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ACT

of 22 February 2005

**on Electronic Communications and on Amendment to Certain Related Acts
(Electronic Communications Act)**

The Parliament enacted this Act of the Czech Republic:

PART ONE

ELECTRONIC COMMUNICATIONS

TITLE I

Introductory Provisions

Section 1

Subject Matter

(1) This Act determines on the basis of the law of the European Communities¹ the

¹ Directive 2002/19/EC of the European Parliament and of the Council on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive).

Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive).

Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Framework Directive).

Directive 2002/22/EC of the European Parliament and of the Council on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive).

Directive 2002/58/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on Privacy and Electronic Communications).

Commission Directive 2002/77/EC on competition in the markets for electronic communications networks and services. Directive 1999/5/EC of the European Parliament and of the Council on radio equipment and

conditions of business activities and performance of state administration, including market regulation, in the electronic communications area.

(2) This Act does not apply to the content of the services provided through electronic communications networks, such as the content of broadcasting, financial services and certain information society services, unless otherwise stated below. Separation of transmission regulation from content regulation is not to the prejudice of the linkages that exist between them and that are primarily intended to secure media plurality, cultural diversity and consumer protection.

(3) This Act does not affect regulations for the protection of economic competition.

Section 2

Definitions

For the purposes of this Act:

- a) 'subscriber' means anyone who concluded with an undertaking providing publicly available electronic communications services a contract for the supply of such services;
- b) 'user' means anyone who uses or requests publicly available electronic communications service, unless otherwise set out herein (Section 87(1));
- c) 'end-user' means a user not providing public communications networks or publicly available electronic communications services;
- d) 'consumer' means any natural person who uses or requests a publicly available

telecommunication terminal equipment and the mutual recognition of their conformity.

- electronic communications service for purposes which are outside his or her business activities;
- e) 'operator' means an undertaking providing or authorised to provide a public communications network or associated facilities;
- f) 'provision of an electronic communications network' means the establishment, operation, supervision or making accessible of such a network;
- g) 'associated facilities' means those facilities connected with an electronic communications network, and/or an electronic communications service, which enable or support the provision of services via that network or service; associated facilities also include conditional access systems and electronic programme guides;
- h) 'electronic communications network' means transmission systems and, where applicable, switching or routing equipment and other facilities that permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed circuit-switched or packet-switched networks and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for broadcasting, and cable television networks, irrespective of the type of information conveyed;
- i) 'electronic communications equipment' means technical equipment for the emission, transmission, routing, switching and/or reception of signals through electromagnetic waves;
- j) 'public communications network' means an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services;
- k) 'public telephone network' means an electronic communications network which is used to provide publicly available telephone services; it supports the transfer between network termination points of speech communication, and also other forms of communication, such as facsimile and data;
- l) 'interface' means:
 1. termination point of a public fixed communications network;
 2. interface for interconnection of public communications networks or access thereto; or
 3. radio interface for radio wave path between radio equipment (end point of the public mobile network) and the technical specification thereof;
- m) 'network termination point' means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, this point is identified by means of a specific network address, which may be linked to a subscriber number or name;
- n) 'electronic communications service' means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting, and on cable television networks, but excluding services that offer content by means electronic communications networks and services, or exercise editorial control over the offered content transmitted using electronic communications networks and services; it does not include information society services, which do not consist wholly or mainly in the conveyance of signals on electronic communications networks;
- o) 'publicly available electronic communications service' means electronic communications service from the use of which no person is excluded beforehand;
- p) 'publicly available telephone service' means a service available to the public for originating and receiving national and international calls and access to emergency call numbers through one or more numbers in a telephone numbering plan; where relevant, this service may also include the provision of one or more of the following services:
 1. operator services;
 2. directory enquiry services;
 3. maintenance of directories;
 4. provision of public pay phones;
 5. complementary services referred to in Section 38 Subsection 2 Clause g);
 6. provision of special telecommunications terminal

- equipment for customers with disabilities or with special social needs; or
7. access to services with non-geographic numbers;
- q) ‘universal service’ means the package of services set out in Section 38, which are available at the defined quality level to all end users throughout the territory of the state at an affordable price; affordable price should be understood to mean a price reflecting the level of consumer prices and the income of the population;
- r) ‘radiocommunications service’ means communications activities consisting in the transmission, emission or reception of signals by means of radio waves;
- s) ‘call’ means a connection established by means of a publicly available telephone service allowing two-way communication in real time;
- t) ‘harmful interference’ means interference which endangers the functioning of a radionavigation service or of other safety providing radiocommunications services or which otherwise seriously degrades, obstructs or repeatedly interrupts radiocommunications services operating in accordance with this Act and other legal regulations;
- u) ‘network integrity’ means the functionality and operability of interconnected electronic communications networks and the protection of these networks against faults caused by electromagnetic disturbance and/or operating load;
- v) ‘interoperability of service’ means a setting of such transmission parameters of the service and interface which enables communication between end users or between an end user and an undertaking providing the service, using technologically different electronic communications networks;
- w) ‘regulation’ means the aligning of communications activities and relationships in order to attain and maintain a competitive environment and protection of the electronic communications market, including protection of users of the electronic communications services by issuing decisions, measures of general nature and

opinions in accordance with this Act and within its limits.

Section 3

(1) The Czech Telecommunications Office (hereinafter referred to as “the Office”) is hereby established as a central administration body with responsibility for state administration in matters set out in this Act, including market regulation and determination of business terms and conditions in the area of electronic communications and postal services².

(2) Prague is the seat of the Office.

(3) The Office is an accounting entity. The Office has a separate chapter in the State Budget of the Czech Republic.

TITLE II Objectives and Main Principles of Regulation

Section 4

Regulation is carried out for the purpose of substituting for any missing effects of economic competition and to provide conditions for appropriate functioning of economic competition and for the protection of users and other market actors until a fully competitive environment is achieved.

Section 5

(1) In the provision of electronic communications networks and services and the associated facilities and complementary services by undertakings, the Ministry of Informatics (hereinafter referred to as “the Ministry”) and the Office shall support economic competition by performing tasks within the scope of their authority, including, but not limited to the following:

- a) ensure that users, including disabled users, derive maximum benefits in terms of possible choice of service, price and quality;
- b) ensure that economic competition in the electronic communications area is not disturbed or limited;

² Act No. 29/2000 on postal services and on amendment to certain Acts (the Postal Services Act), as amended.

- c) support efficient investment in the infrastructure, and promote innovation; and
- d) provide effective management and reasonable utilisation of radio frequencies and numbers.

(2) The Ministry and the Office contribute to the development of the Community's Internal Market by performing tasks including, but not limited to, the following:

- a) remove, when making decisions, any obstacles that hinder the provision of electronic communications networks, associated facilities and complementary services, and the provision of electronic communications services, among European Union Member States (hereinafter referred to as "Member State");
- b) support, when making decisions, the establishment and development of trans-European networks and the interoperability of pan-European services among the Member States;
- c) ensure, when making decisions, that under comparable conditions there is no discrimination between the undertakings providing electronic communications networks or delivering electronic communications services; and
- d) co-operate, in accordance with the transparency principle, with the national regulators in other Member States and with the Commission of the European Communities (hereinafter referred to as the "Commission") to develop consistent regulatory practices based on the implementation of the relevant Directives of the European Communities.

(3) The Office shall promote in the course of performing their tasks the end user's interests, including, but not limited to, the following:

- a) ensure that all end users have access to the universal services in accordance with Section 38;
- b) ensure in accordance with the provisions of this Act a high level of consumer protection;
- c) contribute to the provision of a high level of personal data and privacy protection;

- d) support the provision of clearly formulated information by, without limitation, asserting the transparency of tariffs and the conditions for using of publicly available electronic communications services;
- e) meet the needs of disabled end users or persons with low income in accordance with this Act; and
- f) support the maintenance of the integrity and security of public communications networks.

(4) In fulfilling the objectives set out in Subsections 1 to 3 above, the Ministry and the Office shall in particular respect the principles of non-discrimination, objectivity, technological neutrality, transparency and proportionality, as specified in Section 6 below. Should any doubts occur, the provisions of this Act concerning the regulatory activities of the Office in the area of electronic communications networks and services shall be explicated in accordance with those principles.

Section 6

(1) The Ministry and the Office shall not, by their actions and decisions, provide any advantage to any undertaking or user, or any group of undertakings or users, to the detriment of other undertakings or users, unless they act on the basis of this Act and have well justified grounds for such conduct, related to differences in the positions of the various persons concerned. Any difference in the treatment of those persons or entities must be in accordance with this Act.

(2) The Office shall regularly monitor and evaluate the effects of any imposed remedies on the individual relevant markets, and shall also do so in the periods between the analyses carried out on the basis of this Act. If the Office sees that an imposed remedy has an adverse impact on the markets or causes excessive deformation of the markets, or that the reason for its imposition does not exist any longer, the Office shall cancel it immediately.

(3) The Ministry and the Office shall take account of the need for technologically neutral regulation; technologically neutral regulation means regulation that imposes no obligation to use any specific type of

technology and provides no preferential treatment in respect of any type of technology.

(4) Unless otherwise provided in this Act, the Office shall meet the transparency principle by:

- a) providing in advance any information as may be essential for evaluating the matter in question to undertakings that provide publicly accessible electronic communications services, and to users, unless the disclosure of such information is banned by the provisions of a special legal regulation³, in order to make the conduct of the Office predictable in those cases where a specific status is related, on the basis of this Act, with the Office's right or duty to act;
- b) providing appropriate justification to any measure of a general nature and any decision, including pricing decisions, as the Office may make.

TITLE III

Regulation of Communications Activities

Volume 1

Communications Activities and Business

Section 7

(1) Communications activities are:

- a) the provision of electronic communications networks;
- b) the provision of electronic communications services;
- c) the operation of apparatus (Section 73).

(2) Provision of public communications network, provision of publicly available electronic communications services and the provision of electronic communications networks for the purposes of the security of the State are accomplished as of public interest.

³ For example, Act No. 148/1998 on the protection of classified information and on amendment to certain Acts, as subsequently amended; Act No. 101/2000 on personal data protection and on amendment to certain Acts, as subsequently amended; Act No.513/1991, Commercial Code, as subsequently amended.

Section 8

(1) The objects of business in the electronic communications area are:

- a) provision of public communications networks;
- b) provision of electronic communications services.

(2) Natural persons and legal entities that meet the general conditions are entitled to do business in the electronic communications area in the Czech Republic under the conditions prescribed by this Act. Right to do such business shall commence as at the date of delivery of the notification of the business which meets specific requirements in accordance with Section 13, unless otherwise provided in this Act.

(3) The general conditions to qualify for doing business in electronic communications are as follows:

- a) for natural persons, age of 18 years or more;
- b) for natural persons, full legal capacity;
- c) for natural persons, integrity;
- d) submission of a document proving that the natural person or legal entity concerned is not in arrears with the payment of any taxes, levies, fees, payments, considerations, penalties and fines, including the costs of any proceedings, as collected by territorial tax authorities on the basis of a special legal regulation⁴. Such a document shall be issued by the appropriate financial authority;
- e) the fact that the natural person or legal entity is not in arrears with the payment of insurance premiums or penalties on public health insurance or with the payment of insurance premiums or penalties on social security insurance and of the contribution to the employment policy of the State, except the cases where payment in instalments has been permitted and the entity is not in arrears with the payment of the instalments. The natural person or legal entity shall submit declaration on word of honour to that effect.

⁴ Act No. 531/1990 on territorial financial authorities, as amended.

(4) Considered as possessing integrity hereunder is any natural person who has not been effectively convicted:

- a) for a wilful crime to unsuspended imprisonment of at least one year;
- b) for a wilful crime where the facts of the case are related to business activities and where clause a) does not apply; or
- c) for a negligent crime where the facts of the case are related to business activities,

or such a person is looked upon as not having been convicted⁵.

(5) For a legal entity, the general conditions specified in Subsection 3 above shall also be met by the person entitled to act on its behalf.

(6) To prove his integrity, a natural person shall submit to the Office a no-criminal record certificate, which shall not be older than 3 months. A foreign natural person should prove his integrity to the Office by similar documents issued in the State whose citizen such a foreign person is, as well as such documents issued in the States where he has stayed for an uninterrupted period of at least 3 months during the last three years. Such documents shall not be older than 3 months.

Volume 2

General Authorisation

Section 9

Issuance of a General Authorisation

(1) A general authorisation is a measure of general nature taken by the Office to lay down the conditions of performance of communications activities, applicable to all types, or certain types, of electronic communications networks and services and to the operation of apparatus, which is binding on the natural person and legal entities performing activities on the basis of Section 7.

(2) The Office is entitled to issue a general authorisation for the provision of electronic communications networks and associated facilities, for the provision of publicly available electronic communications

⁵ For example, Sections 60, 60a, 70 of the Penal Code.

services, for the operation of apparatus and for the use of the radio frequencies in respect of which there is no need individual to award an authorisation to use radio frequencies (Section 17).

Section 10

Conditions Determined in the General Authorisation

(1) In a general authorisation, the Office shall set out the conditions concerning

- a) financial contributions for the financing of the universal services;
- b) interoperability of the services and interconnection of networks;
- c) ensuring of availability and usage of members from the numbering plan for the end users including conditions for such usage;
- d) environmental protection, territorial planning, access to real property, including the use thereof, equipment co-location or sharing, including, where applicable, any financial or technical guarantee as may be needed for the work to be performed;
- e) the obligation to provide the service of distribution of designated radio or television programme and other services related to that programme in accordance with Section 72;
- f) protection of personal data and privacy;
- g) consumer protection;
- h) restrictions on the transmission of a content by which legal regulations are violated;
- i) information which the entities shall disclose according to Sections 13 and 115;
- j) provision of electronic communications networks in the state of danger, state of emergency, state of exposure of danger to the State⁶ and state of war⁷ (crisis situations);
- k) protection of the citizens against the harmful action of electromagnetic

⁶ Section 2 Clause b) of Act No. 240/2000 on crisis management and on amendment to certain Acts (Crisis Act), as subsequently amended.

⁷ Article 2 of Constitutional Law No. 110/1998 on the security of the Czech Republic.

radiation emitted by the electronic communications networks⁸;

- l) maintaining public communications networks integrity and prevention of electromagnetic interference between electronic communications networks or services;
- m) protection of public communications networks against unauthorised access on the basis of Section 89 Subsection 1;
- n) utilisation of radio frequencies with respect to effective use of the radio spectrum and prevention of harmful interference;
- o) fulfilment of the obligations specified in Section 62; or
- p) fulfilment of the obligations specified in Section 97.

(2) The Office shall lay down in the General Authorisation the conditions specified in Section 1 above, unless they are set out here or in a special legal regulation.

Section 11

Special Obligations

(1) The Office is entitled, under conditions specified by law, to impose by its decision special obligations on the natural person or legal entities performing communications activities, such obligations should be imposed outside the conditions specified in the general authorisation, and the Office shall do so upon consultation referred to in Sections 130 and 131 below.

(2) Special obligations as referred to in Subsection 1 above mean:

- a) the obligations relating to the provision of universal service according to Volume 6 of this Title;
- b) the obligations specified in Section 51 Subsections 3, 4, 8 and 9;
- c) the obligations concerning access to network according to Sections 79 and 84;
- d) the obligations concerning the conditional access system (Section 83).

(3) The Office shall publish the information about the imposition of special obligations.

⁸ Government Order No. 480/2000, on health protection against non-ionising radiation.

Section 12

Amendment and Withdrawal of the General Authorisation

The Office shall amend or withdraw the general authorisation in justified cases, using the procedure described in Section 130 and Section 131. The justified cases shall include, without being limited to

- a) change in the facts on the basis of which the general authorisation was issued;
- b) compliance with the commitments based on the Czech Republic's membership in international organisations;
- c) provision of the defence and security of the State⁹.

Section 13

Notification of the Business

(1) Any natural person or legal entity wishing to carry out a communications activity which represents electronic communications business is obliged beforehand to notify the Office to that fact in writing¹⁰. (hereinafter referred to as "notification"). The notification shall be considered as being made as at the date of its delivery on the Office.

(2) If submitted by a natural person, the notification shall include that person's first name and surname and the trade name, if any, permanent domicile in the Czech Republic or temporary domicile in the Czech Republic if longer than 90 days, and also domicile outside the Czech Republic, if any (hereinafter referred to as "domicile"), and the business identification number, if any,

(3) If submitted by a legal entity, the notification shall include that legal entity's trade name or common name, registered address or the registered address of an organisation unit in the Czech Republic, the business identification number, if any, and the name, surname and domicile of the person authorised to act on behalf of the legal entity.

(4) In addition, a natural person or legal entity shall indicate in the notification

⁹ Act No. 110/1998.

¹⁰ Section 40 of Act No. 40/1994, Civil Code, as subsequently amended.

- a) the definition of the type and territorial extent of the public communications network or the publicly available electronic communications service the person intends to provide, including any information about the network through which the service is to be provided, with reference to the respective general authorisation;
- b) the date of the planned commencement of the provision of the public communications network or provision of electronic communications service;
- c) the manner in which the obligation specified in Section 97 is to be secured.

(5) Any natural person and legal entity submitting the notification shall provide evidence of compliance with the general conditions according to Section 8 Subsection 3 and payment of the administrative fee.

(6) Any natural person and legal entity who/which notified the circumstances referred to in Subsections 2 to 5 shall immediately notify the Office in writing about any change to those data indicated in the notification.

(7) Any natural person and legal entity who/which has stopped his or its communications activities based on a general authorisation shall notify the Office about that fact within 1 week of the termination of those communications activities, and shall do so, *mutatis mutandis*, as specified in Subsection 1 above.

(8) An undertaking requesting access or interconnection shall not be obliged to notify the Office about carrying out communications activities, if such an undertaking does not provide any electronic communications services or electronic communications network on the territory of the Czech Republic.

Section 14

Certification and Registration of Undertakings

(1) Within one week of receiving the notification, the Office shall issue to the person referred to in Section 13 Subsection 1 above a certificate to the effect that such a person submitted a notification based on Section 13. If the notification fails to contain all the particulars specified in Section 13, the Office

shall immediately invite him to complement the notification within a period not shorter than 14 days. If the notification fails to contain the required particulars after the expiry of such a period, the Office shall not issue a certificate and shall notify the person concerned to that fact.

(2) In the certificate referred to in Subsection 1 above, the Office shall indicate:

- a) the following identification data:
 - 1. for a natural person, the first name and surname and the trade name, if any, the domicile and the business identification number, if any;
 - 2. for a legal entity, the trade name, registered address or the registered address of an organisation unit in the Czech Republic, the business identification number, if any;
- b) the definition of the type and territorial extent of the public electronic communications network or electronic communications service whose provision has been notified, and information whether authorisation has arisen for the notifying natural person or legal entity on the basis of Sections 79 and 104.

(3) The Office shall maintain, in the electronic form, a database of the natural persons and legal entities who/which notified the circumstances referred to in Section 13 Subsection 1. The database shall contain, at the maximum, the information specified in Subsections 2 and 4. The database shall be publicly accessible in a manner allowing for distant access.

(4) In the event that any person contained in the database is obliged to provide those services as priority in crisis situations, the Office shall indicate such an obligation in the database.

(5) Upon request of a person referred to in Section 13 Subsection 6, the Office shall issue a certificate of notification of change to the notified data to the extent as specified in Subsection 2. Issue of this certificate shall be contingent of the payment of an administrative fee.

Radio Spectrum Management

Section 15

(1) To ensure that the radio frequencies are managed and reasonably utilised, the Office shall provide administration of the radio spectrum management which is in compliance with the harmonisation objectives of the European Communities (hereinafter referred to as the “Communities”). The radio spectrum means electromagnetic waves at frequencies ranging from 9 kHz to 3000 GHz, propagating in space without requiring special lines.

(2) Radio spectrum management means the formation of the draft frequency band allocation scheme (the national frequency allocation table) and any amendments thereto, the formation of the radio spectrum utilisation scheme, the granting of individual authorisations to use radio frequencies, granting of radio frequency allocations, granting of consent to transfer the rights resulting from radio frequency allocations, allocation of calling symbols and identification numbers and codes, co-ordination of radio frequencies and frequency bands, and control of how the radio spectrum is utilised. Within the scope of radio spectrum management, the Office is responsible for the optimum utilisation of the spectrum.

(3) The Office shall maintain a database of the allocated radio frequencies, the issued individual authorisations to use radio frequencies and the issued radio frequency allocations, which contains, in particular, the numbers of decisions by which the radio frequencies were allocated, including the period of time for which they were allocated. The database shall be publicly available in a manner allowing for remote access. There is no public access to the information about frequencies allocated to:

- a) the Ministry of Interior for the purposes of security of the State;
- b) the Police of the Czech Republic for the purposes of security of the State;
- c) the Security Information Service;
- d) the Prison Guard Service and Court Police of the Czech Republic;
- e) the Fire Rescue Service of the Czech Republic;

- f) the Ministry of Defence for the military purposes.

Section 16

Frequency schemes

(1) The frequency band allocation scheme (National frequency allocation table) shall be set out by the Ministry in an implementing legal regulation.

(2) The scheme of utilisation of the radio spectrum, or parts thereof, shall be issued by the Office as a measure of general nature.

(3) In compliance with the commitments of the Czech Republic as resulting from an international treaty binding on the Czech Republic or from membership in international organisations, the frequency band allocation scheme shall contain the frequency bands for the individual radiocommunications services and radio equipments, as well as the general conditions for the utilisation of the frequencies.

(4) In the radio spectrum utilisation scheme, the Office shall lay down the technical parameters and conditions of the use of the radio spectrum by the radiocommunications services.

(5) The Office is entitled in public interest to give preference to the use of the radio spectrum for the provision of the universal service and for the provision of publicly available electronic communications services.

(6) The Office shall publish the radio spectrum utilisation scheme and information about the rights, conditions, processes and fees relating to radio spectrum utilisation. The Office shall update such information on a continuous basis. Information about the frequency bands reserved in the radio spectrum utilisation scheme for the Ministry of Defence for military use shall not be disclosed.

(7) The method of creating calling symbols and identification numbers and codes, their uses and the types of radiocommunications services for which they are used shall be set out by the implementing legal regulation.

(8) The technical and operating conditions of the amateur

radiocommunications service shall be set out in an implementing legal regulation.

Section 17

Individual Authorisation to Use Radio Frequencies

(1) Radio frequencies may only be used on the basis of an individual authorisation for the use of radio frequencies (hereinafter referred to as “authorisation to use radio frequencies”), unless otherwise stipulated herein. Where authorisation to use radio frequencies need not necessarily be granted for the use of radio frequencies, the Office shall define the conditions for the use of radio frequencies in the general authorisation.

(2) In the cases where authorisations to use radio frequencies need to be granted, the Office shall decide on the granting of such authorisations to any undertaking providing an electronic communications network or electronic communications service on the basis of a general authorisation or to any undertaking using such networks or services, or to person who is not an undertaking, in compliance with the conditions ensuring reasonable utilisation of radio frequencies upon the basis of such an undertaking’s or entity’s application delivered on the Office.

(3) The application for the granting of an authorisation to use radio frequencies shall contain

- a) if the applicant is:
 1. an undertaking, which is a legal entity: its trade name or name, registered address, or the registered address of an organisation unit in the Czech Republic, the business identification number, if any, and the name, surname and domicile of the person authorised to act on behalf of the legal entity;
 2. an undertaking, who is a natural person: that person’s first name and surname and the trade name, if any, domicile address, place of business and business identification number, if any;
 3. a person, who is not an undertaking: the first name and surname, domicile address and date of birth of a natural person, or the name and registered

address, or the registered address of the organisation unit in the Czech Republic and the business identification number, if any, of a legal entity;

- b) data about the radio frequencies required, including the technical parameters thereof, and the purpose of the use thereof, unless such frequencies and their technical parameters are set out in a binding manner in an international treaty binding on the Czech Republic, which treaty was published in the Collection of Laws or Collection of International Treaties;
- c) proposal of the requested calling symbol, identification number or code, if they are necessary for the given type of radiocommunications service;
- d) specification of the intended territory of use of radio frequencies, if such a specification is necessary for the use;
- e) the required period of use of radio frequencies.

