholesale offer I receive from a Rightful Claimant for National Roaming or from an interested claimant and about all basic parameters of each request, and to do so within 15 working days from receiving such a request. Subsequently, I agree 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. I acknowledge that this obligation is without prejudice to the other information duties vis-à-vis the Office.

I acknowledge that 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.

I unconditionally undertake to avoid hindering the claimants for the Wholesale Offer in the process of negotiations for an agreement based on the Wholesale Offer Obligation by creating obstacles of administrative, legal or other nature and conditions, which are not absolutely necessary in the process of entering into an agreement.

I acknowledge that 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.

I acknowledge that the Office is prepared, at a request of the parties to the dispute, to settle disputes, if any, concerning the compliance of the agreed level of prices or other conditions of the National Roaming and the Wholesale Offer with the terms and conditions of the National Roaming Obligation and the Wholesale Offer Obligation on the basis of the provisions of the section 127 of the Act. I acknowledge that in case the Office will decide the dispute concerning the compliance of the agreed level of prices with the terms and conditions of the National Roaming Obligation and the

Wholesale Offer Obligation, it will use the methodology¹ for pricing based on the principle of the margin squeeze ban.

I acknowledge that a breach of the National Roaming Obligation or Wholesale Offer Obligation will be considered as failure to fulfil the obligations set out by the decision on the award of frequency allocation under Section 22b(1)(b) of the Act. I acknowledge that should the Office find that the National Roaming Obligation or Wholesale Offer Obligation has been breached, I will be invited as an obligated Applicant by the Office to remedy the situation within the meaning of Section 22b(1)(b) of the Act.

I acknowledge that if I 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 President of the Council will take steps based on Section 22b of the Act.

I acknowledge that the provisions of this article are without prejudice to the Office's rights to use other legal remedies.

[Place] [date]

.....
Applicant
(name of the applicant firm,
name, surname, position and signature of
the person entitled to act on the Applicant's behalf)

Declaration of the person authorised to act on behalf of the Applicant

I hereby declare that as a person authorised to act on behalf of the Applicant I am entitled to undertake all and any obligations on the Applicant's behalf, and that I have obtained all consents, permissions or other approvals required for validly undertaking obligations under the laws of the Czech Republic and the laws governing the Applicant's internal relationships, in witness whereof I set hereunto my hand.

[Place] [date]

.....
Person entitled to act on the Applicant's behalf
(name, surname and signature)

¹ The methodology is available on http://www.ctu.cz/cs/download/ostatni/cenove_vyhodnocovani_postup_ctu_cj_ctu-43738_2011-611.pdf