(4) The Office shall define the range of information required according to Subsection 3 Clause b) for the individual types of radiocommunications services in a measure regulation of general nature.

(5) The application for the granting of an authorisation to use radio frequencies shall be accompanied by the following supporting documents:

- a) licence based on a special legal regulation¹¹, or agreement with a holder of such a licence, if the applicant requests to use the radio frequencies for the distribution and transmission of audio or television broadcasting (radio service);
- b) professional competence certificate, if required hereunder;
- c) for persons entered on the Commercial Register: an incorporation certificate – extract from the Commercial Register not older than 3 months, or a notarised copy of the contract or deed of incorporation or establishment of the legal entity;
- d) for natural persons who are undertakings and for a person authorised to act on

¹¹ Act No. 231/2001 on broadcasting, as subsequently amended.

- behalf of a legal entity: no criminal record certificate not older than 3 months;
- e) certificate of entry in the Aviation Register of the Czech Republic or a certificate of aircraft identification sign allocation, if the applicant requests being granted an authorisation to use radio frequencies aboard a plane;
 - f) Ministry of Transport certificate of frequency co-ordination within the international aviation organisations, if the applicant requests to be granted an authorisation to use the radio frequencies of the aviation mobile service¹²;
 - g) certificate of entry on the Navigation Register of the Czech Republic, if the applicant requests being granted an authorisation to use radio frequencies aboard an inland ship¹³, or in the Marine Register of the Czech Republic, if the applicant requests being granted an authorisation to use radio frequencies aboard a marine ship¹⁴; entry on the Navigation Register of the Czech Republic may also be proved by submission of the ship certificate¹⁴.

(6) The Office shall decide on granting the authorisation to use radio frequencies without delay. If the radio frequencies concerned are those reserved for special uses within the frequency band allocation scheme and the radio spectrum utilisation scheme, the Office shall decide within 6 weeks since the date of submission of a complete application. The Office is entitled to extend this period if it is necessary for reasons of a tender (Section 21), but may do so by 8 months at the maximum. This is without prejudice to the periods and dates required by international treaties in respect of the use of radio frequencies or orbital positions.

(7) If there are more than one applicant for an authorisation to use the same radio frequencies, the Office shall make its decision in respect of the granting of the authorisation on the basis of the time sequence of applications received; this does not apply to applicants requesting authorisation for the

¹² Act No. 49/1997 on civil aviation, as subsequently amended.

¹³ Act No. 114/1995 on inland navigation, as subsequently amended.

¹⁴ Act No. 61/2000 on marine navigation.

operation of amateur radiocommunications service stations. If an applicant requests being granted an additional authorisation to use radio frequencies for the distribution and transmission of audio or television broadcasting for the purposes of completion of the coverage of the territory in which the applicant is authorised to distribute and transmit audio or television broadcasting, the Office shall, before issuing its decision, request the Broadcasting Council to provide its opinion. If the Office does not receive such an opinion within 30 days of the request, it shall hold that the Broadcasting Council agrees with the granting of such an authorisation.

(8) The Office may issue an authorisation to use radio frequencies for the audio broadcasting service, but may only do so if a licence has been issued on the basis of a special legal regulation¹¹, or only with the consent of the Broadcasting Council, even for other radiocommunications services in the part of frequency spectrum exclusively intended for the audio broadcasting service.

(9) As a priority, the Office shall decide to grant authorisations to use the radio frequencies as are necessary for securing the activities of the bodies of the Ministry of Interior, the Security Information Service, Office for Foreign Contacts and Information, Police of the Czech Republic, Prison Guard Service and Court Police of the Czech Republic, Fire Rescue Service and the fire protection units, Ambulance Service, and the Customs Service bodies¹⁵.

(10) The frequency bands reserved in the frequency bands allocation scheme to the Ministry of Defence for military purposes may be used for military purposes without decision on the granting of authorisation to use radio frequencies.

(11) The Office shall not grant an authorisation to use radio frequencies if:

- a) the security of the State so requires;
- b) it is required for compliance with the commitments resulting from an international treaty binding on the Czech Republic, which was published in the Collection of Laws or Collection of

¹⁵ Section 1 Subsection 7 of Act No. 185/2004, the Customs Act, as subsequently amended.

- International Treaties, or with the commitments resulting from the Czech Republic's membership in the European Union or in international organisations;
- c) the frequency band allocation scheme or radio spectrum utilisation scheme do not allow to use the required radio frequencies;
 - d) the applicant has failed, upon being repeatedly invited by the Office to do so, to submit within the period prescribed by the Office a complete application for the granting of an authorisation to use radio frequencies;
 - e) the required radio frequencies are not available or cannot be co-ordinated; or
 - f) the applicant, and in the case of a legal entity the person authorised to act on its behalf, lacks integrity.

(12) The Office may decide also not to grant an authorisation to use radio frequencies to an applicant who is in arrears with paying fines or fees imposed on him hereunder.

(13) If a remedy is sought against a decision made on the basis of Subsection 6, the filing of a claim for remedy shall not have a suspensive effect.

Section 18

Issue of the Authorisation to Use Radio Frequencies

(1) The Office shall indicate the following in the authorisation to use radio frequencies:

- a) if the applicant was:
 1. an undertaking, which is a legal entity: the trade name or name, registered address, or the registered address of an organisation unit in the Czech Republic and the business identification number, if any;
 2. an undertaking, who is a natural person: that person's first name and surname and the trade name, if any, domicile address, place of business and business identification number, if any;
 3. another person, who is not an undertaking: the first name and surname, domicile address and date of birth, of a natural person, or the name and registered address, or the

- registered address of the organisation unit in the Czech Republic and the business identification number, if any, of a legal entity;
- b) information about the radio frequencies or the frequency band, including the technical parameters thereof;
- c) the designation of the service or the type of network or technology for which the authorisation to use radio frequencies was granted;
- d) type of radio transmission equipment, if its indication is required by an international treaty binding on the Czech Republic, which treaty was published in the Collection of Laws or Collection of International Treaties, or if its indication results from the membership of the Czech Republic in international organisations;
- e) the allocated calling symbols, identification numbers and codes, if they are necessary for the given type of radiocommunications service;
- f) fees, as specified in Section 24 below, unless otherwise provided herein;
- g) the period of validity of the authorisation to use radio frequencies.

(2) The Office may, in the authorisation to use radio frequencies, impose conditions concerning:

- a) prevention of harmful interference and protection of citizens against the harmful action of electromagnetic radiation⁸⁾,
- b) the commitments resulting from applicable international treaties on the utilisation of radio frequencies.

The Office may determine these conditions, unless they are determined by this Act, by the General Authorisation, or a special legal regulation.

(3) The validity period of the authorisation to use radio frequencies as referred to in Subsection 1 Clause g) shall be adequate to the electronic communications service concerned and shall be in compliance with the frequency schemes, the Community's harmonisation objectives, the international treaties binding on the Czech Republic and made public in the Collection of Laws or Collection of International Treaties, and the security of the State. If the authorisation to use radio frequencies is granted for broadcasting, the validity period shall not be shorter than the

time for which a licence was granted under a special Act¹¹⁾.

(4) If the use of radio frequencies has been harmonised at the Community level, and if conditions were laid down for the use thereof, the Office shall issue authorisation to use radio frequencies to any undertaking defined according to the Community rules or according to an international treaty binding on the Czech Republic. If the conditions associated with the authorisation to use radio frequencies are met, as defined in accordance herewith or on the basis hereof, the Office shall set out no further conditions in the authorisation as would restrict or delay the use of radio frequencies.

(5) The holder of an individual authorisation to use frequencies shall notify the Office without undue delay about any change to the facts on the basis of which he was awarded the authorisation.

Section 19

Amendment to, and Extension, Withdrawal and Termination of the Authorisation to Use Radio Frequencies

(1) The Office may decide to change the authorisation to use radio frequencies:

- a) if it is needed for meeting the commitments resulting from the international treaties binding on the Czech Republic, which treaties were published in the Collection of Laws or Collection of International Treaties, or resulting from the Czech Republic's membership in the European Union or international organisations;
- b) if it is essential for the security of the State and if there is no other way to safeguard the security;
- c) if it is required by a change in the facts on the basis of which an individual authorisation to use radio frequencies was granted;
- d) if it is needed by a holder of an individual authorisation to use radio frequencies for the purpose of changing the technical parameters of the allocated frequency; an application for change of the allocated frequency shall be considered as application for the granting of a new

individual authorisation to use radio frequencies.

Except the case indicated in Clause d) above, the Office shall inform the concerned persons about the intention to make such changes and shall grant them a period of 1 month for submitting their respective opinions. In the cases indicated in Clauses a) to c) the Office may reduce that period which, however, shall not be less than 7 days. If the Office reduces that period, it shall state the reasons therefor.

(2) If a change occurs as referred to in Subsection 1 Clauses a) and b), the Office shall, through the Radiocommunications Account, compensate the holder of the authorisation or the Ministry of Defence for the costs they efficiently and purposefully incurred as a result of such a change.

(3) Upon request of the holder of the authorisation to use radio frequencies, the Office shall decide on extending the validity period of the authorisation. If not prevented by the circumstances indicated in Subsection 1 Clause a) above, the Office will extend the validity period, but the extension may at the maximum be as stated in the authorisation. The validity period may be extended repeatedly.

(4) The Office shall decide to withdraw the authorisation to use radio frequencies if and when

- a) the authorisation holder does no longer meet any of the conditions on the basis of which the authorisation was granted to him or the conditions set out in a special legal regulation¹⁶⁾;
- b) the authorisation holder fails to fulfil the obligations specified herein or in the decision on the granting or amendment of the authorisation, and fails to remedy the situation within the period specified by the Office in accordance with Section 116 below, in spite of having been warned by the Office about the possibility of such withdrawal for this reason;
- c) such a withdrawal is needed in order to fulfil the commitments under an international treaty binding on the Czech Republic, which treaty was published in

¹⁶⁾ Act No. 483/1991 on Czech Television, as subsequently amended.
Act No. 484/1991 on Czech Radio, as subsequently amended.

- the Collection of Laws or Collection of International Treaties, or under the Czech Republic's membership of the European Union or international organisations, or when the security of the State so requires,
- d) the authorisation holder left the allocated frequencies unused for a continuous period of 6 months, or interrupted the use of the allocated frequencies repeatedly for a total time of 12 months within two years, or used the allocated frequencies for purposes other than those for which they had been allocated to him; the time of interruption of the use of the frequencies shall not include the time during which the effective use of the frequencies was prevented by technical obstacles for which good reasons were given; the time of use of the frequencies is not monitored for the amateur radiocommunications service operators; or
- e) the authorisation holder asked for the withdrawal.

(5) If the Office decides to withdraw the authorisation as referred to in Subsection 4 Clause d), the applicant may apply again for the granting of the authorisation no sooner than upon the expiry of 6 months following the date on which the decision to withdraw the authorisation took effect.

(6) The Office shall inform the Broadcasting Council about the issue of its decision to withdraw the authorisation to use radio frequencies within the frequency bands intended exclusively for audio and television broadcasting.

(7) The authorisation to use radio frequencies shall lose effect:

- a) with the expiry of the time for which the authorisation to use radio frequencies was granted;
- b) on the date of termination of the existence of the legal entity which held the authorisation to use radio frequencies, unless such a legal entity has a successor in title;
- c) with the death of the natural person to whom the authorisation to use radio frequencies was granted; or
- d) on the date of entry into effect of the Office's decision referred to in Subsection 3 above.

Limitation of the Number of Rights to Use Radio Frequencies

(1) The Office may only limit the number of rights to use radio frequencies, compared to the scheduled number, in order to ensure that the radio frequencies are used effectively.

(2) The Office shall, in accordance with Section 130, consult the interested parties about its intention to limit the number of rights to use radio frequencies. The notification of such an intention shall always contain:

- a) data on the radio frequencies or the frequency band to which the limitation applies;
- b) the expected number of rights to be granted;
- c) the conditions the Office intends to set out in respect of granting the rights to use radio frequencies;
- d) the reasons behind the intention to limit the number of rights to use radio frequencies.

(3) Simultaneously with the publishing of the results of the consultation referred to in Subsection 2 above, the Office shall make public a notification of the limitation of the number of rights to use radio frequencies, if such a limitation is necessary for ensuring purposeful utilisation of the radio frequencies and if this is not in contradiction with the interest of the users or with interest in developing economic competition. The Office shall announce a tendering procedure for granting a limited number of rights within 1 month of publishing the notification of the limitation of the number of rights to use radio frequencies.

(4) If the Office intends to grant further rights to use radio frequencies within a band whose utilisation the Office limited according to Subsection 3 above, the Office shall announce an additional tendering procedure according to Section 21 below. In the additional tendering procedure, the conditions, rights and obligations associated with the use of radio frequencies must be the same as in the tendering procedure based on Subsection 3 above.

(5) The Office shall monitor and, in reasonable intervals or on the basis of a justified request of a person concerned, review whether the reasons for the limitation of the number of rights to use radio frequencies still exist. On the basis of Sections 130 and 131, the Office shall consult the concerned persons as to the conclusions of the review. If the Office learns from the results of such consultations that the reasons for the limitation of the number of rights to use radio frequencies do not exist any more or that, in the light of the users' interest or the interest to develop economic competition, it is necessary to withdraw the limitation of the number of rights to use radio frequencies, the Office shall withdraw the limitation of the number of rights to use radio frequencies. At the same time, the Office shall decide whether the issued decisions granting the rights to use radio frequencies and the conditions specified therein are to remain in effect. The Office shall publish such decisions.

Section 21

The Tendering Procedure for the Allocation of Radio Frequencies

(1) The Office shall announce the tendering procedure in order to grant the rights to use radio frequencies if the number of those rights is limited by the radio spectrum authorisation scheme or if the Office limited the number of those rights according to Section 20.

(2) The Office shall determine the conditions of participation in the tendering procedure taking into account how the objectives contained in Section 5 Subsections 2 to 4 are met and respecting the principles specified in Section 6 above.

(3) The Office shall determine the criteria by which the applications for the granting of the rights to use radio frequencies are to be evaluated, taking into account how the objectives contained in Section 5 Subsections 2 and 3 are met and respecting the principles specified in Section 6 above. The criteria shall include, in particular,

- a) the undertaking's financial, technical and professional background for using the allocated radio frequencies;

- b) the commencement time and the way in which the radio frequencies are to be used;
- c) the expected amount of capital expenditures for of the construction and development of the electronic communications network.

(4) The Office is entitled to request that the applicant should submit any information as may be essential for proving the applicant's ability to meet the conditions relating to the granting of the rights; if the applicant fails to provide such information, the Office is authorised to reject the request for the granting of the rights.

(5) The announcement of the tendering procedure shall be published by the Office and shall include:

- a) information stating which services the rights to use radio frequencies are to be used for;
- b) the expected number of rights that should be granted;
- c) data on the frequencies that are subject to the tendering procedure, and the expected number of authorisations that should be granted;
- d) the conditions relating to the rights to use radio frequencies;
- e) the amount of the fee to be paid for the rights to use radio frequencies;
- f) conditions of participation in the tendering procedure;
- g) the criteria to evaluate the applications;
- h) the deadlines for delivering the applications.

(6) Provisions of the Commercial Code, as far as public tendering is concerned, shall apply *mutatis mutandis* to the tendering procedure. The conditions of participation in the tendering procedure, including criteria of evaluation of applications, may no longer be changed, once the tender is announced. The Office is entitled to cancel an announced tender, and may do so even after the expiration of the tendering period.

(7) The Office shall make public the report on the course and results of the tender, including the justification thereof, no later than 1 month of the date on which the tender was closed.

(8) The procedure described in Subsections 2 to 7 does not violate the transfer of the rights resulting from the allocation of radio frequencies as specified in Section 23 below.

Section 22

Assignment of Radio Frequencies

(1) Assignment of radio frequencies shall be understood to mean the assignment of the right to use radio frequencies according to the conditions to be specified for the assignment holder in the authorisation of the use of radio frequencies. The Chairman of the Council of the Office (hereinafter referred to as the “Chairman of the Council”) shall decide on the allocation of radio frequencies to an applicant or applicants who delivered the application(s) within the period specified in Section 21 Subsection 5 Clause h) and met all the conditions of participation in the tendering procedure and proved the best compliance with the defined criteria of evaluation of the application. Unless the number of applicants who met the conditions of participation in the tendering procedure is greater than the expected number of rights to be granted, the Chairman of the Council shall close the tendering procedure and decide to grant the radio frequencies to these applicants.

(2) In the decision to assign radio frequencies, the Chairman of the Council shall indicate:

- a) the designation of the service or the type of network or technology for which the rights to use radio frequencies were granted, or designation of the exclusive use of the radio frequencies for the transmission of a specific content or specific audiovisual services;
- b) conditions of purposeful utilisation of the radio frequencies, or coverage in terms of territory or population;
- c) conditions of transfer of the rights resulting from the assignment of radio frequencies in accordance with Section 23 below;
- d) taxative enumeration of the commitments the applicant assumed during the course of the tendering procedure for the granting of the rights to use radio frequencies;
- e) the period of validity of the radio frequency assignment; and

f) the commitments resulting from applicable international treaties on the utilisation of radio frequencies.

(3) The period of validity of the radio frequency assignment according to Subsection 2, Clause e) above must be adequate to the given electronic communications service and must comply with the frequency schedules, with the harmonisation plans of the Communities, with international treaties binding on the Czech Republic and made public in the Collection of Acts or Collection of International Treaties, and with the security of the State.

(4) The assignment of radio frequencies may only be granted to an undertaking that provides a public electronic communications network or a publicly accessible electronic communications service.

(5) The assignment of radio frequencies does not substitute for the authorisation to use frequencies and does not entitle any undertaking to use radio frequencies for the operation of radio transmission equipment.

Section 23

Transfer of the Rights Resulting from the Assignment of Radio Frequencies

(1) An undertaking may only transfer its rights resulting from the assignment of radio frequencies to any other undertaking with the prior consent of the Office. The Office shall only grant such consent if such a transfer

- a) does not distort economic competition in the electronic communications area in terms of the use of radio frequencies;
- b) does not lead to any change in conditions of the use of the radio frequencies the use of which was harmonised on an international basis.

(2) The conditions and procedures for transfer of the rights resulting from the assignment of radio frequencies according to in Subsection 1 above shall be determined by the Office by a measure of general nature.

(3) The Office shall publish the information on transfers of the rights resulting from the assignment of radio frequencies.

Section 24

Fees for the Use of Radio Frequencies

(1) The holder of the authorisation to use radio frequencies shall pay annual fees for the use radio frequencies.

(2) The amount of the annual fee as referred to in Subsection 1 above shall be determined according to the type of radiocommunications service and shall be differentiated as follows:

- a) in terrestrial mobile service, the range is from CZK 1,000 to CZK 8,000,000 per one frequency channel assigned, depending on the width of the frequency band utilised, on the parameters of the radio equipment and on the size of the area covered;
- b) in terrestrial fixed service, the range is from CZK 300 to CZK 1,200,000 per one frequency channel assigned, depending on the ratio between the assigned width of the frequency band and the minimum width of the frequency band of the respective frequency grid determined in the plan of frequency spectrum utilisation, on the type of radio microwave link, type of frequency band, and parameters of the radio equipment;
- c) in the propagation and transmission of broadcasting (radio service), the range is from CZK 375 to CZK 180,000 per one frequency channel assigned, depending on the type of frequency channel assigned, the type of broadcasting and on the parameters of the radio equipment;
- d) in the satellite service, the range is from CZK 1,000 to CZK 180,000 per one frequency channel assigned, depending on the width of the frequency band utilised and on the technology enabling effective utilisation of the frequency band, based on the selection of a free frequency channel or on multiple access to that channel;
- e) in other radiocommunications services, the range is from CZK 1,200 to CZK 9,600 per one frequency channel assigned, depending on the parameters of the radio equipment and on the size of the area covered.

(3) The obligation to pay fees as referred to in Subsections 1 and 2 above shall not apply to holders of authorisation to use radio

frequencies, who use the radio frequencies for the radio amateur communications service.

(4) The Government shall set down a regulation to determine the amount and, if applicable, also the method of calculation, of the fees referred to in Subsection 2 above, and the maturity term thereof.

Section 25

Short-term Authorisation to Use Radio Frequencies

(1) If so requested, the Office grants a short-term authorisation to use radio frequencies for an absolutely necessary period, which, however, shall not exceed 1 month. Short-term authorisation is intended for addressing single issues, which cannot be foreseen a reasonable time ahead. A short-term authorisation may be granted if the required frequencies are available and if the use thereof does not cause harmful interference.

(2) The application shall be delivered to the Office at least 3 workdays prior to the requested start date of the use of the radio frequencies.

(3) The applicant for a short-term authorisation to use radio frequencies shall pay a one-off fee for the right to use the radio frequencies. The fee shall fall due before the granting of the authorisation. The Government shall issue a regulation to determine the amount of such a one-off fee, ranging from CZK 500 to CZK 3,000 per one assigned radio frequency, differentiated according to the type of radiocommunications service.

(4) The use of radio frequencies by a foreign person upon the reciprocity principle in accordance with an international treaty binding on the Czech Republic published in the Collection of Laws or Collection of International Treaties, shall not be liable to the one-off fee.

(5) The Rules of Administrative Procedure do not apply to the granting of a short-term authorisation to use radio frequencies.

(6) If the Office grants a short-term authorisation to use radio frequencies in the frequency bands intended exclusively for audio

and television broadcasting, the Office shall inform the Broadcasting Council to that effect.

Section 26

Professional Competence

(1) The applicant for the authorisation to use radio frequencies shall be required to prove his professional competence for the operation of:

- a) radio telephony, radio telegraphy or other transmitting radio equipments located aboard planes and ships registered in the Aviation Register or Navigation Register or Marine Register of the Czech Republic;
- b) radiotelephony and radiotelegraphy terrestrial transmitting radio equipments of the aviation mobile service and navigation mobile service, and radiotelephone service on waterways^{13,17};
- c) radiotelephony and radiotelegraphy terrestrial transmitting radio equipments operating on the short wave band;
- d) radio transmission equipments for the amateur radiocommunications service.

(2) The radio transmitting equipments referred to in Subsection 1 above may be operated by persons who have a valid professional competence certificate to operate such equipments. If a legal entity is the holder of an authorisation to use radio frequencies, such a legal entity shall ensure that the transmitting radio equipments is only operated by a person possessing a valid professional competence certificate. The Office shall verify the competence by a test. Operation of radio transmitting equipments may also be carried out by persons whose special competence to operate radio transmitting equipments was acknowledged under a special legal regulation¹⁸.

(3) The applicant shall apply to the Office for a test referred to in Subsection 2

above in writing. The Office shall enable the applicant to attend the tests within 3 months of the delivery of the application at the latest.

(4) The Office shall issue a professional competence certificate to any applicant who proved to be professionally competent to operate transmitting radio equipments.

(5) The details of the application for admission to the tests referred to in Subsection 3 above, the extent of the knowledge to be required for each type of professional competence, the mode of performance of the tests, the types of the professional competence certificates and the period of validity thereof shall be specified in an implementing legal regulation.

Volume 4

The Radiocommunications Account

Section 27

(1) For the purposes of compensation of the efficiently and purposefully expended costs incurred to the holders of the authorisation when using radio frequencies or to the Ministry of Defence in using radio frequencies for military purposes as a result of any changes made in the use of the radio spectrum for reasons specified in Section 19 Subsection 1 Clauses a) and b) above, the Office shall open and administer a Radiocommunications Account. The resources in the Radiocommunications Account may also be used for reimbursement for the costs incurred to the holders of the authorisation to use radio frequencies or to the Ministry of Defence in using radio frequencies for military purposes as a result of removal of technical incompatibility, which is not due to non-compliance with the conditions specified in the authorisation to use radio frequencies, in the general authorisation, or in the scheme of utilisation of the radio spectrum.

(2) Radiocommunications Account is an account outside the State Budget. The resources in the Account shall be part of the state financial assets; they are maintained with a bank and may only be used for purposes based hereon. The balance in the Account at the end of the calendar year shall be rolled over to the next year. The interest on the account represents receipts to the State Budget

¹⁷ Decree No. 138/2000 on radiotelephony traffic on inland waterways.

¹⁸ Act No. 18/2004 on the recognition of professional qualification and other qualifications of the citizens of other Member States of the European Union and on amendment to certain other Acts (Professional Qualification Recognition Act).

and the payments for bank services relating to the maintenance of the account represent an expenditure of the State Budget. The receipts to the Radiocommunications Account shall consist of part of the fees for the frequencies used whose amount the Government shall determine.

(3) The holder of an authorisation to use radio frequencies or the Ministry of Defence, who requests compensation for the efficiently and purposefully expended costs for reasons referred to in Subsection 1 above, shall submit to the Office a quantification of those costs, documented by accounting records. The Office shall assess the submitted quantification on the basis of the accounting records, technical documentation and other such primary documents. Having made the assessment, the Office shall confirm the proposed amount of efficiently and purposefully expended costs or determine another amount of costs efficiently and purposefully expended.

(4) The Office shall make public a statement of the administration of the resources in the Radiocommunications Account for every calendar year. The statement represents part of the annual report on the activities of the Office in accordance with Section 110.

(5) The Government shall issue a regulation to prescribe the method and the amount of resources for the Radiocommunications Account from part of the fees for the right to use frequencies, and the method of drawing on those sources in accordance with the provisions of Section 133 below.

Volume 5

Management of Numbers, Number Series and Codes, Addresses and Names

Section 28

The Duties of the Office

(1) To ensure that numbers, number series and codes, addresses and names, except Internet addresses (hereinafter collectively referred to as “numbers”) are managed and reasonably utilised, the Office is responsible for the management of numbers for the electronic communications networks and

services in compliance with the Communities’ harmonisation objectives.

(2) Number management means arranging the numbering plans, drawing up rules for creating addresses and names except Internet addresses (hereinafter referred to as “numbering plans”) and changing them, granting, amending and withdrawing authorisations to utilise numbers, and recording and inspecting the utilisation of numbers.

(3) The Office shall maintain a database of the allocated numbers, which contains at least the numbers of the decisions by which the numbers were allocated and the time for which they were allocated. The database is publicly accessible in a manner allowing for remote access.

Section 29

Numbering Plans

(1) In compliance with the commitments of the Czech Republic resulting from an international treaty or from the Czech Republic’s membership of international organisations, the numbering plans contain the rules for creating and utilising numbers for the publicly available electronic communications services provided through electronic communications networks.

(2) The Office is entitled to decide to implement a special mode for calls between the border regions of the Czech Republic and the adjacent border regions of other Member States. The undertaking that provides publicly available telephone service shall without undue delay inform about such modes its end users in the regions concerned.

(3) If there is a change in the numbering plan, the holder of an authorisation to use numbers shall carry out at its own expenses the technical modifications needed as a result of such a change. The subscriber or user shall not be entitled to reimbursement for any costs or compensation for any possible damage he may incur as a result of a change of his number because of a change in the numbering plan.

(4) The numbering plans shall be determined by an implementing legal regulation.

Section 30

Authorisation to Use Numbers

(1) The numbers in the numbering plan may only be used upon the basis of the authorisation to use numbers. Making its decisions to grant authorisations to utilise numbers, the Office shall ensure that adequate numbers are provided to all public communications networks and publicly available electronic communications services.

(2) The Office shall decide on granting the authorisation to use numbers to any undertaking providing a public communications network or a publicly available electronic communications service on the basis of a general authorisation, or using such a network or service in conformity with conditions providing purposeful utilisation of the numbers upon the basis of an application submitted to the Office.

(3) The application for the granting of authorisation to use numbers shall contain:

- a) if the applicant is
 1. an undertaking, which is a legal entity: the trade name, registered address, or the registered address of an organisation unit in the Czech Republic, the business identification number, if any, and the name, surname and domicile of the person authorised to act on behalf of that legal entity;
 2. an undertaking, who is a natural person: that person's first name and surname and the trade name, if any, the domicile address, place of business or the registered address of the organisation unit in the Czech Republic, if applicable, and business identification number, if any;
- b) information about the numbers requested and the purpose of the use thereof;
- c) the requested duration of use of the numbers.

(4) The application shall be accompanied by the following supporting documents:

- a) for persons entered on the Commercial Register: an incorporation certificate – extract from the Commercial Register not older than 3 months; for persons not yet entered on the Commercial Register: a

notarised copy of the contract or deed of incorporation or establishment of the legal entity;

- b) for natural persons, and for a person authorised to act on behalf of a legal entity: no criminal record certificate not older than 3 months.

(5) The Office shall decide to grant the authorisation to use numbers without delay. If the numbers concerned are those reserved for special purposes within the numbering plan, the Office shall make its decision within a period of 3 weeks of the date of delivery of a complete application.

(6) The Office shall interrupt the procedure to grant authorisation to use numbers for a period not longer than 8 months if no applicable numbers are available.

(7) The Office shall publish an announcement of its decision to grant authorisation to use numbers.

(8) The Office shall decide not to grant authorisation to use numbers in the event that

- a) the numbering plan does not allow to use the numbers;
- b) such a decision is required for meeting the commitments resulting from an international treaty binding on the Czech Republic, which treaty was published in the Collection of Laws or Collection of International Treaties, or from the Czech Republic's membership of international organisations;
- c) if the applicant has failed, upon being repeatedly invited by the Office to do so, to submit within the period prescribed by the Office a complete application for the granting of an authorisation to use numbers;
- d) the requested numbers are not available; or
- e) the applicant or, in the case of a legal entity, the person authorised to act on behalf of that legal entity, lacks integrity.

(9) The Office may decide not to grant an authorisation to use numbers to an applicant who is in arrears with the payment of fines or fees imposed on him hereunder on the basis of this Act.

(10) An undertaking that was granted authorisation to use numbers must not

discriminate against any other undertakings providing electronic communications services in terms of the number series used for access to their services.

(11) An undertaking may only transfer its authorisation to use numbers to any other undertaking with the Office's consent. Provisions of Section 23 shall apply *mutatis mutandis* to transfers of the authorisation. This shall not affect the use of numbers by another undertaking on the basis of number porting in accordance with Section 34.

(12) If a remedy is sought against a decision made on the basis of Subsection 5 above, the claim for remedy shall not have a suspensive effect.

Section 31

Granting Authorisation to Use Numbers of Special Economic Worth

(1) The Office is entitled upon consulting with the interested parties to decide in accordance with Sections 130 and 131 below that authorisations to utilise numbers of special economic worth be granted on the basis of a tendering procedure. Numbers of special economic worth shall be understood to mean numbers that are symmetric or easy to remember.

(2) Provisions of Section 21 Subsections 1 to 7 shall be applied *mutatis mutandis* to the tendering procedure for authorisations to use numbers of special economic worth. The criteria of evaluation of the applications for the granting of an authorisation to use numbers of special economic worth are defined by the Office.

(3) The Office may extend the period within which the decision to grant authorisation to use numbers according to Section 30 Subsection 5 is to be issued, if such an extension is necessary to afford proper and transparent course of the tendering procedure in respect of the granting of an authorisation to use numbers of special economic worth, but no such extension may be longer than 3 weeks.

Section 32

Issuance of the Authorisation to Use Numbers

(1) The Office shall indicate the following in the authorisation to use numbers:

- a) if the applicant was:
 1. an undertaking, which is a legal entity: the trade name, registered address, or the location of an organisation unit in the Czech Republic, and the business identification number, if any;
 2. an undertaking, who is a natural person: that person's first name and surname and the trade name, if any, domicile address, place of business and business identification number, if any;
- b) the allocated numbers;
- c) the designation of the service for which the numbers will be used, including any requirements relating to the provision of the service concerned;
- d) the fees as referred to in Section 37 below, unless otherwise provided herein;
- e) the period of the validity of authorisation to use numbers.

(2) Further, the Office may, in the authorisation to use numbers, impose conditions concerning:

- a) purposeful utilisation of the numbers;
- b) the obligation to provide access to operator services, telephone number information services and subscriber directory enquiry services;
- c) transfer of the authorisation to use numbers, initiated by the authorisation holder, as well as the conditions for such a transfer;
- d) any obligations undertaken by the undertakings during the course of the tendering procedure in respect of the use of numbers; or
- e) the commitments resulting from applicable international treaties on the utilisation of radio frequencies.

The Office may determine the above conditions, unless they are determined by this Act, by the General Authorisation or a special legal regulation.

(3) The holder of the authorisation to use numbers shall immediately notify the Office about any change to the circumstances under which he was awarded the authorisation.

(4) The validity period of the authorisation to use numbers as referred to in Subsection 1 Clause e) must be adequate to the given electronic communications service and must be in accordance with the numbering plan, the harmonising plans of the Communities, the international treaties binding on the Czech Republic, which treaties were made public in the Collection of Laws or Collection of International Treaties, and with the security of the State.

Section 33

Access to the Single European Emergency Call Number and National Emergency Call Numbers

(1) An undertaking that provides publicly available telephone service shall make it possible for all its end uses, including the users of public pay telephones, to call free of charge the single European emergency call number “112” and the national emergency call numbers determined in the numbering plan (hereinafter referred to as the “emergency call numbers”).

(2) The obligation specified in Subsection 1 above also applies to any undertaking providing electronic communications who provides access to publicly available telephone service.

(3) An undertaking that provides a public telephone network must ensure for all calls to the emergency call numbers that caller location information (Section 91) and other information enabling the caller’s identification is available to the entity operating a workplace for reception of such calls. The extent, form and method of the delivery of such information shall be specified by an implementing legal regulation.

(4) An undertaking that provides a public telephone network must ensure that the public are informed about the existence and conditions of use of the emergency call numbers, especially in telephone directories and at the places where public pay telephones

are located, and must do so in a manner allowing for distant access.

(5) An undertaking providing an electronic communications network shall bear all the costs relating to the origination and transmission, over its network, of calls to the emergency call numbers and the transmission of the information about caller location. This duty also applies to the transmission of such calls and transmission of the caller location information from the networks of other undertakings.

(6) In cases where continuous provision of the service of calls to emergency call numbers is endangered or stopped, the Office is entitled to decide about measures needed to maintain or resume the provision of such service and may, if necessary, impose on an undertaking with significant market power on the relevant market (Section 53 Subsection 1), which provides publicly available telephone service at a fixed place, the obligation to ensure further provision of this service.

Section 34

Number Portability

(1) Any undertaking providing a public telephone network shall ensure that any subscriber to publicly available telephone service provided, over public fixed or public mobile networks, who so requests, is able to retain his telephone number, or numbers, independently of the undertaking that provides the service:

- a) in the case of geographical telephone number within the specified area;
- b) in the case of non-geographical telephone numbers anywhere in the territory of the state.

This obligation does not apply to telephone number portability between public fixed telephone networks and public mobile telephone networks.

(2) Geographical number means a number from the numbering plan, wherein part of the numerical structure of such a number contains a geographical meaning serving for call routing to the physical location of the network termination point.

(3) Non-geographical number means a number from the numbering plan, which is not a geographically bound number, including, but not limited to, free call service numbers, increased tariff service numbers, and public mobile network subscriber numbers.

(4) The Office shall determine, by the measure of general nature, the technical and organisational conditions for the implementation of telephone number portability and the principles of accounting for the prices between undertakings in respect of telephone number portability.

Section 35

Access to Non-geographical Telephone Numbers from Another State

Any undertaking providing a publicly available telephone service shall ensure, if technically and economically feasible, that end users from other member states of the European Communities enjoy access to non-geographical telephone numbers belonging to its subscribers, with the exception of the cases in which the called party decided for business reasons to restrict access of the calling parties located in certain geographical regions.

Section 36

Change, Extension, Withdrawal and Expiry of the Authorisation to Use Numbers

(1) The Office shall decide to change the authorisation to use numbers in justified cases, which are:

- a) the need to meet the commitments resulting from international treaties binding on the Czech Republic, which treaties were published in the Collection of Laws or Collection of International Treaties, or from the Czech Republic's membership of the European Union or international organisations;
- b) declaration of a state of crisis;
- c) a change in the circumstances in which the authorisation to use numbers was granted;
- d) a justified application of a holder of the authorisation to use numbers.

With the exception of the case specified in Clauses b) and d), the Office must inform the

parties concerned about its intention to make such changes and must afford them a period of 1 month for their responses. In the cases referred to in Clauses a) to c), the Office may reduce that period, but not to less than 7 days. The Office shall provide justification for any reduction of that period.

(2) If a change occurs as referred to in Subsection 1 Clauses a) and b), the State shall pay through the Office the costs incurred to the holder of the authorisation. The State shall not pay such costs in the event that the applicant continues requesting the authorisation to use numbers although the Office notified him about the planned change in the use of the numbers and the Office stated that fact in its decision on the use of numbers.

(3) Upon request of the holder of authorisation to use numbers, the Office will decide on the extension of the validity period of the authorisation. Unless prevented by circumstances specified in Subsection 1 Clause a), the Office will extend the validity period, but the extension may at the maximum be as stated in the authorisation. The validity period may be extended repeatedly.

(4) The Office may decide to withdraw the authorisation to use numbers if and when:

- a) the authorisation holder does no longer meet some of the conditions on the basis of which the authorisation was granted to him; or
- b) the authorisation holder fails to fulfil the obligations specified herein or in the decision to grant or amend the authorisation and fails to remedy the situation within the period specified by the Office in accordance with Section 114 below.

(5) The Office shall decide to withdraw the authorisation to use numbers if and when:

- a) such a withdrawal is needed in order to fulfil the commitments under an international treaty binding on the Czech Republic, which treaty was published in the Collection of Laws or Collection of International Treaties, or under the Czech Republic's membership of the European Union or international organisations, or when the circumstances occurring upon the declaration of a state of crisis so require; or

- b) the authorisation holder asked for the withdrawal.

(6) If the Office decides to withdraw the authorisation as referred to in Subsection 4 Clause b), the applicant may apply again for the granting of the authorisation no sooner than upon the expiration of 6 months following the date on which the decision to withdraw the authorisation took effect.

(7) The authorisation to use numbers shall lose effect:

- a) with the expiration of the time for which the authorisation to use numbers was granted;
- b) on the date of termination of the existence of the legal entity which held the authorisation to use numbers;
- c) with the death of the natural person to whom the authorisation to use numbers was granted; or
- d) on the date of entry into effect of the Office's decision referred to Subsections 3 and 4 above.

Section 37

Fees for the Rights Resulting from the Authorisation to Use Numbers

(1) The holder of the authorisation to use numbers is obliged to pay fees for the right to use numbers. The use of the emergency call numbers is not subject to any fees.

(2) The Government shall issue an order determining the amount of the annual fee as indicated in Subsection 1, ranging from CZK 1 to CZK 150,000 per one allocated number, with differentiation according to the type of number and type of electronic communications service.

Volume 6

Universal Service

Section 38

Authorisations of the Office and the Duties of Undertakings

(1) The provisions of this volume stipulate the extent of universal service, the rights of end users and the duties of the undertakings providing publicly accessible

electronic communications networks and publicly available electronic communications services. The purpose is to ensure that public communications networks are accessible and public communications services are available to end users at the prescribed quality level, meeting end users' reasonable needs.

(2) Within the universal service, the Office may impose on undertakings the obligation to provide the following services (hereinafter referred to as "partial service"):

- a) connection at a fixed point to the public telephone network;
- b) access at a fixed point to the publicly available telephone service;
- c) regular issuance of telephone directories containing the numbers of the subscribers to the publicly available telephone service, and end-users' access to those directories;
- d) telephone directory enquiry service, available to end-users, to provide information about the telephone numbers of the subscribers to the publicly available telephone service;
- e) public pay telephone services;
- f) access for disabled persons to the publicly available telephone service at the same level of quality as the access enjoyed by all other end-users, based on, in particular, specially provided terminal equipment; or
- g) additional services to those referred to in Clauses a) and b) above; such additional services being:
 1. phased payment of the price for the establishment of connection to the public telephone network for consumers;
 2. free selective barring of outgoing calls for the subscribers; and
 3. free itemised billing of the price for consumers.

Imposition of the obligation based on Clause g) Point 3 above shall be without prejudice to the provisions of Section 64 Subsection 3. Services referred to in Clauses a) and b) must enable a prepayment system for consumers (Section 44).

(3) Any undertaking that provides partial services referred to in Subsection 2 Clauses a) and b) shall also make it possible for low-income persons and persons with special social needs in accordance with Sections 44 and 45,

and for disabled persons in accordance with Section 43 Subsection 4, to select prices or price schemes different from the price schemes used under normal business conditions so as to enable access for such persons and allow them to use the partial services and the publicly available telephone service (hereinafter referred to as “special prices”). The use of such special prices shall not limit such persons in using all the publicly available electronic communications services provided by other undertakings. Special prices shall be provided to any low-income person or person with special social needs who is able to submit to the universal service provider the documents specified in Subsection 4 below; disabled persons must submit the documents specified in Section 43 Subsection 5 below. A universal service provider is a person on whom/which the obligation to provide one or more partial services referred to in Subsection 2 above was imposed. The State shall compensate, through the Office, the universal service provider for the losses the provider suffers as a result of the special prices.

(4) The Government shall set down a regulation to define the range of low-income persons and persons with special social needs and the documents by which natural persons proves themselves before the universal service provider.

Section 39

Designation of the Universal Service Provider

(1) The Office shall, in accordance with Sections 130 and 131, consult the interested parties about its intention to impose or lift the individual obligations based on Section 38 Subsection 2 (hereinafter referred to as “universal service obligation”) in the whole territory of the State or any part thereof. The notification to that effect shall contain information including, but not limited to:

- a) the partial services, including the extent thereof, to be subject to the universal service obligation, as well as the territory to which the imposition of the universal service obligation is to apply;
- b) justification of the intention to impose the universal service obligation;

- c) the conditions the Office intends to set out under the universal service obligation.

(2) Upon evaluating the results of the consultation referred to in Subsection 1, the Office will not impose the universal service obligation if it learns that the provision of the service concerned is secured all over the territory of the State or any part thereof under conditions comparable with the requirements to provide universal services in accordance with this volume without having to impose the obligations referred to in Section 38 Subsection 2. Otherwise the Office shall announce a tendering procedure.

(3) The Office shall issue a decision to cancel the obligations specified in Section 38 Subsection 2 if it learns on the basis of consultation in accordance with Subsection 1 that the provision of the service concerned is secured all over the territory of the State or any part thereof under conditions comparable with the requirements to provide universal services in accordance with this volume without having to impose the obligations referred to in Section 38 Subsection 2. At least once in two years, the Office shall examine whether the reasons for which the obligation specified in Section 38 Subsection 2 was imposed still exist.

(4) The Office shall determine in accordance with the principles specified in Section 6 the criteria of evaluation of the applications for the provision of universal service. The criteria shall include, in particular,

- a) the undertaking’s financial, technical and professional conditions for universal service provision;
- b) the requirement that the costs of universal service provision provided to the required extent and at the required quality level should be as low as possible.

(5) The Office shall determine the conditions of participation in the tendering procedure in accordance with the principles set out in Section 6. An undertaking’s application to the tendering procedure shall contain a proposed specific mode of calculation of the annual net costs of universal service provision, which shall comply with Section 48 Subsections 2 to 4, and the expected total amount of such costs.

(6) The Office may request that the applicant submit the necessary documents to

prove his ability to meet the conditions relating to the authorisation.

(7) The Office shall publish an announcement of the tender according to Section 125. The announcement shall also include the deadline for submission of the applications, all the conditions of participation, the requirements for the quality and extent of the services to be provided, and the criteria of evaluation of the applications for universal service provision.

(8) The Office shall issue a decision to impose the universal service obligation on an undertaking which submitted its application by the deadline referred to in Subsection 7, met the conditions of participation in the tendering procedure, and was the best in meeting the criteria of evaluation of the applications. The Office shall deliver its decision, including the justification thereof, to all the undertakings that submitted their applications by the deadline referred to in Subsection 7.

(9) The obligation to provide universal service all over the territory of the State or any part thereof shall be imposed by the Office on one or more undertakings so as to ensure that all partial services provided within the framework of universal service are available at any fixed place for all end users throughout the territory of the State.

(10) The Office shall make public a report on the course and results of the tender and the decision to impose obligations based on Subsection 8.

(11) Provisions of the Commercial Code, as far as public tendering is concerned, shall apply *mutatis mutandis* to the tendering procedure.

(12) The Office is entitled to cancel an announced tender and may do so even after the expiration of the period prescribed for submission of applications. The Office shall publish the cancellation of the tender.

(13) In the event that no undertaking does put in an application to the tendering procedure within the period indicated in Subsection 7 above, or if no undertaking is selected because they failed to respect the conditions of participation or to meet the criteria of evaluation of the applications, the Office shall make a decision to impose the universal

service obligation on an undertaking with significant market power, or – if there is no undertaking with significant market power on the relevant market – on the undertaking best meeting the criteria of evaluation of the applications. The Office shall at the same time make a decision in accordance with Section 45 to determine the price for which the universal service is to be provided in such a case. The Office shall make a qualified estimation of the preliminary level of net costs.

Section 40

Connection to the Public Telephone Network and Access to the Publicly Available Telephone Service

(1) A universal service provider on whom an obligation was imposed under Section 38 Subsection 2 Clause a) shall meet all reasonable user requests for a single connection at a fixed location to the public telephone network.

(2) Connection at a fixed location to the public telephone network shall mean establishment and setting in operation of a network termination point at a fixed location.

(3) A universal service provider on whom an obligation was imposed under Section 38 Subsection 2 Clause b) shall meet all reasonable user requests for access at a fixed location to the publicly available telephone service.

(4) Access at a fixed location to the publicly available telephone service means the operation of the termination point of network.

(5) Connection to the public telephone network and access to the publicly available telephone service must enable end users to make national and international calls and carry out facsimile communication and data transmission at speeds sufficient for a functional Internet access with respect to the technologies used by the majority of subscribers, and with respect to technical feasibility.

(6) If the universal service provider referred to in Subsections 1 and 3 is unable for reasons on his part to meet a reasonable request within the period defined according to the value of the quality parameters or binding performance targets, the universal service

provider shall within 1 month of receiving the request notify the user in writing about its not being able to meet such a request and about the time within which the request will be met, and shall concurrently inform the Office to that effect.

(7) An implementing legal regulation shall define the characteristics of reasonable requests as referred to in Subsections 1 and 3 above and the conditions of Internet access as referred to in Subsection 5.

Section 41

Telephone Directories and Directory Enquiry Service

(1) The universal service provider on whom an obligation was imposed under Section 38 Subsection 2 Clause c) shall, in accordance with Section 96 below, maintain, distribute, issue a directory of the subscribers of all undertakings providing publicly available telephone services, and update it at least once annually. This telephone directory shall be issued in printed form and also in a manner allowing for distant access. The universal service provider shall provide such a directory to the subscriber upon the subscriber's request.

(2) The universal service provider on whom an obligation was imposed under Section 38 Subsection 2 Clause d) shall, in accordance with Section 96 below, provide complete directory enquiry service to end users, including the users of public pay telephones. Such a directory enquiry service shall cover the telephone numbers of the subscribers of all undertakings providing publicly available telephone services.

(3) Any undertaking providing publicly available telephone service shall:

a) immediately after the determination of the universal service providers referred to Subsections 1 and 2 above, supply them with the personal data relating to their subscribers who are natural persons and the identification data relating to their subscribers who are legal entities, except the data relating to those subscribers who do not wish to have their data published in the directory;

b) at least once in 3 months supply to the universal service providers referred to Subsections 1 and 2 above updates of the information referred to in Clause a).

The party supplying this information is entitled to compensation for reasonably incurred costs. Undertakings providing universal service are obliged to treat such information in a non-discriminatory manner. It is forbidden, in particular, to afford any preferential treatment to information about own subscribers to the detriment of the subscribers of other undertakings providing publicly available telephone services.

(4) Imposition of the obligation to provide universal service as specified in Subsections 1 and 2 shall not be to the prejudice of issuing telephone directories and providing directory enquiry services by other entities in accordance with Section 96.

(5) The personal data as referred to in Subsection 3 above are: the name, surname or nickname, if any, permanent domicile address, telephone number and electronic mail address. If the natural person is an entrepreneur, the place of business shall be added to the personal information. The identification data as referred to in Subsection 3 above are: the trade name of an undertaking or name of a legal entity other than undertaking, registered address or the address of an organisation unit, if applicable, address and telephone number of the establishment and the electronic mail address.

(6) Only personal or identification data may be contained, to the extent specified in Subsection 5, in the telephone directory or in the database on the basis of which directory enquiry is provided. Personal and identification data about subscribers who evincibly refused the publishing of such information shall not be published. The non-publishing is free of charge.

Section 42

Public Pay Telephones

(1) The universal service provider on whom an obligation was imposed under Section 36 Subsection 2 Clause e) shall meet the needs of the public in the delineated geographical area as to the number of public pay telephones installed, the geographical

coverage thereof, the quality of the service provided and accessibility of the pay telephones for disabled end users.

(2) The universal service provider referred to in Subsection 1 above shall ensure public free access of users:

- a) to public pay telephones providing uninterrupted public pay telephone function;
- b) to the emergency call numbers (Section 33) without having to use any means of payment.

Section 43

Special Measures for Disabled Persons

(1) The universal service provider on whom an obligation was imposed under Section 38 Subsection 2 Clause f) shall provide access to publicly available telephone services for disabled persons equitable to the access enjoyed by other end users, including access to emergency call numbers, directories and directory enquiry services, as well as the possibility to take advantage of the choice of the operator or undertaking providing publicly available electronic communications services.

(2) The universal service provider as referred to in Subsection 1 above shall, in particular,

- a) lease or sell to disabled persons, if they so request, specially modified telecommunications terminal equipment, adequate to their handicap, at the price of standard telecommunications terminal equipment;
- b) ensure that public pay telephones have barrier-free access, are available and are specially equipped¹⁹.

(3) The functional characteristics of specially fitted telecommunications terminal equipment, as referred to in Subsection 2 above, for different types of handicap shall be set out in an implementing legal regulation.

(4) For the purposes hereof, disabled persons shall be understood to mean:

¹⁹ Decree No. 369/2001 on general technical requirements to ensure that persons with limited movement and orientation ability can use buildings.

- a) ZTP card holder, as person disabled for reasons of absolute deafness or being practically deaf;
- b) ZTP/P card holder, as severely disabled person;
- c) person recognised by the medical assessor of the appropriate District Social Security Administration as a physically helpless person²⁰, or if such a person is a minor, the subscriber who is personally responsible for the care of the minor;
- d) subscriber who brings up a minor or is personally responsible for a minor who was entrusted in his care as substitute for parental care upon the basis of a decision of an appropriate authority and who (the minor) is a holder of a card referred to in Clauses a) or b) above.

(5) The Government shall set down regulation to specify the documents by which a natural person proves his disability before the universal service provider.

Section 44

Complementary Services

(1) The prepayment system means a service through which the consumer may prepay access to the public telephone network and the use of publicly available services.

(2) Selective outgoing call barring means a service allowing the subscriber free of charge, if he so requests, to bar outgoing calls to certain specified types of numbers or groups of numbers, if it is technically feasible.

(3) Itemised price billing means price billing with an itemised list of individual calls. Itemised price billing is provided free of charge. It shall not contain items in respect of calls for which the subscriber is not supposed to pay, including calls to numbers identified as free call numbers.

(4) The universal service provider shall enable the user a reasonable level of control over his account, including such control by distant access. Reasonable level of control

²⁰ Section 8 Subsection 1 Clause b) of Act No. 582/1991 on social security organisation and practice, as subsequently amended. Section 2 of Decree No. 284/1995 implementing the Pension Security Act.

should be understood as the user's free access to information about his call charges and the balance of his bill, including information about the pricing plan selected by him.

(5) The extent of price billing as referred to in Subsection 3 shall be determined by the Office by an implementing legal regulation.

Section 45

Affordability of Prices

(1) On the basis of its own monitoring efforts and assessment of the evolution of the level of universal service prices with respect to consumer prices, inflation and average wage of the population, the Office shall evaluate the affordability of the universal service in terms of price. For that propose the universal service provider shall submit to the Office the overview of the prices of the partial services, including the specified conditions and any changes thereto, no later than 1 month before the effective date of such prices.

(2) The universal service provider is obliged to apply uniform prices in the territory of the state or the part thereof where it provides the universal service and to respect the price determined by the Office on the basis hereof. In securing the availability of the universal service, the Office shall minimise the necessary interventions in the normal business conditions.

Section 46

Conditions of the Provision of Other Services

If a universal service provider also provides other services or telecommunications terminal equipment beyond the obligations imposed on him according to Section 38 Subsection 2 Clauses a) to g) or beyond the obligation based on Section 38 Subsection 3, such a provider shall avoid, in determining the contractual and general conditions (Section 63), requiring the subscriber to pay for the electronic communications services or telecommunications terminal equipments that are not essential or are not needed for the provision of the partial service requested.

Section 47

Quality of the Universal Service

(1) The universal service provider must fulfil the quality parameter values and performance targets of the individual partial services.

(2) The universal service provider shall publish, and simultaneously submit to the Office, information about the results of universal service provision and an evaluation of how the performance targets are achieved as at 31 December of the calendar year, and must do so on an annual basis no later than 31 March of the following calendar year.

(3) The Office is entitled to take a measure of general nature to prescribe the content, form and method of publishing the information referred to in Subsection 2 above in order to make complete, comparable and easy-to-survey data accessible to the end users.

(4) If there are justified doubts about the accuracy and comparability of the information about the achievement of the performance targets submitted by the universal service provider to the Office according to Subsection 2 above, the Office is entitled to decide that such information be audited by a third party whose impartiality and independence of the universal service provider is guaranteed. The universal service provider concerned shall bear the costs of such audit.

(5) The universal service quality parameters, the limit values thereof and the performance targets shall be set out in an implementing legal regulation.

Section 48

Calculation of the Net Costs of Universal Service Provision

(1) The Office shall calculate the net costs of the provision of the universal service by the procedure specified in Subsections 2 to 7. If the universal service provider was selected on the basis of a tender, the Office shall make its calculation on the basis of the universal service provision net cost calculation as proposed by the Provider in the tender according to Section 39 Subsection 5.

(2) Net costs mean the costs calculated as the difference between the costs efficiently and purposefully incurred by the undertaking obliged to provide the universal service and the costs efficiently and purposefully incurred by an undertaking without such an obligation, taking into account a reasonable return on the capital invested and the costs the incurrance of which the undertaking would have avoided if it were not for its obligation to provide universal service, and also taking into account the market benefits gained by the undertaking from universal service provision. The net costs shall be calculated for the calendar year in which the universal service provider was obliged to provide universal service (hereinafter referred to as the “billing period”).

(3) The net costs may only include the costs of fulfilling the obligations referred to in Section 38 Subsections 2 and 3 above. The net costs of fulfilment the individual obligations imposed within the universal service must be calculated separately for each of the obligations; double billing of any direct or indirect costs and market benefits is forbidden.

(4) The total net costs of universal service provision by all the undertakings concerned shall be calculated as a sum of the net costs of fulfilment the individual obligations imposed under the universal service arrangement.

(5) The complete supporting documents, allowing to make a correct calculation of the net costs for the billing period, shall be submitted by the universal service provider to the Office no later than 31 July of the calendar year following the billing period. The universal service provider is responsible for the correctness and completeness of the calculation submitted by it, as well as for the submitted documents and supporting evidence. The Office shall calculate the net costs on the basis of the net cost calculation performed by the universal service provider in accordance with Subsections 2 and 3 above and on the basis of accounting documents, as well as other evidence, if any, by which the universal service provider must support his calculations. If the Office finds that the service provider’s supporting evidence is incomplete or contains misstatements, the Office shall afford the provider a reasonable period of time to complete and/or correct the supporting

evidence. In the event that the universal service provider fails to make the corrections within the prescribed period of time, the Office shall not include the costs of the fulfilment of the obligation imposed within the universal service, to which the incomplete or insufficient documentation applies, in its calculation of the net costs of universal service provision.

(6) The Office shall audit the supporting documentation for correctness and completeness within 6 weeks of the submission or completion thereof according to Section 5 above, or may authorise a third party, whose impartiality and independence of the universal service provider is guaranteed, to do the audit. The Office shall publish the conclusions of the audit as well as the result and method of calculation of the universal service provision net costs. The Office shall correct and immediately publish any typing and calculation errors and other obvious mistakes.

(7) An implementing legal regulation shall be issued to determine the procedure to be used by the Office in determining the net costs of universal service provision, including also the criteria of evaluation of unbearable economic burden, the method to calculate the net costs of partial service provision, the method of defining the market benefits as referred to in Subsection 2 above and the documentation to support the calculations.

Section 49

Universal Service Financing

(1) The universal service provider shall submit to the Office its application for compensation of net costs no later than 31 July of the calendar year following after the billing period.

(2) The Office shall determine whether the net costs of universal service provision, specified on the basis of Section 48, represents unbearable burden for the provider.

(3) To cover the net costs, the Office shall open a universal service account (hereinafter referred to as the “Account”), which it administers. The Account is outside the State Budget. The sources in the Account shall be maintained with a bank and may only be used for purposes based hereon. The balance in the account at the end of the

calendar year shall be rolled over to the next year. Interest on the universal service account represents income to the State Budget and the payments for bank services relating to the maintenance of the Account represent an expenditure of the State Budget.

(4) The receipts in the Account shall include the payments made by payers, penalties as referred in Subsection 11, and may also include financial support from the State, which is repayable in 2 years. The Office shall maintain payer records. The expenses from the Account are payments to the universal service providers and instalments on the financial support from the State. The expenses are defrayed by the payers.

(5) A payer may be any undertaking, including the provider of the universal service concerned, which provides interconnection and access to the publicly accessible electronic communications network, publicly available telephone service, leased lines service, Internet access service or any other publicly available data service in the territory of the Czech Republic in the billing period regardless of whether such an undertaking is, or is not, based in the Czech Republic. The amount of the payment made by the payer shall not exceed one percent of its revenues within one billing period.

(6) An undertaking whose aggregate revenues from the provision of the publicly available telephone service, Internet access service or any other data service for the billing period are below CZK 10,000,000.- is not treated as a payer.

(7) The Office shall determine by a measure of general nature the percent proportions of the service provision revenues referred to in Subsection 5 for the individual payers out of the total service provision revenues referred to in Subsection 5 for all payers within the given billing period.

(8) On the basis of the percent proportion defined according to Subsection 7 above, the Office shall immediately determine the amount of the payer's payment from the net costs calculated according to Section 48 above and from the instalment of returnable financial assistance from the State, if any. The Office shall issue a payment assessment in

respect of the level of payment determined²¹. The obligation to make the payment shall arise for the payer as at the date specified in the payment assessment.

(9) In the event that the amount of the payment exceeds one percent of the payer's revenues, the Office shall pay the difference.

(10) After reception of the payments to the account, the Office shall without delay transfer the source to the universal service provider for the defrayment of the net costs defined by the procedure carried out in accordance with Section 48 upon subtraction of the payment thereof made in accordance with Subsection 8.

(11) If financial resources were drawn from the Account on the basis of incorrect or incomplete data from the universal service provider, such a provider shall return the financial resources drawn in an unauthorised way no later than within 15 days from the date of the notice made by the Office. The universal service provider shall at the same time pay a penalty of 1 per mile, on a daily basis, of the amount drawn in an unauthorised way, which, however, shall not be higher than the amount itself. The penalty is a receipt to the Account. To reduce the strictness of the regulation, the Office may reduce or waive the penalty.

(12) If a lower percent proportion was determined for a payer on the basis of incorrect or incomplete data and information provided by that payer, the Office shall issue a new payment assessment on the basis of a corrected calculation of the percent proportion to impose on that payer the obligation to pay the difference between the initially determined amount of the payment and the new payment liability. The amount so paid shall be used to defray the net costs calculated for the nearest following billing period.

(13) In the collection and requisition the payments, the Office shall proceed *mutatis mutandis* in accordance with a special legal regulation²². For these purposes, the sources in the universal service account shall be treated as sources of a state fund.

²¹ Act No. 337/1992 on taxes and fees administration, as subsequently amended.

²² Part Six of Act No. 337/1992 on taxes and fees administration, as subsequently amended.

(14) The Office shall cancel the Account in the event that no net cost defrayment has been made from it for three years and that it has not been determined that universal service provision represents an unbearable burden to the provider. If the account is cancelled, the Office shall transfer balance in the Account to the Radiocommunications Account.

Section 50

Contents of the Annual Report on Universal Service

(1) The Office shall publish an annual report for the given billing period. The annual report shall include at least:

- a) the result of the calculation of the net costs of fulfilment the individual obligations imposed under the universal service arrangement, and the net costs of the provision of the universal service;
- b) the amounts to be paid by the individual payers as determined by the Office according to Section 49 above, and the amounts of the individual payments really transferred to the Account;
- c) definition of the market benefits generated by the universal service providers as a result of the provision of the universal service, including the quantification of the pecuniary aspect of those benefits; and
- d) statement of the management of the sources in the Account.

(2) The annual report of the universal service constitutes a part of the Annual Report on the Activities of the Office according to Section 110.

Volume 7

Definition of Relevant Markets and Definition of an Undertaking with Significant Market Power

Section 51

Analysis of Relevant Markets

(1) The Office shall within an interval of 1 to 3 years analyse the relevant markets, defined in accordance with Section 52, in order to see whether the markets are effectively competitive. The Office shall issue the market analysis as a measure of general nature. The

Office shall define the interval of the analysis according to the situation in market conditions. A market is not effectively competitive if it involves one or more undertakings with significant market power and if the corrective measures under national law or Community law in the competition area do not suffice to solve the given issue. The Office shall publish information about the commencement of the process of analysis of the relevant market.

(2) The Office shall publish the results of the analysis, including the opinion of the Office for the Protection of Economic Competition, upon consultation based on Sections 130 and 131. If the relevant market is found not to be effectively competitive, the Office shall indicate, as part of the results of the analysis, a proposed definition of an undertaking with significant market power and the proposed obligations as specified in Subsection 3, 4 or 9, which the Office intends to impose in order to remedy the situation.

(3) Depending on the result of the relevant market analysis, the Office shall issue a decision defining the undertaking with significant market power and impose on it one or more of the following obligations:

- a) transparency according to Section 82;
- b) non-discrimination according to Sections 77 and 81;
- c) separate records of costs and revenues according to Section 86;
- d) access to specific network elements and associated facilities according to Section 84;
- e) provision of leased lines services within the range of a minimum set of leased lines in the whole territory of the State or any part thereof according to Section 76;
- f) allowing carrier selection and pre-selection according to Section 70 Subsection 1; or
- g) obligations related to pricing regulation according to Sections 56 and 57.

Only the undertaking whose rights and duties are to be decided on shall participate in the proceedings.

(4) The Office is entitled, in addition to the obligations referred to in Subsection 3, to make a decision to impose other access-related obligations on the undertakings with significant market power. The Office shall

impose such other obligations upon obtaining an affirmative opinion of the Commission.

(5) If the obligations referred to in Subsections 3, 4 and 9 already exist in the relevant market, the Office shall decide either to maintain or change them or cancel them.

(6) If the Office learns from the analysis that the relevant market is effectively competitive, it shall decide to cancel the obligations imposed according to Subsections 3, 4 and 9 above.

(7) The Office shall publish its decisions made on the basis of Subsections 3 to 6 above, and shall do so in accordance with Section 125.

(8) In the case of supranational markets, the Office shall proceed in compliance with Community legislation and shall co-operate with the concerned national regulatory authorities to analyse the relevant market and, if applicable, make a decision to identify the undertaking with significant market power in the given market. Upon consulting with the national regulatory authorities concerned, the Office shall decide to impose, maintain, change or cancel the obligations referred to in Subsections 3 and 4 and 9. For the purposes of this Act, a supranational market means a market exceeding the territory of the Czech Republic and spreading over the territory of the European Communities or any significant part thereof.

(9) Once the Office identified the undertaking with significant market power according to Subsection 3 in any relevant market for the end users, and once – on the basis of consultation in accordance with Section 130 and 131 – the Office arrived at the conclusion that remedy cannot be achieved by imposition of obligations in accordance with Subsection 3, the Office may issue a decision to ban such an undertaking's:

- a) unjustified or unreasonable preferential treatment of certain end users;
- b) unreasonable bundling of services;
- c) charging unreasonably high prices; or
- d) limiting economic competition by determining dumping prices.

Section 52

Relevant Market

(1) The Office shall issue a measure of general nature to determine the relevant markets in the electronic communications area for the purposes of this Act, including the criteria for evaluating the significant market power, with respect to the decisions, recommendations and instructions of the Commission²³. In the justification of the measure of general nature, the Office shall also indicate the opinion of the Office for Protection of Economic Competition.

(2) In the event that the Office wishes to define further relevant markets in addition to those determined by the measure referred to in Section 1, the Office shall consult about the draft determining of such markets according to Sections 130 and 131.

Section 53

Undertaking with a Significant Market Power

(1) A legal entity or natural person performing any form of permanent economic or business activity in the electronic communications area, which/who either by it/himself or in conjunction with one or more others has an economic position in the relevant market that allows it/him to act to a considerable extent independently of competitors, customers and consumers, is an undertaking with significant market power,

(2) An undertaking with significant market power in the relevant market shall also be considered as an undertaking with significant market power in a closely related market, if the links between those markets allow to transfer the market power from the relevant market to the related market, thus strengthening the total market power of that entity.

(3) One entity may be identified as an undertaking with significant separate market

²³ Article 15 Paragraphs 1 and 3 of European Parliament and Council Directive No. 2002/21/EC, on a common regulatory framework for electronic communications networks and services (the Framework Directive).

power or more entities may be identified as undertakings with significant common market in the relevant market.

(4) The criteria for evaluating whether more entities have a significant common market shall be defined in an implementing legal regulation.

Volume 8

Prices and Price Regulation

Prices

Section 54

(1) The undertaking that provides a publicly available electronic communications service and the provider of universal service shall:

- a) publish the prices of the services and any changes thereto, including the conditions determined on the basis of a special legal regulation²⁴ before the entry into force of those prices, and shall also do so in a manner allowing for distant access;
- b) submit to the Office without undue delay the currently valid prices of the services and any changes thereto, including the determined conditions.

(2) The Office shall publish comparative overviews of current prices and the quality and conditions of the provision of publicly available electronic communications services by the individual providers, doing so in a form allowing the end users to make simple comparisons between those data.

Section 55

(1) The undertaking that is obliged to provide services according to Section 34 and the undertaking with significant market power that is obliged to provide services according to Section 70, shall negotiate the prices for interconnection related to the provision of those services; such prices being cost-oriented.

(2) A cost-oriented price means a price that reflects efficiently and purposefully incurred costs and reasonable profit. This price shall be negotiated so as to ensure return on the

capital invested within a reasonable period of time and so as to reflect the risks involved.

(3) In the event that the prices for the provision of services according to Section 34 or Section 70 are to be directly charged to the subscriber, the person concerned shall negotiate such prices so as to avoid discouraging the subscribers from using such services.

(4) An undertaking with significant market power providing the leased line service in the relevant market shall negotiate the prices that belong to the minimum sets of leased lines so that:

- a) the prices are independent of the mode of use to be introduced by the leased line users;
- b) the installation price and the lease line price are set separately.

(5) An undertaking with significant market power in the relevant market, which provides the services of a minimum set of leased lines, may in a specific case negotiate prices or delivery terms other than the prices and delivery terms it published, but may only do so with the Office's consent. The Office shall make a decision in respect on that consent.

Section 56

Price Regulation

(1) In the regulation of prices in the electronic communications area, the Office shall proceed according to this Act. Price regulation means the determination or direct modification of the level of prices exclusive of the value-added tax.

(2) The Office is entitled to apply price regulation, including the conditions affecting the price of the universal service provided by the universal service provider and the services provided by the undertaking with significant market power in the relevant market, and to do so by a pricing decision.

(3) The Office shall monitor and evaluate the development of the market price levels that are or may be subject to price regulation in the electronic communications area according to Subsection 2.

²⁴ Act No. 526/1990 on prices, as subsequently amended.

(4) In applying price regulation, the protection of the interests of the entity whose prices are regulated shall be taken into account by the Office so that the price resulting from the Office's decision is at least cost-based. This shall not apply to services provided in accordance with Section 43.

Section 57

Application of Price Regulation

(1) If it is proved by the analysis of the relevant market associated with interconnection or access, performed in accordance with Section 51, that this market is not efficiently competitive, the reasons being, without limitation, that unreasonably high or unreasonably low prices are applied to the detriment of end users, and if measures based on Section 51 Subsection 3 Clauses a) to f) would not remedy the situation, the Office is entitled to apply price regulation on that relevant market by issuing a pricing decision.

(2) If it is proved by the analysis of the relevant market for end users, performed in accordance with Section 51, that this market is not efficiently competitive and if the application of measures taken by the Office on the basis Subsection 1 did not remedy the situation, the Office is entitled to apply price regulation in the relevant market by issuing a pricing decision.

(3) If price regulation based on Subsections 1 and 2 above is imposed on an undertaking with significant market power, the decision made by the Office shall take into account the capital expenditures incurred by that undertaking and the related risks, and shall allow that undertaking to get its investment back within a reasonable period of time.

(4) If the price applied in accordance with Section 55 Subsection 3 discourages subscribers from using services according to Section 34 or Section 70, the Office may issue a decision to regulate the price. In applying price regulation in respect of the price for telephone number portability for subscribers, the Office may determine no specific or common prices.

Section 58

Method of Price Regulation

(1) The methods of price regulation the Office is entitled to apply under the conditions specified in Section 57, are as follows:

- a) determination of the minimum or maximum prices;
- b) rectification of the development of prices by the determination of conditions such as:
 1. the maximum range of possible price increase in a specified period of time;
 2. the maximum proportion within which an increase of the prices of specified inputs can be reflected in the price within a specified period of time; or
 3. mandatory procedure to be used in determining or calculating the price, including the cost-orientation obligation, determination of efficiently and purposefully used costs and a reasonable profit;
- c) time-limited ban on price increases above the currently valid level on the relevant market (hereinafter referred to as "price moratorium"); a price moratorium can be imposed for a period no longer than twelve months.

(2) In price regulation based on paragraph 1 Clause a), the Office may determine a price based on prices on comparable markets.

(3) The methods of price regulation can be purposefully combined.

Section 59

Pricing Decision

(1) A pricing decision must contain, in its justification, the method on the basis of which the Office proceeded to make the decision. The Office shall hold consultations about the pricing decision in accordance with Section 130 and 131.

(2) The Office shall publish its pricing decisions.

Section 60

Obligations of an Undertaking with Significant Market Power

(1) An undertaking with significant market power in the relevant market, which has an obligation of the cost-orientation of prices on the basis of the Office's decision, shall prove upon the Office's request that its prices are cost-oriented and are in compliance with the method of separate cost recording as specified in Section 86. To check the cost calculation, the Office may use methods that are not dependent on the methods used by the given undertaking with significant market power, or may use prices from comparable markets.

(2) If the Office arrives at the conclusion, based on the checking referred to in Subsection 1, that the given person fails to fulfil the obligations relating to the cost orientation of prices, the Office shall issue a decision imposing on that entity the obligation to adjust such prices. Such a decision must contain a justification.

TITLE IV

Rights and Obligations of the Undertakings, Subscribers, Consumers and End Users

Volume 1

Provision of Publicly Available Electronic Communications Services and Public Communications Networks

Section 61

(1) The undertaking that provides a publicly available electronic communications service shall provide such a service continuously on all days in the year, unless otherwise provided in the Act, and the quality of provision of such services shall be as specified in Section 71 below.

(2) In the cases that continuous provision of a publicly available electronic communications service is endangered or interrupted, the Office is entitled to decide on measures necessary to maintain or resume such provision and, if necessary, the Office may oblige the undertaking providing a partial service according to Section 38 Subsection 2 to

ensure further provision of that partial service to those users for whom the continuous provision is endangered or interrupted.

(3) An undertaking that provides a publicly available telephone service shall ensure uninterrupted access to the emergency call numbers.

(4) An undertaking that provides a publicly available telephone service shall maintain an up-to-date database of all its subscribers to the publicly available telephone service. An undertaking that provides a publicly available telephone service through a mobile electronic communications network shall also maintain in the database the data available to it, concerning the activated prepaid cards in its mobile network. An undertaking that provides a publicly available telephone service is entitled to learn and use subscribers' birth certificate code numbers for the purposes of maintaining the subscriber database.

(5) An undertaking that provides a publicly available electronic communications service is not responsible for the content of the messages being transmitted during the provision of that service.

(6) The undertaking that provides the public telephone network shall ensure the completion of all international calls to the European Telephone Numbering Area. This shall not be to the prejudice of the undertaking's right to compensation for the costs of the transmission of such calls over its network.

Section 62

(1) An undertaking that provides electronic communications networks or electronic communications services shall use standards and specifications for the provision of its services and for determination of technical interfaces and network functions to the extent necessary for securing interoperability of the services and extension of selection opportunities for the user, the list of such standards and specifications being published in the Official Journal of the European Union as a basis for the support of harmonised provision of electronic communications networks and electronic communications services and the associated facilities and complementary services.

(2) If no such standards or specifications as referred to in Subsection 1 above were published, the standards or specifications adopted by the European standardisation agencies shall be used. If there are no such standards and specifications, the international standards or recommendations adopted by the International Telecommunications Union (ITU), International Standards Organisation (ISO) or International Electrotechnical Commission (IEC) shall be used.

(3) Using the standards and specifications set out in Subsections 1 and 2, the Office draws up the network plans, which must be respected by the entrepreneurs securing electronic communications networks or providing electronic communications services. The Office shall publish the network plans.

Section 63

Publishing of the Information and the Particulars of the Contract for Provision of the Publicly Available Electronic Communications Service

(1) The undertaking that provides publicly available electronic communications service shall make public in each of its establishments, and in a manner allowing for end users' remote access, the following data and any amendment thereto:

- a) the first name and surname, domicile address and identification number or trade name, if a natural person is the undertaking, or the trade name or common name, registered address (or address of the establishment) and identification number, if a legal entity is the undertaking;
- b) description of the publicly available telephone service to be provided, the guaranteed level of its quality, including information about selective call barring;
- c) the offer of the service support package;
- d) detailed information about the prices and pricing plans and the structure thereof, including the pricing plans for low-income persons and persons with special social needs;
- e) information about the provision of services to disabled persons;

- f) information about the method of gaining the latest information about all the valid prices for the services provided;
- g) data about the provision of information services, operator services and directory services;
- h) information about the dates and methods of billing and payment, including the types of billing;
- i) the conditions for restoration and termination of the service;
- j) the method raising claims in respect of any faults in the provision of services and claims in respect of the billing for prices for the services provided, including information about where to file a claim and about the deadlines therefor;
- k) information about arrangements in respect of the compensation for losses that are to be applied in the cases of failure to maintain the quality level of the service or in the case of interruption of the provision of the services due to a fault on the side of the undertaking providing the service;
- l) information about the method of resolution of disputes relating to the subject of the contract out of court or outside administrative proceedings;
- m) information about end user rights relating to the universal services and information about additional services;
- n) general conditions of the publicly available telephone service.

(2) The undertaking providing publicly available telephone service shall draw up a draft contract on the provision of the service, which draft shall contain the particulars referred to in Subsection 3, and shall make it public in each of its establishments, and in a manner allowing for remote access. The draft contract shall include the general conditions of the publicly available electronic communications service.

(3) The contract with the user shall contain

- a) for the undertaking providing services: the first name and surname, domicile address and identification number or trade name, if a natural person is the undertaking, or the trade name or name, registered address (or address of the establishment) and identification number, if a legal entity is the undertaking;

- b) if the user is:
1. an undertaking which is a legal entity: the trade name or name, registered address or the registered address of an organisation unit in the Czech Republic, the business identification number, if any, and the name, surname and domicile of the person authorised to act on behalf of the legal entity;
 2. a natural person who is an undertaking: the person's first name and surname and the trade name, if any, domicile address, place of business and the business identification number, if any;
 3. a person who is not an undertaking: the natural person's first name and surname, date of birth and birth certificate code if any, or the legal entity's name and registered address, or the registered address of an organisation unit in the Czech Republic, and the business identification number, if any;
- c) description of the service to be provided, the guaranteed level of its quality and the date of commencement of the provision thereof;
- d) the offer of the service support package;
- e) information about the methods of obtaining the latest information on all the valid service prices;
- f) information about the dates and methods of billing and payment;
- g) the validity period of the contract and the period for its withdrawal;
- h) the conditions for restoration and termination of the service;
- i) the method raising claims in respect of any faults in the provision of services and claims in respect of the billing for prices for the services provided, including information about where to file a claim and about the deadlines therefor;
- j) contractual fines for failure to fulfil contractual obligations or for any breach thereof;
- k) arrangements in respect of the compensation for losses and return of cash that are to be applied in the cases of failure to maintain the quality level of the service or in the case of interruption of the provision of the services due to a fault on

the side of the undertaking providing the service;

- l) information about the method of resolution of disputes relating to the subject of the contract out of court or outside administrative proceedings;
- m) method of notifying the subscriber about changes to the contractual conditions.

(4) Any user who requests connection to the public communications network or access to the publicly available electronic communications service is entitled to conclude a contract with one or more undertakings that provide such a service.

(5) The Office is entitled to decide to change the general conditions of publicly available electronic communications services, if those conditions are in contradiction with this Act or with the legal regulations implementing this Act.

(6) The undertaking providing publicly available electronic communications service shall at least 1 month before the effective date of any substantial change to the contractual conditions, which change represents a worsening of those conditions for the subscriber, notify the subscriber in a suitable manner at its expense about that change and shall also inform him about his right to terminate the contract without incurring any sanctions if he does not accept the new conditions. The subscriber shall have the right to terminate the contract without incurring any sanctions on the basis of a notification of the substantial changes by which the contractual conditions are worsened.

Section 64

Billing of the Prices, Claims

(1) The subscriber or user of the publicly available electronic communications services must pay for the service provided to him a price at the level valid at the time of provision of the service.

(2) For the services provided, the undertaking providing publicly available electronic communications service through the public telephone network shall provide free of charge, either electronically or in printed form, the following types of settlement for the services provided:

- a) a bill itemised by the type of service provided; or
- b) a summary bill, indicating one total item,

The price settlement bill does not contain items in respect of calls for which the subscriber is not supposed to pay, including calls to numbers identified as free call numbers. No such bill is provided in the case of prepaid cards.

(3) If the undertaking referred to in Subsection 2 is a universal service provider according to Section 38 Subsection 2 Clause g) Point 3, such an undertaking shall give the consumer only one free bill for the price as the consumer chooses.

(4) The undertaking, including the universal service provider that submits a bill containing an itemised list of the individual calls shall also provide for a consideration a suitable alternative to the price billing, if so requested by the subscriber, in order to provide increased protection of the subscriber's privacy, such an alternative being, for example, non-indication of part of the called number in the price billing.

(5) Upon agreement with the subscriber or user, the undertaking may submit the bill in a form other than printed.

(6) The undertaking that provides the publicly available electronic communications service through the public telephone network shall indicate in the bill the billing period, which shall not be longer than 90 calendar days or, in the case of universal service provision, 35 calendar days, unless another period is agreed between the undertaking and the subscriber, and shall ensure that the bill is submitted so as to allow for its delivery to the subscriber within 15 days of the date of the end of the billing period, this being done in a manner specified in a special legal regulation²⁾, or in any other manner, if such another manner of delivery was agreed with the subscriber or user.

(7) The subscriber or user is entitled to raise a claim in respect of the billing of the price or a claim in respect of the publicly available electronic communications service provided to him.

(8) The subscriber or user is entitled to raise a claim in respect of the billing of the

price without undue delay no later than 2 months after the date of delivery of the bill containing the price for the service provided, otherwise the entitlement to raise a claim shall lapse. If no bill is delivered because of the type of service provided, the subscriber or user is entitled to raise a claim within 2 months of the provision of the service. The filing of a claim does not have a suspensive effect; however, in justified cases the Office may, if so requested by the subscriber or user, decide that the filing of a claim does have a suspensive effect. No remedy may be sought against such a decision.

(9) The subscriber or user is entitled to raise a claim in respect of the provided service without undue delay no later than 2 months after the date of faulty provision of service; otherwise the entitlement to raise a claim shall lapse.

(10) The undertaking that provides the publicly available electronic communications service through the public telephone network shall respond to the claim in respect of the price billing or in respect of the provision of service without undue delay no later than 1 month after the date of delivery of the claim. If the response to the claim involves consultation with a foreign operator, the undertaking shall respond to the claim no later than 2 months after the date of delivery of the claim.

(11) Unless otherwise agreed between the Parties, the undertaking that provides the publicly available electronic communications service through the public telephone network shall in the case that there is a mistake in the bill to the subscriber's detriment return to the subscriber the price difference, doing so in a manner defined in the general service terms and conditions and within a period also defined in the general service terms and conditions, but no later than 1 month of responding to the claim. Once these obligations are fulfilled and these user rights are satisfied, the undertaking providing the service is not obliged to compensate the users for any damage they may suffer as a result of an interruption of service provision.

(12) If it the service could be used only partially, or could not be used at all, because of a technical or operating fault on the side of the undertaking that provides the service, such an undertaking shall ensure that the fault is removed and the price is adequately reduced,

or may agree with the subscriber that the service be provided in a substitute manner. The undertaking providing the electronic communications service is not obliged to compensate the users for any damage they may suffer as a result of an interruption of service provision or as a result of faulty service provision.

(13) The Office shall take a measure of general nature to determine the extent of the price billing in accordance with Subsection 2 Clause a).

Section 65

Non-payment or Delayed Payment of the Bill

(1) The undertaking that provides the publicly available electronic communications service through the public telephone network shall notify the subscriber about the consequences of non-payment of telephone bills; the undertaking shall do so before commencement of the provision of the service and in a demonstrable manner. The costs for the demonstrable notification shall be paid by the undertaking providing the publicly available electronic communications service.

(2) If the subscriber failed to pay within the maturity period indicated in the bill with the price for the services provided, the undertaking referred to in Subsection 1 above shall notify him to that effect in a demonstrable manner and shall determine a substitute period within which the payment is to be made, which must not be shorter than 1 week from the date of delivery of the notification. If the substitute period expires with no effect, the undertaking may reduce the provision to the subscriber of the separately billed service concerned, doing so by preventing the subscriber from active access to the service, except for making calls to the emergency call numbers. The price for the demonstrable notification shall be cost-oriented.

(3) The undertaking referred to in Subsection 1 above may terminate the contractual relation with the subscriber or refuse to provide access to the electronic communications service for the subscriber if the latter purposefully indicated false personal or identification data or has continuously been in arrears with his payments of the price for the

services indicated in the bill, or has been continuously leaving the bills unpaid; in so doing, the undertaking must be able to prove having notified the subscriber to that effect. For the purposes hereof, being continuously in arrears with payments shall be understood to mean payment of at least two successive bills after the due date. For the purposes hereof, continuously leaving the bills unpaid shall be understood to mean that at least three successive bills have been left unpaid.

Section 66

Information Services and Operator Services

(1) The undertaking that allocates telephone numbers to the subscribers shall, if so requested by the person providing the publicly available directory enquiry services or providing the subscriber directories, deliver to such a person or entity the available subscriber personal and identification data to the extent specified in Section 41 Subsection 5 above, except for the information and data about the subscribers who refused to have their information published in the directory. The undertaking that allocates telephone numbers to the subscribers shall deliver such information and data in the agreed format and under equal and fair conditions and at prices, which are cost-oriented and non-discriminatory. The submitting party shall always indicate, if such is the case, that the subscriber expressed his wish not to be contacted for marketing purposes.

(2) For all the end users of the public telephone network, the undertaking providing the public telephone network shall enable access to the operator services and at least to one directory enquiry service, the latter service covering the telephone numbers of the subscribers to all the undertakings providing publicly available telephone service.

Section 67

Identification of Malicious or Annoying Calls

(1) An undertaking that provides publicly available telephone service shall, if so requested by a subscriber, provide at that subscriber's cost the service of identification of the telephone number from which malicious or

annoying calls originated. The undertaking so identifies those of the calls made in the previous period, which the subscriber specifically designates as annoying or malicious but only during the time period lasting not more than two months after the call is made.

(2) The caller number identification service according to paragraph 1 above means the provision of information about the natural person and legal entities referred to in Subsection 41 Section 5 even in cases where the subscriber refused publishing as referred to in Section 41 Subsection 6.

Section 68

Widescreen Television Format Service

(1) The undertaking that provides a public communications network through which digital television services are distributed shall operate such a network in a manner allowing to distribute the widescreen television services and programmes. The undertaking providing a public communications network that receives the widescreen television programmes and services and distributes them further shall maintain the widescreen format.

(2) The widescreen television format service means a service which in total or in part consists in the provision of programmes produced and processed so as to be displayed in a full-height widescreen format; the format to ratio 16:9 is the reference format for the widescreen television services.

Section 69

(1) The undertaking that provides publicly available telephone service shall allow its subscribers free of charge to:

- a) report faults through its network;
- b) be informed through automatic announcements about changes to the subscriber numbers in its telephone network;
- c) make calls to emergency call numbers.

(2) If economically reasonable, the undertaking that provides publicly available telephone service shall create technical and business conditions for the provision of:

- a) multifrequency tone dialling;

- b) calling subscriber number displaying.

Section 70

Carrier Selection and Preselection

(1) In accordance with Section 51, the Office shall impose by its decision on an undertaking with significant market power in the area of connection of subscribers to the public telephone network and the use of it at a fixed location, the obligation to enable its subscribers the access to the services of any of the interconnected undertaking providing publicly available telephone service:

- a) through the selection of the code of the given undertaking providing publicly available telephone service in individual calls (carrier selection); and
- b) through the permanent setting of the code of the undertaking providing publicly available telephone service (carrier reselection), which can be overridden in individual calls by selection as referred to in Clause a) above.

(2) The Office is entitled upon the users' request to decide, using the procedure described in Section 51, to implement the services referred to in Subsection 1 also in other networks or in any other manner, taking into account the obligations and conditions indicated in Section 84.

(3) The Office shall lay down a measure of general nature to determine the technical and organisational conditions for carrier selection and reselection and the principles for billing between the undertakings in respect of the price for carrier selection and reselection.

Section 71

Service Quality

(1) Upon consultations as referred to in Sections 130 and 131, the Office is entitled to impose on an undertaking providing publicly available electronic communications services the obligation to publish an overview of the current prices, quality and conditions of the publicly available electronic communications services it provides, and to do so in a form enabling end users to compare such data in a simple manner. Such an undertaking shall make such information public in all its

establishments and shall also do so in a manner allowing for distant access. The undertaking shall provide such information to the Office before making it public, if the Office so requests.

(2) The undertaking providing publicly available electronic communications services shall provide the Office on a continuous basis with information referred to in Subsection 1 for the purpose of publication thereof according to Section 54 Subsection 2.

(3) The Office shall lay down a measure of general nature to determine the quality parameters of the provided services that are to be measured as well as the content, form and mode of making the information public according to Subsection 1 above.

Section 72

The Obligation to Distribute Designated Radio and Television Programme and Services in Public Interest

(1) The Office is entitled through its decision to impose the obligation to distribute designated radio or television programme and provide services associated thereto on an undertaking through whose public communications network the broadcasting distribution service is provided, which is used by end users as the main means of reception of broadcasting.

(2) The Office may only impose the obligation specified in Subsection 1 on the basis of a special legal regulation¹¹⁾.

Volume 2

Apparatus

Section 73

(1) For the purposes hereof, apparatus shall be understood to mean the equipment, which is radio equipment or telecommunications terminal equipment, or both.

(2) If a special legal regulation^{25 26} lays down technical requirements for the apparatus

(hereinafter referred to as the “technical requirements”), such apparatus may not be commissioned and operated, unless they meet such requirements.

(3) Radio equipment shall be understood to be a product or an important part thereof, which is able to communicate on the basis of the emission or reception of radio waves using the radio spectrum allocated for terrestrial or space radiocommunications.

(4) Telecommunications terminal equipment means a product or an important part thereof, which allows communication and which is intended for direct or indirect connection to the interface of the public telecommunications network.

(5) Public pay phone means telecommunications terminal equipment, which is a publicly accessible telephone device whereof coins, payment cards or prepaid cards, including cards with dialling codes, are primarily used as the means of payment. This telecommunications terminal equipment may also possess capability for the provision of other services.

(6) The undertaking providing a public communications network shall make it possible to connect the telecommunications terminal equipment to a suitable interface, provided that such terminal equipment meets the technical requirements.

(7) The undertaking providing a public communications network shall publish in a manner allowing for distant access, and report to the Office the types of interfaces it offers for the connection of apparatus, and their technical specifications. The operator must fulfil these obligations at the latest 1 month before the public telecommunications services provided through those types of interface become available. The operator must notify to the Office about any changes in the technical specifications, and make them public in a manner allowing for distant access, 3 months before the date of making such changes at the latest.

(8) The technical specifications referred to in Subsection 7 above must be detailed

²⁵ Act No. 22/1997 on technical requirements for products and on amendment to certain Acts, as subsequently amended.

²⁶ Government Order No. 426/2000 to lay down the technical requirements for radio and television terminal equipment.

enough so as to allow to build apparatus capable of utilising all the publicly available electronic communications services, which are provided via their respective interfaces. The technical specifications must contain all the information the manufacturers may need in order to be able to perform the necessary tests with respect to the technical requirements applicable to the apparatus.

(9) The Office shall maintain a list of all types of interfaces notified to it according to Subsection 8 above and shall notify those types to the Commission.

Section 74

(1) The Office may decide to put out of operation any apparatus that fails to meet the technical requirements.

(2) If the Office decides to put any apparatus out of operation, it must indicate in the justification whether the non-compliance with the technical requirements was due to:

- a) incorrect application of the harmonised standards;
- b) inconsistencies in the harmonised standards;
- c) failure to meet the technical requirements.

The Office shall notify to the Commission of any such decision, including the reasons that led to it.

(3) The Office shall ask the authority responsible for supervising the release of apparatus²⁷ to ban the launch of radio equipment, or withdraw it from the market, if such equipment causes harmful interference with the existing electronic communications services, or if it could cause harmful interference with planned future electronic communications services, in the frequency bands used in the territory of the Czech Republic.

(4) The Office may restrict the commissioning of radio equipment only for reasons of ensuring reasonable utilisation of the radio spectrum, prevention of harmful interference, or public health protection. This shall not affect the validity of the provisions of Subsection 1 above and the conditions

specified in the authorisation for the provision of the respective electronic communications service.

(5) The Office may permit an undertaking providing a public communications network, if the undertaking so requests, to refuse the connection, or to cut off, or put out of operation, of any apparatus damaging the network, or causing harmful interference, or adversely affecting the network's functionality, although otherwise such a device meets the technical requirements. The Office shall report any such permission to the Commission.

(6) In extraordinary circumstances the undertaking providing a public communications network may disconnect a device if the disconnection is necessary for network protection and if it immediately offers a free alternative solution to the user. The undertaking providing a public communications network shall immediately notify the Office to that effect.

Section 75

(1) If technically feasible, an undertaking providing publicly available telephone services through a public mobile telephone network shall, upon written request of the Police of the Czech Republic and at the Police's expenses, for purposes of criminal procedure, make it impossible within the public mobile telephone network for the required period of time, which shall not be longer than the time of the permitted tapping, to operate a terminal mobile telecommunications equipment (mobile handset) enabling the encryption, coding or any other type of concealment by the subscriber of a message being transmitted.

(2) The request referred to in Subsection 1 above shall bear the reference number under which the court decision with consent to making impossible the operation of terminal mobile telecommunications equipment is maintained with the Police of the Czech Republic, and must be signed by a responsible person.

(3) Notwithstanding the provisions of Subsections 1 and 2 above, if it is technically feasible and economically reasonable, an undertaking providing publicly available

²⁷ Act No. 64/1986 on Czech Trade Inspection, as subsequently amended.

telephone services through a public mobile telephone network shall, upon written request of the Police of the Czech Republic, make it impossible to operate stolen terminal mobile telecommunications equipment (mobile handset) within the public mobile telephone network. This is not to the prejudice of the subscribers' right to request the undertaking providing the publicly available telephone service through the public mobile telephone network to block the subscriber identification card (SIM card).

(4) The request referred to in Subsection 3 above shall be accompanied by a protocol of the Czech Police in respect of the notification of theft and by the consent of the owner of the stolen equipment with the blocking of the operation of that equipment in the public telephone network.

(5) The requests referred to in Articles 1 and 3 may also be sent electronically, if a guaranteed electronic signature is attached, based on a qualified certificate issued by an accredited certification service provider on the basis of a special legal regulation²⁸.

Volume 3

Leased Lines

Section 76

(1) Leased lines mean an electronic communications service consisting in the leasing the transmission capacity between termination points of electronic communications networks.

(2) The Office shall lay down a measure of general nature to determine the extent of the minimum set of leased lines²⁹.

(3) The undertaking with significant market power on which the obligation to provide the leased lines service within the range of the minimum set of leased lines was

imposed in accordance with Section 51 Subsection 3 Clause e) shall:

- a) publish the general conditions concerning the provision of the minimum set of leased lines;
- b) negotiate the conditions and prices for leased lines to other users so as to prevent any of the users of the service, including the organisation units thereof, from enjoying any unjustified advantages.

(4) The Office may, if the results of the provision of the services of the minimum set of leased lines fail to meet users' needs, make a decision to determine for the undertaking providing such a service an adjustment of the delivery conditions.

(5) The person providing the leased lines service shall restrict access to the leased line service if there is endangered the network security, network integrity, co-operation between the services and data protection. Such a person shall notify the Office without delay of any restriction of access to the service.

Section 77

The Office is entitled in accordance with Section 51 to issue a decision to impose on the undertaking with significant market power on which the obligation to provide the leased lines service within the range of the minimum set of leased lines was imposed the obligation to provide such a service to other entities under like conditions and at the same quality as it does in respect of its own services, its own organisation units, or its subsidiaries or partners, or within an association of undertakings.

Volume 4

Interconnection of Electronic Communications Networks and Associated Facilities and Access Thereto

Section 78

(1) Access means making the facilities or services available to another undertaking on an exclusive or non-exclusive basis according to specified conditions for the purposes of the provision of electronic communications services. Access shall be understood to have

²⁸ Act No. 227/2000 on electronic signature and on amendment to certain other Acts (the Electronic Signature Act), as subsequently amended

²⁹ Commission Decision No. 2003/548/EC on the minimum set of leased lines with harmonised characteristics and associated standards referred to in Article 18 of the Universal Service Directive.

meanings including, but not limited to, the following:

- a) access to network elements and associated facilities, which may include connection of the devices via fixed facilities or facilities other than fixed; this may include, without limitation, making accessible the local loop and facilities as well as the services needed for the provision of services through the local loop;
- b) access to the physical infrastructure, including buildings, masts and cable line devices;
- c) access to the appropriate software systems, including operation support systems;
- d) access to number transfer or to systems offering a similar function;
- e) access to fixed and mobile networks including, but not limited to those for roaming;
- f) access to the conditional access system;
- g) access to virtual network services;
- h) interconnection of public communications networks.

(2) Interconnection means physical and logical linking of public communications networks, the purpose being to enable one undertaking's users to communicate with users under the same undertaking or any other undertaking, or to enable access to the services provided by another undertaking. Services may be provided by the undertakings whose networks are being interconnected, or by other undertakings having access to the network and meeting the requirements hereof.

(3) Interconnection is a specific type of access implemented between public communications networks where the access point is the point of interconnection between these networks. Interconnection may be either direct or indirect. Indirect interconnection means interconnection of two public communications networks through the public communications network of a third undertaking providing a public communications network.

(4) Local loop means a physical line connecting the network termination point with the main distribution frame or similar equipment in the public fixed telephone network.

Section 79

(1) The undertaking providing a public communications network is entitled – or obliged, if so requested by another undertaking which notified business in accordance with Section 13 – to negotiate mutual access for the purpose of the provision of publicly available electronic communications services so as to ensure service provision and interoperability on the territories of the Member States.

(2) Without prejudice to the obligations imposed by, or on the basis of, this Act on undertakings with significant market power, the Office is entitled upon consultations in accordance with Section 133 and Section 134 to issue a decision to impose:

- a) on an undertaking which controls access to the end users: obligations to ensure termination point - to - termination point connection, including in justified cases the interconnection of networks, within the period of time as the Office determines,
- b) on an operator: obligations to provide access to application programme interfaces (APIs) or electronic programme guides (EPGs) under equitable, fair, reasonable and non-discriminating conditions.

(3) If a remedy is sought against a decision made on the basis of Subsection 2 Clause a) above, the claim for remedy shall not have a suspensive effect.

Section 80

(1) Access is provided on the basis of a written contract concluded between an operator and an undertaking providing publicly accessible electronic communications service. Network interconnection is provided on the basis of a written contract concluded between operators.

(2) The undertaking shall no later than 10 days after signing an access contract or network interconnection contract submit to the Office the complete wording of such a contract, including any appendices thereto. This obligation shall also apply to any amendment to an access contract or interconnection contract.

(3) The Office is entitled on its own initiative or on the initiative of any concerned

party to enter in negotiations between the undertakings about an access contract or network interconnection contract in justified cases, if such an intervention is necessary to achieve the objectives of regulations as indicated in Section 5. The Office shall issue its opinion in respect of the content of any disputed part of the draft contract and shall notify that opinion to the parties to the contract. The Rules of Administrative Procedure shall not apply to the issue of such an opinion.

(4) If a written access contract or network interconnection contract is not concluded within 2 months of the date of commencement of negotiations on the draft contract, the Office is entitled upon proposal submitted by any of the Parties to make decision in the dispute by the procedure described in Section 127. A draft contract with specification of the disputed parts must be included in the Party's proposal.

(5) The minimum details to be contained in the draft contract on access or on network interconnection shall be set out in an implementing legal regulation.

Section 81

(1) The Office is entitled to make a decision in accordance with Section 51 to impose on an undertaking with significant market power in the relevant market the obligation to apply equitable conditions to the provision of access or interconnection to other undertakings, which themselves provide services of equal worth in equitable circumstances, and to provide services and information to those undertakings under the same conditions and at the same quality level as it does in respect of its own services, its own organisation units, or its subsidiaries or partners, or within an association of undertakings³⁰.

(2) The undertaking shall use the information provided from another undertaking before, during or after the signature of the access contract or network interconnection contract only for the purpose for which such information was provided to it. In handling the information so obtained or stored, the undertaking may not disclose such information

to its unauthorised departments, subsidiaries, partners or shareholders, nor any other undertakings whom such information might give a competitive advantage. This shall not be to the prejudice of the obligation to provide information to the Office in accordance with Section 115.

Section 82

(1) The Office is entitled to make a decision in accordance with Section 51 to impose on an undertaking with significant market power in the relevant market the obligation to publish – to the necessary extent – information about access to the electronic communications network or about interconnection of such networks, including accounting information, contractual conditions, technical specifications, network characteristics and prices.

(2) The Office is entitled to make a decision in accordance with Section 51 to impose on an undertaking with significant market power in the relevant market the obligation to publish a reference offer for access or interconnection, including description of the individual offers itemised by the market needs and the associated contractual conditions, also including prices. Such an undertaking may not require, in the reference access or interconnection offer, that the undertakings requesting access should make any payments for the facilities and operating and technical services not essential for the service requested. This is not to the prejudice of the obligation to publish the reference offer according to Section 85 Subsection 1.

(3) The Office is entitled to decide on a change in the reference offer for access or interconnection if such an offer fails to lead to consistent fulfilment of the obligations hereunder.

(4) The Office shall take a measure of general nature to determine the extent, form and mode of publishing the information referred to in Subsection 1 above and the details of the reference offer referred to in Subsection 2, including the extent and form thereof.

³⁰ Section 66a of Act No. 513/1991

Section 83

Conditions of Access to Digital Television and Radio Broadcasting Services

(1) Application programme interface (“API”) means the interface between broadcasting operators’ or digital interactive television service providers’ applications and the digital television equipment.

(2) Digital television equipment means accessory equipment designed for connection to the television receiver or such equipment integrated inside the digital television receiver. This equipment allows to receive digital radio or television broadcasting and to use digital interactive television services.

(3) Conditional access system (hereinafter referred to as the “gateway”) means any technical equipment or measure designed to ensure that access to protected radio or television broadcasting is provided in a legible form. Such access is conditional on subscription or on any other form of prior individual authorisation.

(4) Only such gateway may be used, as technically ensures effective transfer of the management functions irrespective of the broadcasting transmission facilities, which functions make it possible for the undertakings providing the transmission of digital broadcasting signals at the local or regional level to manage completely the services that use the gateway.

(5) Independently of the broadcasting transmission facilities, the undertakings providing the service of dissemination of protected content, on whose services the digital radio and television broadcasters depend in terms of covering all the groups of potential audience, shall offer to those broadcasters on a fair, reasonable and non-discriminatory basis the services that make it possible for the viewers or listeners authorised to receive the digitally transmitted services of those broadcasters through a gateway, which is administered by digital audio and television broadcasters.

(6) If the Office finds, having performed an analysis of the relevant market, that no entity does have significant market power in the area of the digital broadcasting service to end users, it may – irrespective of the

provisions of Subsections 4 and 5 above – change or cancel the obligations of the undertakings providing the dissemination services, but may only do so to the extent to which such a change or cancellation:

- a) does not adversely affect end users’ access to digital broadcasting and to the programme channels and services specified in compliance with Section 72,
- b) does not endanger for the future the effective competition on the markets of the digital television and radio broadcasting to end users or on the markets of conditional access systems and other associated facilities.

The Office must ensure that the entities to be affected by the change or cancellation of the above obligations are notified to that effect well in advance.

(7) The Office is entitled to impose on the owners of application programme interfaces (APIs), for the purposes of providing digital interactive television services under equitable, fair, reasonable and non-discriminating conditions, the obligation to provide radio and television broadcasters with any information as may be needed for the provision of all the API-supported services to a full functional form. These owners are entitled to reimbursement for the costs efficiently and demonstrably incurred in the provision of information.

(8) The conditions applied by the Office in accordance with Section 83 have no bearing whatsoever on the obligations determined by the Broadcasting Council in terms of the method of presentation of the electronic programme guide (EPG) and similar review and guiding facilities within the framework of content regulation. If the Office so requests, the Broadcasting Council shall determine the needed obligations of the EPG-providing undertaking. The obligations determined by the Council shall be included by the Office in the general authorisation specified in Section 10. The Council shall inspect compliance with the obligations so determined.

Section 84

Access to Facilities and Capacity Sharing

(1) The Office is entitled in accordance with Section 51 to take a decision to impose on

an undertaking with significant market power in the relevant market, which provides a publicly accessible electronic communications network, an obligation to meet the reasonable requirements of another undertaking for the use of, and access to, its specific network elements and associated facilities for the purpose of achieving a stable competitive environment in the relevant market in the interests of the end users and consumers.

(2) The Office is entitled to issue a decision in accordance with Section 1 above to impose, in particular, the obligations to:

- a) grant access to specified network elements or facilities, including local loop unbundling, to third parties;
- b) not to cancel access to facilities already made accessible;
- c) provide specified services for resale by third parties;
- d) provide free access to technical interfaces, protocols or other key technologies essential for service interoperability or for virtual network services;
- e) provide co-location or any other form of equipment sharing, e.g. cable ducts, buildings, or masts;
- f) provide the specified services needed to ensure service interoperability between the termination points (the end-to-end service) for the users; including facilities for the services of intelligent networks or roaming in mobile networks,
- g) provide access to operating support systems or similar software systems essential for ensuring fair competition in service provision;
- h) interconnect networks or network facilities.

The Office is also entitled to specify in its decision the technical or operating conditions, as well as other conditions, for these obligations in order that fairness, proportionality and timeliness are secured.

(3) For reasons of environmental protection, public health, security of the State, or to ensure that territory-planning objectives are achieved, the Office is entitled to take a decision also to impose the obligations referred to in Subsection 2 Clause e) on an undertaking providing a public communications network, which undertaking does not possess significant market power in the relevant market and is

entitled to use other persons' immovable property in accordance with Section 104.

(4) In imposing the obligations under Sections 2 and 3, the Office shall take into account, in particular:

- a) the technical and economic life for the use or installation of the competitive equipment on the basis of market development, taking into account the nature and type of the access concerned;
- b) feasibility of the provision of the proposed access in terms of available capacity levels;
- c) initial capital expenditures of the owner of the equipment, including the risks associated with that investment;
- d) the need for long-term protection of the competitive environment;
- e) the intellectual property rights;
- f) provision of pan-European services.

(5) An undertaking with significant market power in the relevant market on which the Office imposed an obligation specified in Subsections 2 or 3 may refuse a draft contract for access or draft contract for interconnection during negotiations about such a draft, if the proposed access or interconnection does not meet the technical parameters or if it would affect the integrity of the network.

(6) In the event that an undertaking refused a draft contract for access or interconnection in accordance with Subsection 5, such an undertaking shall – no later than 15 days of delivery of such a draft – request the consent of the Office with the refusal of the contract and shall indicate the reasons for the refusal. If the Office fails to issue its decision on consent within 15 days of delivery of the request, it shall hold that the Office agrees with the refusal of the contract.

Section 85

Metallic Local Loop Unbundling

(1) An operator with a significant market power in the relevant market who provides a public communications network and on whom the obligation to unbundle his metallic local loop was imposed must publish a reference offer for metallic local loop unbundling.

(2) A metallic local loop means the twisted pair of metallic conductors connecting

the network's termination point with the main distribution frame or a similar facility in the public telephone network.

(3) The local sub-loop means the segment of the metallic local loop means connecting the termination point with the concentration point or with a specified intermediate access point in the fixed public telephone network.

(4) Metallic local loop unbundling means that the metallic local loop is made fully accessible or that shared access to the metallic local loop is provided. It shall not result in a change in the ownership of the metallic local loop.

(5) Full metallic local loop unbundling means the provision of access to the metallic local loop or sub-loop of the business entity referred to in Subsection 1 above, with authorisation to use the whole frequency band of the line.

(6) Shared access to the metallic local loop means the provision of access to the metallic local loop or sub-loop of the business entity referred to in Subsection 1 above, with authorisation to use the non audio part of the frequency band of the line; the metallic local loop owner may continue using the metallic local loop for the provision of publicly available telephone service.

(7) The Office shall take a measure of general nature³¹ to determine the details and conditions that must be indicated in the reference offer for metallic local loop unbundling.

Volume 5

Separate Accounting for Costs and Revenues

Section 86

(1) Any universal service provider and any entity on which price regulation was imposed in the retail market shall maintain separate costs and revenues accounting.

³¹ European Parliament and Council Directive No. 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), Annex II.

(2) The Office is entitled in accordance with Section 51 to make a decision to impose the obligation to maintain separate cost and revenue accounting on an entity:

- a) providing access or interconnection, or providing service through a minimum set of leased lines, which entity was designated by the Office, using the procedure specified in Section 51, as an undertaking with significant market power in the relevant market; the Office shall decide as to what interconnection-related or access-related activities the obligation to maintain separate records shall apply to, or
- b) an undertaking as referred to in Section 83 Subsection 5.

(3) For purposes of maintaining separate records of costs and revenue, the Office shall take a measure of general nature to determine the service cost and revenue itemisation and allocation methods, and shall define the structure of the information to be disclosed.

(4) The entity referred to in Subsections 1 and 2 above shall submit to an independent qualified entity the results of separate cost and revenue accounting for audit as to compliance with the methods referred to in the measure taken in accordance with Subsection 3 above, and shall do so within 1 month of publishing its financial statements³². The Office shall publish the results of the audit.

(5) The Office is entitled to make a decision to impose on the entity referred to in Subsections 1 and 2 the obligation to submit documents supporting the calculation of the prices it charges for communications activities to other undertakings that are not their end users, and the calculation of its intra-company prices, all based on separate cost and revenue accounting, in order to ensure non-discrimination and to prevent unjustified cross financing.

(6) The entity referred to in Subsection 1 shall provide the Office, on the Office's request within the period determined by the Office, with the evidence supporting the calculation of the prices it charges to its end users, based on separate cost and revenue accounting.

³² Act No. 563/1991 on accounting, as subsequently amended.

(7) The entity referred to in Subsections 1 and 2 shall submit to the Office, on the Office's request within the period determined by the Office, the annual results of the separate cost and revenue accounting as well as accounting information about the revenues gained from third parties. The Office may publish such information in accordance with a special legal regulation³³ and with the European Communities' rules governing trade secret.

(8) The undertaking providing public communications networks or publicly available electronic communications services, which possesses special or exclusive rights in respect of the provision of services in other industries in the Czech Republic or in another Member State of the European Communities, shall:

- a) maintain separate cost and revenue accounting, including itemisation of depreciated assets in respect of the activities relating to the provision of those networks or those electronic communications services, in such a manner, to such detail and with the use of such a system of cost and revenue allocation, as are required from the undertakings referred to in Subsections 1 and 2; or
- b) provide structural separation of the activities associated with the provision of those networks or those electronic communications services.

This obligation does not apply to an undertaking whose annual turnover in the activities associated with the provision of networks or publicly accessible electronic communications services is lower than EUR 50,000,000.-, expressed in CZK.

(9) Any entity providing public telecommunications networks or publicly accessible electronic communications services, to which the provisions of the special legal regulation³³ do not apply and which is not a small or medium enterprise according to the criteria specified in the accounting rules based on the legal regulations of the European Communities, shall prepare its own financial report, submit it for auditing to an independent qualified entity specified by the Office, and publish it. This requirement also applies to the

separate accounts, required on the basis of Subsection 8 Clause a).

TITLE V

Protection of Electronic Communications Data, Services and Networks

Volume 1

Protection of Personal Traffic and Location Data and the Confidentiality of Communications

Section 87

(1) For the purposes of this Volume, user shall be understood to mean a user who is a natural person.

(2) The rights and obligations relating to personal data protection, not regulated in this Volume, shall be governed by a special legal regulation³⁴.

(3) For the purposes of this Volume, consent based on a special legal regulation³⁵ shall be understood also to mean consent granted by electronic means, including, but not limited to, by filling in a form contained in a site on the Internet web.

(4) Supervision over compliance with the obligations in processing personal data according to this Act shall be provided by the Office for Protection of Personal Data in accordance with a special legal regulation³⁴.

Section 88

Securing the Protection of Personal, Traffic and Location Data and the Confidentiality of Communications

(1) The undertaking providing publicly available electronic communications service is obliged to:

- a) take technical and organisational measures to safeguard the security of the service in respect of the protection of natural persons' personal information in accordance with a special legal regulation, protection of the traffic and location data, and confidentiality of the communications

³³ Act No. 513/1991

³⁴ Act No. 101/2000, as subsequently amended.

³⁵ Section 5 of Act No. 101/2000

- of natural persons and legal entities in providing the service; if necessary, the provider concerned shall upon written agreement also co-operate with the undertaking providing the communications network to provide the protection,
- b) prepare internal technical and organisational regulations to provide data protection and communications confidentiality in accordance with Clause a) above; secure data protection and communications confidentiality with respect to the existing technical capabilities and the costs needed to provide protection at a level adequate to the risks of compromising the protection,
 - c) inform the subscribers concerned about the specific risk of the disturbance of network security in relation to data protection in accordance with Clause a) above, and if the risk is beyond the scope of the measures taken by the undertaking providing publicly available electronic communications service, the undertaking shall also inform the subscribers about all the possible ways of remedying the situation, including the costs associated therewith.

(2) The undertaking providing publicly available electronic communications service shall submit to the Office, if the Office so requests, the regulations referred to in Subsection 1 Clause b). If the Office finds that those regulations are in contradiction with this Act, the Office shall immediately notify the undertaking to that effect and shall grant the undertaking a reasonable period of time for removing any faults.

(3) The Office is entitled, having requested submission of the regulations referred to in Subsection 1 Clause b), to inspect how the undertakings providing publicly available electronic communications service carry comply with those regulations, except inspection of the fulfilment of the obligations relating to the protection of personal data. For performance of the above inspecting activities, authorised employees of the Office are entitled to enter the undertakings' operating and trading premises and may learn the personal data indicated in the regulations.

Confidentiality of Communications

(1) The undertakings providing public communications networks or publicly available electronic communications services shall ensure the technical and organisational measures to safeguard the confidentiality of the messages and the traffic and location data, which are transmitted via their public communications network and the publicly available electronic communications services. In particular, such undertakings shall not admit any tapping, message storage, or any other types of interception or monitoring of messages, including the data contained therein and related thereto, by any persons other than the users, without the consent of the users concerned, unless otherwise provided in laws³⁶. This shall not be to the prejudice of the technical storage of data as needed for message transmission without affecting the confidentiality principle.

(2) Message means any information being exchanged or transmitted between a finite number of subscribers or users via the publicly available electronic communications service, except for the information transmitted as part of the public audio or television broadcasting via the electronic communications network, unless it can be allocated to an identifiable subscriber or user receiving that information.

(3) Anybody wishing to use, or using, the electronic communications network for the storage of data or for gaining access to the data stored in the subscribers' or users' terminal equipment shall inform those subscribers or users beforehand in a provable manner about the extent and purpose of processing such data and shall offer them the option to refuse such processing. This obligation does not apply to activities relating to technical storage or access and serving exclusively for the purposes of performing or facilitating message transmission via the electronic communications network, nor does it apply to the cases where such technical storage or access activities are needed for the provision of

³⁶ Section 88 of Act No. 141/1961 on criminal procedure (Code of Criminal Procedure), as subsequently amended.

an information society service explicitly requested by the subscriber or user.

Section 90

Traffic Data

(1) Traffic data mean any data processed for the purposes of the transmission of a message via the electronic communications network or for the billing thereof.

(2) The undertaking providing a public communications network or publicly available electronic communications service who processes and stores traffic data, including the appropriate location data relating to a user or subscriber, shall erase such data, or render them anonymous, once they are no longer needed for message transmission, except as provided in Subsections 3 and 4. The obligation of the legal entity or natural person providing a public communications network or a publicly available electronic communications service to maintain operating and location data according to Section 97 shall remain unaffected.

(3) The undertaking providing a public communications network or publicly available electronic communications service may process the traffic data essential for the billing of the price for the service provided to a subscriber or user for access. Such processing is only admissible until the end of the period within which the billing of the price can be legally challenged or the payment thereof collected. Undertakings providing a public communications network or publicly available electronic communications service may provide each other with data related to the provision of the service, including, but not limited to, data about the subscribers being connected, in order to ensure interconnection and access to the network, mutual billing, and identification of any abuse of the electronic communications network and services. Abuse of electronic communications services means consistent late payment or non-payment of the billed price.

(4) For the purposes of marketing the electronic communications services or for the provision of value-added services, the undertaking providing publicly available electronic communications service may only process the data referred to in Subsection 1

above to the extent and for the period as needed for such services or such marketing, as far as the subscriber or user to whom the data relate gave a consent thereto. The subscriber or user may withdraw his consent with the processing of traffic data at any time.

(5) A value-added service means any service for which it is necessary to process traffic data – or location data other than those of traffic nature – beyond what is needed for the transmission of a message or for the billing thereof.

(6) The undertaking providing publicly available electronic communications service shall inform the concerned subscriber or user about the traffic data being processed and about the time for which such data may be processed for the purposes referred to in Subsection 3. For the purposes referred to in Subsection 4, the undertaking shall so inform the subscriber or user to whom the data apply still before obtaining such a subscriber's or user's consent.

(7) The undertaking providing a public communications network and the undertaking providing publicly available electronic communications service shall ensure that the traffic data processing according to Subsections 2 to 5 is restricted to

- a) the persons who were authorised to that effect by the that undertaking and who are responsible for the billing or operation management, for customer inquiries, fraud identification, electronic communications services marketing, or who provide value-added services; and
- b) the extent essential for the activities referred to in Clause a) above.

Section 91

Location Data

(1) Location data mean any data that are processed within the electronic communications network and that define the geographical location of the terminal equipment of a user of publicly available electronic communications service.

(2) If the undertaking providing a public communications network or publicly available electronic communications service performs the processing of location data other than those

of traffic nature, which data have a bearing on the user or subscriber, such an undertaking shall render such data anonymous or gain the user's or subscriber's consent to the processing of such data to the extent and for the period as needed for the provision of value-added services. Before gaining the consent, the undertaking shall inform the concerned user or subscriber about the type of location data to be processed other than those of operating nature, about the purpose and length of the processing and whether the data are to be made available to a third party for the provision of value-added services. The user and subscriber may withdraw his consent with the processing at any time.

(3) If the user or subscriber gave his consent to the processing of location data other than those of traffic nature, the undertaking providing a public communications network or publicly available electronic communications service shall offer the user or subscriber the option to temporarily refuse the processing of the data in accordance with Subsection 2 above for every connection to the network or for every message transfer. Such an option shall be provided free of charge and with the application of simple facilities.

(4) The undertaking providing a public communications network, the undertaking providing publicly available electronic communications service and the undertaking providing value-added services shall ensure that the data referred to in Subsections 2 and 3 are only processed by persons duly authorised and entitled to that effect by a internal technical and organisational regulations within the meaning of Section 88 Subsection 1 Clause b) and that the processing is restricted to the extent essential for such activities.

Section 92

Presentation of Calling Line Number

(1) The undertaking providing publicly available telephone service is obliged, in the event that the opportunity is offered to present the calling line number:

a) of the calling subscriber, to offer the calling subscriber the possibility free of charge to prevent displaying his subscriber number for every individual call, using simple means; the calling

subscriber must have such a possibility in respect of every subscriber number;

- b) of the calling subscriber, to offer the called subscriber the possibility to prevent displaying the calling subscriber number with incoming calls, using simple means and providing this function for free of charge in justified cases, such justified cases being, without limitation, workstations from which personal crisis situations are solved (for example hot line services);
- c) of calling subscriber, if the number being already displayed before actually connecting the call, to offer the called subscriber the possibility to refuse the incoming calls for which the caller prevented the display of his subscriber number, using simple means;
- d) of the called subscriber, to offer the called subscriber the possibility of preventing to display his subscriber number for the calling subscriber, using simple means and providing the service free of charge;

(2) The provisions of Subsection 1 Clause a) above shall also apply to calls from the Member States of the European Communities routed to third states. Provisions of Subsection 1 Clauses b), c) and d) above shall also apply to incoming calls from third states.

(3) Where presentation of the calling or called number is offered, the undertaking providing publicly available electronic communications service shall inform the public about the possibilities referred to in Subsection 1 above.

(4) The undertaking providing a public communications network or publicly available electronic communications service is entitled to cancel the prevention of presentation of the calling subscriber number:

- a) for a transient period of time if so asked by the subscriber who requests the tracing of a malicious or annoying call; in such a case the undertaking shall store and make accessible to the aggrieved subscriber the information containing the calling subscriber identification;
- b) and continue processing the location data during the transmission of calls to every emergency call number of the workstation for reception of emergency calls, doing so

even despite of a transient ban or despite of non-existence of the consent of the subscriber concerned;

(5) The undertaking providing a public communications network or publicly available electronic communications service shall make public in its establishments, and in a manner allowing for distant access, the mandatory procedures to be followed in order to implement the two possibilities referred to in Subsection 4 above, and shall inform its subscribers to that effect.

Section 93

Abuse of Electronic Address

It is prohibited to use any electronic mail address for sending a message or messages to third parties without the consent of the holder of that electronic mail address.

Section 94

(1) Any undertaking providing a public communications network or publicly available electronic communications service shall ensure, using simple means, that every subscriber can enjoy free of charge the possibility to prevent automatic forwarding of calls by a third party to the subscriber's terminal equipment.

(2) In the event that during the provision of the publicly available electronic communications service calls are automatically or disguisedly forwarded to another service or to a service provided by another undertaking, or a new connection is established, thus rising the price to be charged, the person providing publicly available electronic communications service shall notify the user about that free of charge and allow him to stop the call before it is forwarded or a new call established. If calls are forwarded or new connection is established and, as a result, the price to be charged is increased without notification of the user to that effect by the person providing publicly available electronic communications service at the increased price, the Office shall decide to stop the provision of such service.

Section 95

Subscriber Directories

(1) Anybody gathering subscribers' personal data in order to issue a subscriber directory, which is to serve for seeking detailed contact information about persons on the basis of their names and, if applicable, an essential minimum amount of other identifying elements, shall:

- a) inform the subscribers concerned free of charge before inclusion of their data in the directory about the purpose of the printed or electronic directory of subscribers, which is to be available to the public either directly or through the subscriber directory inquiry services, as well as about other possibilities of use, based on the searching functions contained in the directory's electronic versions;
- b) obtain beforehand the consent of the subscribers with making their personal data public and ensure that the subscribers have an opportunity to determine which of their personal data from the range or information relevant for the directory purposes, as defined by the directory publisher, are to be included in the public directory; further, it must be ensured that the subscribers are able to verify such information and ask corrections or removal of such information. At the same time, the person gathering such information must ensure that the subscribers can indicate with their personal information that they do not wish to be contacted for marketing purposes. Non-inclusion in the public directory of subscribers, the verifications, corrections and removals of information from the directory and the information about the subscriber's wish not to be contacted for marketing purposes shall be free of charge.

(2) If the purpose of the public directory is other than seeking detailed contact information about person on the basis of its name and, if applicable, an essential minimum amount of other identifying elements, anybody intending to issue such a subscriber directory must first ask for further consent of the subscribers concerned.

Section 96

(1) It is prohibited to offer through the electronic communications networks or services any marketing advertising or any other method of offering goods or services to the subscribers who noted in the public directory of subscribers in accordance with Section 95 Subsection 1 Clause b) or Section 95 Subsection 2 that they do not wish to be contacted for such purposes.

(2) No undertaking providing subscriber directory enquiry services with information about subscriber numbers or other details may disclose any subscriber data not contained in the public directory.

(3) The provisions of Sections 95 and 96 shall apply, *mutatis mutandis*, to the information about subscribers who are legal entities.

Section 97

Tapping and Recording Messages

(1) A legal entity or natural person providing a public communications network or publicly available electronic communications service shall, at the requesting party's expense, provide and secure interfaces at specified points of the network to connect terminal equipment for message tapping and recording: for the Police of the Czech Republic for purposes specified by a special legal regulation³⁶.

(2) In the course of message tapping or recording, the Police of the Czech Republic shall prove their authorisation for such activity by submitting a written application, which has a reference number under which a court decision is maintained and is signed by the person who is responsible for the performance of such activity. In the case of message tapping and recording on the basis of special legal regulations³⁷ the written application shall contain the reference number under which the subscriber's consent is maintained.

(3) A legal entity or natural person providing a publicly available communications network or electronic communications service shall store operating and location data and shall make such data available upon request to

the bodies entitled to request them on the basis of a special legal regulation. The extent of such operating and location data, the time of the storage thereof, which shall not be longer than 12 months, and the form and manner of the handover thereof to the bodies entitled to use them, shall be specified in an implementing legal regulation.

(4) A legal entity or natural person providing a publicly available telephony service shall, at the requesting party's expense, provide the Police of the Czech Republic upon their request with information from the database of all subscribers to the publicly available telephone service, the form and extent of such provision being specified by a special legal regulation.

(5) Where a legal entity or natural person providing a public electronic communications network or publicly available electronic communications service introduces in its activities any coding, compression, encryption or any other method of transmission that makes the messages being transmitted incomprehensible, there such a person shall ensure that the requested messages and the traffic and location data related thereto are provided in a comprehensible manner at the termination points for connection of the terminal equipment referred to in Subsection 1.

(6) For fulfilling the obligations specified in Subsections 1, 3 and 4 above, the legal entity or natural person is entitled to reimbursement for the efficiently incurred costs from the entitled entity that requested or ordered such an action. The amount of and method reimbursement for the efficiently incurred costs shall be specified in an implementing legal regulation.

(7) The person referred to in Subsection 1 and its/his employees shall respect the confidentiality of the message tapping and recording requested and performed according to Subsections 3 and 4, including any circumstances relating thereto.

(8) The technical and operating conditions and the points of connection of the terminal telecommunications equipment for message tapping and recording shall be specified in an implementing legal regulation.

(9) A legal entity or natural person providing a publicly available communications

³⁷ Section 88 Subsection 3 of Act No. 141/1961

network or electronic communications service shall be entitled to reimbursement for efficiently incurred costs from the entity upon whose request the legal entity or natural person provided information in accordance with Subsection 4 above.

Volume 2

Security and Integrity of the Electronic Communications Networks and Services

Section 98

(1) The undertaking providing public communications network shall ensure the integrity and security of its network.

(2) To ensure the integrity of public communications networks, the Office shall issue network plans (Section 62) in which it defines the basic characteristics of those networks and their interfaces, including the technical conditions for securing traffic in compliance with the national and international preference scheme for crisis situations, which conditions are essential for the interconnection of public communications networks, for access thereto and for the connection of non-public communications networks.

(3) The undertaking providing public electronic communications network or publicly available electronic communications service may take a measure to interrupt provision of the service or deny access to the service in the event that there is a serious danger threatening to seriously weaken the security and integrity of its network as a result of any damage or destruction of electronic communications equipment. Such a measure must be restricted to the absolutely necessary period of time and, if technically feasible, access to the emergency call numbers must be maintained.

(4) The undertaking providing public electronic communications network or publicly available electronic communications service shall immediately inform the Office – and, using suitable means, also the users – about the measure adopted according to Subsection 3 above, the reasons for interruption of the current services or denial of access thereto, and the expected time of removal of the causes.

Section 99

Security, Integrity and Service Provision in Crisis Situations

(1) The undertaking providing a public communications network in crisis situation is obliged, according to a special legal regulation³⁸ and following its own technical and organisational rules, to ensure access to the public telephone network at fixed locations and access to the publicly available telephone service provided through that network at fixed locations, including operator services and those indicated in Section 38 Subsection 2 Clauses c) and d). The Office shall take a measure of general nature to determine the particulars of the abovementioned technical and organisational rules.

(2) The undertaking providing a public communications network shall submit to the Office, if the Office so requests, documents specifying the technical and organisational measure referred to in Subsection 1 above. The Office is entitled, if any discrepancy is identified between those documents and legal regulations or the Office's measure, to notify the concerned undertaking about that fact and prescribe a reasonable period within which such discrepancies are to be removed.

(3) The undertaking providing a public communications network, which is designated as an undertaking with significant market power in the area of subscriber connection to the public telephone network and the use thereof at fixed locations, is obliged in a crisis state declared on the basis of a special legal regulation³⁹ preferentially provide electronic communications services through that network to the users listed in the international or national preference scheme, and shall do so in accordance with that preference scheme. The Office is entitled to take a decision also to impose that obligation to another undertaking providing an electronic communications network or publicly available electronic communications service, if that undertaking requested it or if no undertaking with significant market power was determined according to the first sentence above.

³⁸ Section 12a of Act No. 240/2000.

³⁹ Constitutional Law No. 110/1998.
Act No. 240/2002.

(4) Included in the international or national preference scheme shall be a user who is a representative or the state administration and self-government bodies, the armed forces, armed security corps and rescue corps, intelligence services, entities subject to economic mobilisation, and users whose position and role in the system of security in the state of crisis are irreplaceable (hereinafter referred to as "listed user"). The designated bodies are entitled to submit to the entity referred to in Subsection 3 the lists of listed users and any amendments thereto. The entity referred to in Subsection 3 may decline to include a user in the international or national preference scheme for operating and technical reasons.

(5) An international preference scheme shall mean a complex of technical and organisational measures to allow access to electronic communications services in international traffic in crisis states for the listed users even in those cases where the provision of such services is limited because of damage or blocking of the network infrastructure.

(6) A national preference scheme shall mean a complex of technical and organisational measures to allow access to electronic communications services in national traffic in crisis states for the listed users even in those cases where the provision of such services is limited because of damage or blocking of the network infrastructure.

(7) The undertaking referred to in Subsection 3 above shall ensure that the international and national preference schemes are prepared no later than 2 years after the date on which it was designated as an undertaking with significant market power in the area of connection of subscribers to the public telephone network and the use thereof at a fixed location, or after the date on which the decision made in accordance with the second sentence of Subsection 3 became effective. Supervision of how the reference schemes are provided before declaration of a crisis state is the responsibility of the State Electronic Communications Inspection Authority. Within its supervision tasks, the Office is entitled to take a decision to impose on the entity referred to in Subsection 3 the obligation to carry out simulated traffic according to the preference schemes.

(8) In the crisis state, the undertaking referred in Subsection 3 shall without undue delay notify the Office and the body that declared the crisis state about any danger to the integrity and security of its network, including the remedial measures carried out or intended.

(9) The undertaking referred to in Subsection 3 above shall establish and maintain a database of listed users and shall do so no later than 2 years after the date on which it was designated as an undertaking with significant market power in the area of connection of subscribers to the public telephone network and the use thereof at a fixed location, or after the date on which a decision made according to the second sentence of Subsection 3 became effective. The body that submitted to the given entity the list of the users listed in the database shall compensate that entity for the inclusion and maintenance of a user in the database of listed users and for fulfilling the obligation specified in Subsection 7 above. The amount of the compensation shall be as specified in Subsection 11.

(10) The undertaking referred to in Subsection 3 above is entitled in a crisis state to restrict the provision of services to unlisted users, the extent of the restriction being as needed for ensuring preferential provision of electronic communications services.

(11) The Government shall issue an order to specify the bodies entitled to submit the lists of listed users and any updating to those lists, as well as the amounts to be paid for the inclusion and maintenance of the users in the listed user database, the manner in which they are to be submitted and the manner in which the obligation under Subsection 7 above is to be fulfilled.

(12) The operating and technical reason on the basis of which the inclusion of a user in the international or national preference scheme can be refused, the content and extent of the international and national preference scheme and the periods within which they must be implemented as well as the extent and format of the data and the method of managing the database shall be defined by an implementing legal regulation.

Protection of Electronic Communications

Section 100

Obligations of the Operators

(1) The operators of machines, devices and equipment (hereinafter referred to as “equipment”), whose operation generates high-frequency energy, shall ensure that the high-frequency energy of this equipment does not cause interference with the operation of the electronic communications equipment and networks or with the provision of electronic communications services or operation of radiocommunications services, unless otherwise provided in a special legal regulation.

(2) Interference in operation shall mean electromagnetic interference that worsens, renders impossible or repeatedly interrupts the operation of the electronic communications equipment or the electronic communications network, or the provision of electronic communications services or operation of radiocommunications services.

(3) If there is any interference with the operation of electronic communications equipment or network, with the provision of electronic communications services or with the operation of radiocommunications services, the operator of the equipment interfering with the operation must take suitable protective measures. If the operator of the interfering equipment fails to take protective measures, the operator of the affected electronic communications equipment or network will take such measures at the interfering equipment operator’s expense.

(4) In the event that interference with traffic occurs as a result of failure to respect the conditions prescribed for the operation of such equipment, the costs of the protective measures shall be borne by the operator of such equipment; otherwise such costs shall be borne by the operator of the equipment put in use at a later date or equipment that has been changed. If the equipment affected by the interference does not meet the requirements for

electromagnetic compatibility⁴⁰, the costs of the protective measures shall be borne by the operator of such equipment.

(5) If interference with the reception of audio or television broadcasting, which is operated in the given territory by a broadcaster or a retransmission operator in accordance with the valid licence issued under a special legal regulation¹¹⁾, occurs as a result of the operation of an amateur radiocommunications service, the Office may impose conditions for removal of the interference on the holder of the authorisation for the use of radio frequencies for that amateur radiocommunications service. If the interference only occurs as a result of insufficient electromagnetic compatibility of the receiving equipment, the Office shall impose conditions for removal of the interference on the operator of the affected receiving equipment.

(6) The Office shall identify the sources of interference with the operation of electronic communications equipment and networks, or with the provision of electronic communications services, or with the operation of radiocommunications services. Once the Office identifies a source of interference, it shall proceed *mutatis mutandis* according to Section 114. In justified cases the Office shall order as a precaution that the source of interference be immediately put out of operation without prior warning.

(7) In the event that the operator of equipment interfering with operation fails to remove the interference source within the period of time specified by the Office in an appeal to do so or in the precaution order, the Office shall decide that the interference source be removed.

(8) The Office shall first of all identify the interference sources that affect the electronic communications equipment and networks of the Ministry of Defence and the Armed Forces of the Czech Republic, the Ministry of Interior, Security Information Service, Police of the Czech Republic, the Fire Rescue Service of the Czech Republic, the Ambulance Rescue Service, the Customs

⁴⁰ Government Order No. 169/1997 laying down the technical requirements for products in terms of their electromagnetic compatibility.

Offices, and the Prison Guard Service and Court Police of the Czech Republic.

(9) Interference with the operation of electronic communications equipment and networks, the provision of electronic communications services, or operation of radiocommunications services shall also be deemed to include interference caused by electromagnetic screening and reflection by buildings or by activities relating to the construction of buildings. The electronic communications equipment and network operator, undertaking providing the electronic communications service or operator of radiocommunications service, whose operation is affected by the interference, shall invite the owner or constructor of the concerned building to conclude an agreement on suitable measures to remove the interference. If they fail to agree, the appropriate Building Authority shall decide on the method of removing the interference in consultation with the Office upon proposal of either of the parties. Such a decision shall be made according to a special legal regulation⁴¹. If such a decision is not, due to its nature, within the power of the appropriate Building Office, the Office shall make the decision on the method of removing the interference. The costs of the removal of the interference caused by buildings shall be borne by the owner of the building and the costs of the removal of the interference caused by construction shall be borne by the constructor.

(10) Disputes in respect of the amount of efficiently and purposefully incurred in the remedial actions to remove interference shall be resolved by a court.

Section 101

Intercourse of a Public Communications Network Line with Surrounding Environment

(1) The constructors (investors) of buildings, waterworks or equipment whose construction is associated with earthwork shall, for purposes of proceedings based on the construction rules, enclose to their applications for the issue of the territorial decision or building permission a statement of the public

⁴¹ Act No. 50/1976 on Territorial Planning and the Building Rules (the Building Act), as subsequently amended.

communications network operator concerning the existence of underground communications network lines at the building site, such a statement being requested from such undertakings providing public communications networks as the Building Office may indicate. In its decision, the Building Office responsible for the issue of the building decision or planning permission shall define the conditions for the protection of the communications network line.

(2) The persons that are to carry out the construction works indicated in Subsection 1 above shall take measures aimed at preventing any damage to the communications network. This shall also apply to deep tillage of farm land.

(3) A communications line of a public communications network may cross or otherwise get into intercourse with electricity, water, sewage and other lines, natural water reservoirs, territories protected under special legal regulations, railway tracks, roads, waterworks or any other such schemes, including their protective zones. Any such crossing or other intercourse shall be designed in a manner adequate to environmental protection with a view to minimize of any impact on the interests of the owners concerned. This shall be without prejudice to the provisions of the applicable special legal regulation⁴².

(4) A communications line of a public communications network may be crossed or otherwise affected by electricity, water, sewer or other lines, railway tracks or roads. Any such crossing or contact shall be designed with a view to avoiding interference with the operation of the electronic communications equipments and networks or with the provision of electronic communications services.

(5) The provisions of Subsections 3 and 4 shall apply *mutatis mutandis* to cases where a public communications network line runs parallel with the lines and their protective zones as referred to above.

⁴² Act No. 114/1992 on Nature and Landscape Protection, as subsequently amended

Protective Zones

Section 102

Communications Line Protective Zone

(1) The protective zone of an underground communications line shall be deemed to be established as at the effective date of a decision issued on the basis of a special regulation⁴³.

(2) The protective zone of an underground communications line shall be 1.5 metres on the sides of the marginal line.

(3) It is prohibited in the protective zone of an underground communications line:

- a) without consent of its owner or decision of the Building Office to perform any earthwork or grading operations;
- b) without consent of its owner or decision of the Building Office to establish buildings or locate structures or any other similar features;
- c) without consent of its owner to plant tree stands, vineyards etc.

(4) Any activities in the protective zone of an underground communications line that could prevent or substantially worsen access to the line or could compromise the security and reliability of its operation may only be carried out upon prior consent of the owner of the line.

(5) The protective zone of an overhead communications line originates on the effective date of a decision taken on the basis of a special legal regulation^{43, 44}. The parameters of such protective zones, the range of the restrictions and the conditions of protection shall be determined by the appropriate Building Office upon the line owner's proposal and shall be specified in that decision. The rights of the owners of the properties located in the protective zone of an overhead telecommunications line must be respected.

⁴³ Section 32 Subsection 1 Clause a) of Act No. 50/1976

⁴⁴ Section 32 Subsection 1 Clause c) of Act No. 50/1976

Protective Zone of Radio Equipment and Microwave Link

(1) The protective zone of radio equipment and a microwave link originates as at the effective date of the decision taken on the basis of a special legal regulation⁴⁴. The parameters of such protective zones with respect to the opinion of an expert witness, the range of the restrictions and the conditions of protection shall be determined by the appropriate Building Office upon the proposal of the owner of the equipment and links and shall be specified in that decision. The rights of the owners of the properties located in the protective zone of the radio equipment and radio microwave link must be respected.

(2) In proceedings concerning the protective zones of overhead communications lines, radio equipment and microwave link, the Office is the administration body concerned.

Volume 5

Authorisation to Use Other Owners' Properties

Section 104

(1) An undertaking providing a public communications network which notified business in accordance with Section 8 Subsection 2, is entitled, if it meets the conditions specified in the decision taken on the basis of a special legal regulation⁴³ and the conditions indicated below, to establish and operate on or in another owner's land:

- a) aboveground or underground communications lines of the public communications network, including any supporting points for the aboveground communications lines or line pegging points for underground communications lines, as well as payphone boxes and connecting communications network lines to the public communications network, including the crossing of such land with such lines and establishing public communications network lines on such land, as well as the related power line connections;
- b) masts, including antennae of radio equipment of the public communications

network, the associated public communications network electronic communications equipment and the related power line connections;

- c) masts, including antennae of the public communications network microwave links, the associated public communications network electronic communications equipment and the related power line connections.

(2) An undertaking providing a public communications network who notified business in accordance with Section 8 Subsection 2, is entitled, if it meets the conditions indicated below, to establish and operate on or in another owner's building:

- a) internal communications lines of the public communications network, including public communications network termination points and the related distribution frames, public payphones and connecting communications lines of the public communications network, as well as the related power line connections;
- b) masts or antenna supports, including antennae of the public communications network radio equipment and their connecting communications lines, the associated public communications network electronic communications equipment, connections to the internal power wiring and the related power line connection;
- c) masts or antenna supports, including antennae of the public communications network microwave links and their connecting communications lines, the associated public communications network electronic communications equipment, connections to the internal electricity wiring and the related power line connection.

(3) For the performance of the authorisations referred to in Subsections 1 and 2 Clauses b) and c) above, the undertaking providing a public communications network shall sign a written letter of intent to conclude with the owner of the property concerned an agreement on granting a matter burden for a lump-sum compensation in respect of the part of the property concerned, and after the completion of the construction and surveying of the position of the line it shall conclude an

agreement on granting an easement in respect of the actually affected part of the property. It is also possible upon the proposal of the undertaking providing the public communications network to conclude another type of written agreement with the owner of the property concerned. For the performance of the authorisations referred to in Subsection 2 Clause a), written consent of the owner of the property concerned shall suffice for the location of internal communications lines and communications equipment.

(4) If no arrangement of mutual legal relations is reached with the owner of the property concerned according to Subsection 3 above, or if the undertaking providing a public communications network is able to prove that the owner of the property concerned is unknown, or is not determined, or is provably inaccessible or inactive, or the ownership of the property is subject to dispute or the owner's right of disposition of the property is restricted, then the appropriate general Building Office shall make a decision on the basis of a special legal regulation⁴¹ in respect of the proposal of the undertaking providing the public communications network to grant a matter burden. The undertaking providing a public communications network may exercise the rights set out in the decision of the general Building Office in respect of the restriction of the ownership rights towards the property concerned, starting from the date of entry into effect of the general Building Office's decision.

(5) Restriction of ownership rights may not exceed the extent necessary for achieving the purpose referred to in Subsections 1 and 2.

(6) An undertaking providing a public communications network shall also have the following entitlements on the basis of a notification provably given to the owner of the property, or its manager or user:

- a) to enter (including entry of vehicles) other owners' property to the necessary extent in order to carry out activities referred to in Subsections 1 and 2 and for the purpose of preparing project design documentation, repairing and maintaining the communications lines and electronic communications equipment located on other owners' property,

- b) to the necessary extent, to cut or lop trees and shrubs endangering safe and reliable operation of the communications lines and electronic communications equipment in compliance with the conditions indicated in a special legal regulation⁴².

Provably given notification shall mean notification of the date and purpose of the entry (including entry with vehicles) in the given property or the cutting or lopping of the trees and shrubs growing on that property, including notification concerning activities to be performed in the property in relation therewith. The notification shall be made well in advance.

(7) In exercising its entitlements on the basis of Subsections 1, 2, 6 and 12, the undertaking providing a public communications network shall respect to the maximum the rights of the owners of the given properties. Once the work is completed, it must put the property to its previous state and if that is not possible with respect to the work done, to a state corresponding to the previous purpose or use of the property, and shall immediately, in a provable manner, notify that to the owner of the property, or the manager or user of the property. After the cutting or lopping of trees or shrubs, the undertaking providing the public communications network shall remove the loppings and debris from the property, unless otherwise agreed with the owner of the property.

(8) The authorisations referred to in Subsections 1 and 2 above shall not be deemed to substitute for the obligations of the undertaking providing a public communications network on the basis of a special legal regulation⁴¹.

(9) An aboveground communications line shall be understood to mean a wire line or cable line or wireless line, including the associated electronic communications facilities, built above the ground outside or inside buildings. The supporting points of the aboveground communications line include any structural elements bearing or supporting the wires or cables, or the associated electronic communications facilities of the line (ground poles, roof poles, wall brackets, antenna mast, antenna support).

(10) Entitlements resulting from the matter burden established on the basis of this Act or on the basis of previous legal regulations shall pass to the successors in title of the undertakings providing the public communications network and to the owners or transferees of such lines, provided that such successors, owners or transferees concurrently act as businesses providing a public communications network.

(11) An underground communications line means a cable line, including cable sets and equipment buried underground, and cable distribution frames located above the ground level. Cable sets and equipment include, but are not limited to, cable joints, cable accessories, intermediate repeaters, corrosion control equipment, overvoltage control equipment, pressure control equipment and cable ducts. The line pegging points of the underground communications line shall include cable markers, posts, or stones indicating the position of cable sets and equipment, cable crossings with roads, railways or watercourses, or showing position changes in the cable route in residential areas or in the open landscape.

(12) In the case of any fault or interruption of the operation of a communications line or electronic communications equipment, the undertaking entitled as specified in Subsections 1 and 2 above may for the purpose of removing the fault or interruption enter the property where such a line or equipment is located without prior notification of the owner or manager or user of the property in accordance with Subsection 6 if it was impossible upon exerting reasonable effort to notify the owner, manager or user of the property about such entry in advance and to gain the consent of the owner, manager or user. In such cases such an undertaking shall immediately notify the owner, manager or user of the property about the performance of the work after the actual performance thereof, and shall also ensure the security of the site and, subsequently, ensure that the property is put in the previous state or in appropriate state.

(13) If any dispute over the extent of the entitlements referred to in Subsections 1, 2 and 6 arises between the owner of the property and the undertaking providing the public

communications network, the appropriate Building Office shall make the decision resolving the dispute in co-operation with the Office upon proposal submitted by any of the parties to the dispute.

(14) Legal relations concerning responsibility for the damage as may be caused by the undertaking providing the public communications network in respect of the restriction of the owner's rights for the purposes referred to in Subsections 1, 2 and 6 shall be governed by the Civil Code.

(15) The owner of the house, flat or the non-residential space shall make it possible for the user of the house, flat or non-residential space:

- a) to receive audio and television broadcasting provided by broadcasters on the basis of a special legal regulation¹¹⁾ on condition that signal of reasonable quality is available at the location;
- b) to install an indoor communications line, including a distribution frame and a network termination point.

If any damage to the building is caused as a result of the above, the party responsible for the damage shall compensate for it; this obligation cannot be avoided. If any dispute over the extent of those obligations arises between the owner of the house, flat or the non-residential space and the user of the house, flat or non-residential space, the appropriate Building Office shall make the appropriate decision in co-operation with the Office upon proposal submitted by any of the parties to the dispute.

TITLE VI

State Administration in the Electronic Communications Area

Volume 1

Administration Bodies in the Electronic Communications Area

Section 105

The Activity of the Ministry

(1) The Ministry

- a) submits to the Government draft proposal of the electronic communications policy of the State and monitor the implementation thereof;
- b) submits to the Government the proposals for the main principles of the policy of the State in electronic communications;
- c) pursues international relations in the electronic communications area at the levels of Governments, Government agencies and non-governmental organisations, except the relations for the pursuance of which the Government authorised the Office;
- d) ensures that obligations in the electronic communications area are fulfilled as ensuing from the international treaties binding on the Czech Republic and published in the Collection of Laws or Collection of International Treaties; ensure the same in respect of the obligations resulting from the Czech Republic's membership of international organisations, except the obligations carried out by the Office in cases determined by the Government;
- e) carries out the state statistical service⁴⁵;
- f) co-operates with Member States' ministries in the area of electronic communications;
- g) notifies the Commission about the regulatory authorities in the electronic information area and provides other information if the Commission so requests;

⁴⁵ Act No. 89/1995 on State Statistical Service, as subsequently amended.

h) within the range of its activity, represents the Czech Republic on the European Union bodies.

(2) In performing its activities, the Ministry shall also rely on the relevant decisions, recommendations and positions issued by the bodies of the Communities and the basic principles of the policy of the State in the electronic communications area. If the Ministry decides not to proceed in accordance with the Commission's recommendations harmonising the implementation of Community legislation in the electronic communications area, it shall inform the Commission to that effect without delay and shall justify such conduct.

Section 106

Provision of Information to the Ministry

(1) The Office shall provide the Ministry, upon its request, with any information as may be needed by the Ministry to perform activities for which the Ministry is responsible in accordance with this Act.

(2) If the Office does not possess the information referred to in Subsection 1, the person performing activities on the basis of this Act shall provide such information to the Ministry upon the Ministry's request within a reasonable period and in the form and extent as the Ministry may determine. The Ministry's request shall contain a justification, including the indication of the purpose for which the Ministry requests the information, data or documentation. The Ministry shall not request more information than adequate to the purposes for which it is intended.

(3) The person performing activities in accordance herewith shall, on the basis of Subsection 2, submit to the Ministry information, data and documentation containing personal data, information subject to trade secret, or information subject to protection on the basis of a special legal regulation.

(4) The Ministry shall protect the information, documentation and data submitted in accordance with Subsections 1 to 3 against abuse.

Section 107

Organisation of the Office

(1) The Office has a five-member Council (hereinafter referred to as the "Council"). One Council member is the Chairman of the Council. The Chairman shall conduct the activities of the Council and in his absence this is done by another member authorised by the Chairman. The Chairman of the Council acts on the Office's behalf and represents the head of the Office. The Office makes decisions in specified cases.

(2) The members of the Council and its Chairman are appointed and recalled by the Government upon proposal of the Minister of Informatics. The term of office of Council members is 5 years. One member of the Council is appointed every year. The Chairman of the Council is appointed to his post for the period remaining to the end of his membership in the Council but not longer than 3 years.

(3) To be appointed member of the Council, the candidate shall be a Czech citizen and shall:

- a) enjoy full legal capacity;
- b) possess integrity; not considered as possessing integrity shall be any citizen who has been effectively convicted of a wilful crime, unless such a conviction has been annulled or unless there is any other reason for such a person to be looked upon as not having been convicted; further, not considered as possessing integrity shall be a citizen who fails to meet the conditions listed in a special legal regulation⁴⁶;
- c) have at least 5-year experience in the areas of electronic communications, economics or law.

(4) The positions of member of the Chamber of Deputies or Senator, judge, prosecuting attorney, any position in public administration, position as member of territorial self-administration and membership

⁴⁶ Act No. 451/1991, laying down certain additional requirements relating to the holding of positions in the State authorities of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic, as subsequently amended.

in a political party or political movement are incompatible with membership in the Council.

(5) The Council member's office shall terminate:

- a) with the expiry of the term of office;
- b) by withdrawal;
- c) by resignation;
- d) by acquiring a position incompatible with membership in the Council;
- e) by the finality of a court judgement in respect of his legal capacity or in respect of having committed a wilful criminal act; or
- f) by death or declaration as dead.

(6) A member of the Council may be withdrawn by the Government in case of gross breach, or repeatedly committed minor breaches, of his duties, in the case of sickness permanently preventing him to officiate, or if he has not officiated for a period longer than 6 months. Upon the proposal of the Minister of Informatics, the Government shall without delay appoint another Council member for the remaining part of the withdrawn member's term of office.

(7) The Council makes its decisions by casting vote. Every Council member possesses one vote. A decision of the Council may be adopted if at least three Council members were in favour of it. A protocol is maintained about the voting and the protocol must be signed by all the members present and by the person authorised to draw up the protocol. The protocol may not be looked into when the file is being inspected.

(8) The Council shall:

- a) approve:
 1. the Statute of the Office;
 2. the Plan of Activities of the Office;
 3. draft budget of the Office and closing account of the Office;
 4. Rules of Procedure of the Council and the Organisation, Filing and Signing Rules of the Office;
 5. reports on the activities of the Office;
 6. draft versions of implementing legal regulations;
- b) decide on:
 1. appeals lodged against the decisions issued by the Chairman of the Council;
 2. measures of general nature;

3. pricing decisions;
4. determination of the universal service provider (Section 39); and
5. determination of the undertaking with significant market power and the imposition of obligations on such an entity (Section 51).

(9) No appeal is admissible against the decisions of the Council.

(10) The Chairman of the Council makes a decision in the first instance in the proceedings in accordance with Sections 22, 23 and 127. If it is provided in this Act that the Office shall make decisions in a given matter, it may be determined in the Office's Statute that, in the given case, with the exception of the provisions of Subsection 8, the Chairman makes the decision in the first instance.

Section 108

The Activity of the Office

(1) The Office shall on the basis of this Act:

- a) issue general authorisations, decide on any change thereto or cancellation thereof, and maintain records of undertakings in the electronic communications area;
- b) issue measures of general nature;
- c) perform analyses of relevant markets in the electronic communications area, determine undertakings with significant market power (Section 53) and impose special obligations on them;
- d) determine the universal service providers in electronic communications and examine how the universal service is provided;
- e) determine the net costs of the provision of universal service; determine, collect and enforce payments for the defrayment thereof, and maintain the Universal Service Account;
- f) issue pricing decisions and exercise price control in the electronic communications area;
- g) make decisions in disputes, as far as this Act so stipulates;
- h) co-operate with appropriate national regulators in Member States and with the Commission;
- i) impose the non-pecuniary supply obligations;

- j) verify the professional capability for the operation of radio transmission equipment;
- k) exercise the authority of a recognising body under a special legal regulation in recognising the professional qualifications and other competence for access to regulated activities in the electronic communications area or for the performance of such activities in the Czech Republic, if the professional qualifications for such activities were gained, or such activities were performed, outside the Czech Republic by citizens of the Member States of the Communities or their family members;
- l) specify, select and collect fees;
- m) carry out state inspection in the electronic communications area;
- n) impose, collect and recover fines for breach of obligations;
- o) exercise the administration of radio frequencies and numbers, including the maintenance of the database thereof;
- p) carry out tendering procedures;
- q) ensure harmonisation of the utilisation of the radio spectrum and harmonisation of the numbering plans;
- r) open and administer the Radiocommunications Account;
- s) submit to the Ministry factual draft legal regulations in the electronic communications area and co-operate with the Ministry on the preparation thereof;
- t) issue implementing legal regulations in the electronic communications area within the range of authorisation hereunder;
- u) ensure the information duty in relation to the Commission in respect of the issues belonging in the Office's range of authority;
- v) provide the state statistical service;
- w) pursue international relations in the electronic communications area in cases determined by the government;
- x) within its statistical surveying work, gain and process data in the electronic communications area from entities carrying out communications activities and from natural persons under conditions set out in a special legal regulation⁴⁵;
- y) publish Telekomunikační věstník (Telecommunications Bulletin) through the public administration portal.

(2) The Office also performs other activities, as far as it follows from the provisions hereof or other legal regulations.²⁾

(3) In exercising its authority, the Office also respects the applicable decisions, recommendations, instructions and opinions issued by the bodies of the European Communities and the key principles of the policy of the State in the electronic communications area. If the Office decides not to follow the Commission's recommendations harmonising the exercise of the law of the European Communities in the electronic communications area, the Office shall immediately inform the Commission about that, including justification of such conduct.

Section 109

Elimination of the Conflict of Interests

(1) Employees of the State who carry out public service in the Ministry or the Office, heads of the organisation unit working for the Minister of Informatics, advisers and employees performing other activities (designated otherwise) for the Minister of Informatics, as well Deputies to the Minister of Informatics, may not pursue any business activities in the electronic communications area, become members of any statutory, managing and supervisory bodies of any undertakings doing business within the scope of this Act, carry out any advisory work or any other professional assistance in the electronic communications area or otherwise act in favour of any such undertakings.

(2) For the Council member, the obligation specified in Subsection 1 above shall remain in effect for 6 months after the end of his term of office. During that period, he shall continue receiving, on a monthly basis, a salary equal to the average monthly salary he had while he was in office.

(3) The Council member may not be employed by the Ministry or perform any other gainful activity for the Ministry.

The Office's Relation to the Parliament and Government of the Czech Republic

(1) Every year the Office shall prepare an annual report on its activities for the previous calendar year. The information contained in the report shall include, without being limited to, information about: the current status and developments in the area of electronic communications; the measures of general nature taken by the Office, the Office's decisions on price, the implementation of the applicable legislation of the European Communities¹⁾ regulating the electronic communications area, the results of controls for compliance with the obligations set out in legislation and the need to adopt legal regulations in the electronic communications area. The annual report shall also contain the Office's planned budget and an overview of the results of the Office's financial management, including indication of the costs of the Office's regulation work, for the previous calendar year and – structured in the same manner – the planned costs of the Office's activities for the subsequent year. Annual report on universal service (Section 50) shall always be part of the annual report.

(2) The Office shall submit the annual report to the Chamber of Deputies and Senate of the Parliament of the Czech Republic and to the Government of the Czech Republic no later than the end of May of every calendar year. The Office shall publish the annual report at the same time.

(3) The Office shall submit, upon request, to the Chamber of Deputies and Senate of the Parliament of the Czech Republic and the Government of the Czech Republic additional information and explanations concerning the content of the annual report. At least one member of the Council shall take part in the discussion of the Government of the Czech Republic on the annual report. Members of the Council are obliged to take part in the discussions in the Chamber of Deputies and Senate of the Parliament of the Czech Republic about the annual report, if so requested by the Chamber of Deputies or Senate of the Parliament of the Czech Republic.

Co-operation with the Office for the Protection of Economic Competition

(1) The Office and the Office for the Protection of Economic Competition shall provide each other with suggestions and information or pursue any other form of co-operation for the purpose of fulfilling the tasks imposed on them by legal regulations. In the process of handing over any information, the recipient shall treat that information with the same confidentiality as does the providing party itself. Before issuing a decision, based on Section 51, before imposing a sanction for a breach of such a decision, and in performing analyses of the relevant markets in accordance with Sections 51 and 52, the Office shall afford the Office for the Protection of Economic Competition an opportunity to take a position in relation to the matter concerned; if the Office for the Protection of Economic Competition fails to take a position in respect of the matter within 1 month of the delivery of the Office's proposal, it shall be deemed that the Office for Economic Competition has no reservations in relation to it.

(2) The Office shall give the Office for the Protection of Economic Competition its opinion, if the latter so requests, as to whether the conduct of a competitor represents a breach of an obligation specified in this Act or in a decision made on its basis.

(3) In fulfilling their tasks in the area of electronic communications, the Office and the Office for the Protection of Economic Competition shall co-operate with each other, request each other's attitudes in respect of the prepared decisions within the range of their respective authority, and take efforts to achieve conformity of their attitudes.

Co-operation with the Broadcasting Council

(1) The Office and the Broadcasting Council shall provide each other with suggestions and information or pursue any other form of co-operation for the purpose of fulfilling the tasks imposed on them by applicable legal regulations. In the process of handing over any information, the recipient shall treat that information with the same

confidentiality as does the providing party itself.

(2) If the Office learns during its activities that there are unused frequencies in the band exclusively intended for audio and television broadcasting, the Office shall notify the Broadcasting Council to that effect without delay.

(3) The Office shall:

- a) hand over to the Broadcasting Council, if the Broadcasting Council so requests, the co-ordinated frequencies for audio and television broadcasting, including the technical parameters thereof;
- b) provide the Broadcasting Council with the most recent data (database) concerning the radio equipment operated for audio and television broadcasting;
- c) co-operate with the Broadcasting Council in its (the Office's) inspection activities.

(4) The Office gives the Broadcasting Council if the Broadcasting Council so requests¹¹⁾, its opinions including the diagram of the utilisation of radio frequencies for the required area to be covered by audio or television broadcasting and including also data about the possible restrictions in terms of the time of use of such radio frequencies, if such data are known beforehand. Diagram means graphical representation of the assumed area of the territory where a minimum level of protected electromagnetic field intensity is guaranteed as defined for the reception of audio or television broadcasting in the appropriate frequency band. The graphical representation uses a closed curve in the cadastral map to the appropriate scale in the A4 (quarto) format.

State Inspection in Electronic Communications

Section 113

(1) The Office shall carry out state inspection in the electronic communications area.

(2) The rights and duties of the Office's employees who carry out state inspection in the electronic communications area (hereinafter referred to as "authorised persons") and persons performing activities in accordance herewith (hereinafter referred to as

"liable persons"), which rights are exercised during the performance of state inspection of electronic communications, shall be determined by a special legal regulation⁴⁷, unless otherwise provided in this Act.

(3) In performing state inspection in electronic communications, the Office shall verify compliance with the obligations and conditions specified by this Act, by implementing legal regulations, measures of general nature, decisions, and pricing decisions, as issued on the basis hereof. The Office shall also inspect the utilisation of radio frequencies.

(4) During the inspection of the use of radio frequencies, the authorised persons shall inspect compliance with the technical parameters and other conditions defined in the general authorisation or in the individual authorisation for the use of radio frequencies.

(5) If essential for the identification of the persons using the radio frequencies, the authorised persons performing inspection of radio frequencies through monitoring are entitled to learn the content of the messages being transmitted. Otherwise the inspection of the use of radio frequencies is carried out by monitoring without tapping and message recording. Authorised persons may not disclose the content of the messages being transmitted to any persons other than the sender or addressee of the messages being transmitted or a representative authorised by them, nor may they enable other persons to gain information about the content of the messages being transmitted.

(6) Price control consists in:

- a) examination whether the seller or purchaser do not breach the provisions hereof or the decisions on price, issued by the Office;
- b) verification of the correctness of the information submitted for the purposes of evaluation of the development of prices, price regulation, and for proceedings in respect of breaches of the provisions hereof or the decisions on price, issued by the Office.

⁴⁷ Act No. 552/1991 on state control, as subsequently amended.

(7) Authorised persons prove their authorisation to perform state inspection of electronic communications by a special card containing the basic identification data about the holder, the serial number of the card, and date of issue. The card must bear the signature of the person who issued it, including the position of that person.

(8) An authorised person may not perform state inspection of electronic communications with any liable person (entity) where any person related to him holds a position through which the unbiasedness of the authorised person might be compromised.

(9) The format of the card authorising for the performance of state inspection in electronic communications shall be determined by an implementing regulation.

Section 114

(1) If the Office learns that a liable person fails to comply with the conditions or fails to comply with the special obligations specified in the general authorisation, authorisation to use radio frequencies, or authorisation to use numbers, or fails to carry out the special obligations set out in Section 11, the Office shall invite that liable person to remove the identified irregularities within 1 month. The Office may prescribe a shorter period of time in the case of repeated breach of the conditions or obligations or in the case that the liable person so agrees. In justified cases the Office may prescribe a period longer than 1 month. The liable person shall immediately inform the Office about the removal of the identified faults.

(2) If the Office learns that the breach of the obligations specified in Subsection 1 above represents immediate and serious threat to public order, security of the state, or health and security of persons, or if it represents a threat of serious economic or any other damage to other undertaking providing services or to users of the networks or electronic communications services, or to any other persons, the Office shall immediately issue a decision to apply precautions to remedy the situation.

Provision of Information to the Office

Section 115

(1) The liable person shall submit to the Office, upon the Office's request and within the determined reasonable period, in the form, and to the extent as specified by the Office, any complete and true information, including financial information, as well as data and supporting evidence, as the Office may need to carry out the activities for which the Office is responsible on the basis of this Act. The Office's request for information shall comprise justification, including the indication of the purpose for which the Office requests the information, data and evidence. The Office shall not request more information than reasonably needed for the stated purpose.

(2) The liable person shall also submit to the Office the information, data and evidence as indicated in Subsection 1 above if it contains personal information, information subject to trade secret, or information protected in accordance with a special legal regulation².

(3) The Office is entitled under the conditions specified in Subsection 1 above to request information, data and evidence for:

- a) qualified estimation of the net costs of the universal service (Section 39), and also to support the calculation of the net costs of the provision of the universal service;
- b) inspection of compliance with the quality parameters and the fulfilment of the performance objectives of the universal service (Section 47);
- c) calculation of the level of the payment to the Universal Service Account in accordance with Section 49;
- d) inspection of compliance with the obligation to pay the fees indicated in Section 133;
- e) inspection of compliance with special obligations indicated in Section 11;
- f) inspection of compliance with the obligations and conditions specified by the general authorisation, authorisation to use radio frequencies and authorisation to use numbers;

² Act No. 148/1998, on the protection of confidential information and on amendment to certain Acts, as subsequently amended. Act No. 240/2000.

- g) evaluation of an application for the issue of an authorisation to use radio frequencies or authorisation to use numbers;
- h) the publishing of comparative overviews of electronic communications service quality and prices in the interests of consumers;
- i) market analysis to ensure that the market is effectively competitive;
- j) price regulation;
- k) resolution of disputes including, but not limited to, those relating to access and those concerning the billing of prices for the services provided.

(4) The Office shall not request that the information, data and supporting evidence, as referred to in Subsection 3 except Clause g), be supplied by the undertaking before it starts its communications activities, or within the framework of the start-up conditions for such activities. The Office may only request the information referred to in Subsection 3 Clause e) for the purposes of inspection performed upon the Office's own initiative or in the case that the Office receives a complaint or any other information about non-compliance with the required conditions.

(5) The Office is entitled to check the information, data and supporting evidence submitted in accordance with Subsections 1 to 3. In performing the checking, the Office shall proceed in accordance with a special legal regulation⁴⁷.

(6) The Office shall protect the information, evidence and data submitted by the liable person against abuse.

(7) Provisions of paragraphs 1 to 5 are without prejudice to the Office's right to request information, data and evidence on the basis of special legal regulations.

Volume 2

Co-operation with the Commission and the Respective National Bodies in the Member States

Section 116

(1) Within the range of its authority, the Ministry shall co-operate with the respective Ministries in the Member States and with the Commission. In relation to the Commission it

fulfils the information and reporting duty in areas falling within the range of its authority.

(2) Within the range of its authority, the Ministry shall represent the Czech Republic on the advisory bodies and Committees of the Commission.

(3) The Ministry shall respect the confidentiality of the information it received as confidential from the bodies of the Member States.

Section 117

(1) Within the range of its authority, the Office shall co-operate with the respective national regulatory bodies in the Member States. The Office shall also within the range of its authority take part in meetings of the appropriate advisory bodies and Committees of the Commission.

(2) In relation to the Commission, the Office shall ensure that the reporting and informing obligations are fulfilled in respect of matters within the range of the Office's authority. In particular, it provides the Commission with information about the implementation of the applicable legislation of the Communities, regulating the electronic communications area; it also submits its annual report and other information as the Commission may request.

(3) The Office is entitled to provide information available to it to a regulatory body in another Member State on the basis of such a regulatory body's justified request. The Office shall respect the confidentiality of the information obtained as confidential from other regulatory bodies, including the regulatory bodies of the Member States.

(4) If the Office delivers to the Commission any information it has previously requested from an undertaking, it shall immediately inform that undertaking to that effect.

TITLE VII

Administrative Offences

Section 118

Administrative Offences of Legal Entities and Undertakings Who are Natural Persons

(1) A legal entity or a natural person who is an entrepreneur commits administrative offence if it:

- a) makes business in the electronic communications area in contradiction with Section 8;
- b) fails to notify the Office about commencement of communications activities or any change to the data indicated in such a person's notification of communications activities, or fails to notify the Office about having terminated its communications activities under Section 13;
- c) fails to meet any of the conditions of measures of general nature while performing communications activities;
- d) uses radio frequencies without authorisation under Section 17 Subsection 1;
- e) uses a number without authorisation under Section 30 Subsection 1;
- f) breaches the obligation determined in Section 83 Subsection 4;
- g) fails to fulfil its obligation to maintain separate records of costs and revenues, as determined in Section 86;
- h) endangers the confidentiality of messages and the associated operating and location data by breaching an obligation under Section 89 Subsection 1 or 3, or Section 90 Subsections 2, 6 or 7, or Subsection 91 Sections 2, 3 or 4;
- i) sends an unsolicited message without the subscriber's consent in accordance with Section 95;
- j) breaches a duty in gathering personal information about subscribers for the issue of a directory of subscribers, in respect of the handling of the personal data gained for public directory purposes in accordance with Section 96 Subsections 1, 2, 4 or 5;
- k) offers marketing advertising or any other method of the offer of goods or services to a subscriber who indicated in the public

directory of subscribers that he does not wish being contacted for advertising purposes (Section 96 Subsection 3);

- l) fails to comply with the duty specified in Subsection 97;
- m) fails to submit information, data and evidence requested by the Office in accordance with Section 115;
- n) uses an electronic mail address to send a message or messages to third parties without the consent of the holder of the electronic mail address (Section 93);
- o) fails to notify a change in circumstances under Section 18 Subsection 5 or Section 32 Subsection 3;
- p) fails to ensure that only a person competent under Section 26 Subsection 2 provides the operation of radio transmission equipment;
- q) publishes personal or identification data about subscribers who refused such publishing in accordance with Section 41 Subsection 6;
- r) puts in operation, or operates apparatus in contradiction with Section 73 Subsection 2;
- s) breaches the ban on the performance of activities in the protective zone in accordance with Section 102 Subsections 3 and 4; or
- t) breaches the ban on the performance of activities in the protective zone as specified in the zoning decision on the protective zone under Section 102 Subsections 5 or Section 103.

(2) An undertaking commits administrative offence if it:

- a) transfers the rights to use radio frequencies without the consent of the Office under Section 23 Subsection 1;
- b) discriminates against another undertaking providing electronic communications service, as to the number series used for access to its services;
- c) fails to fulfil the obligation to use the standards, specifications or recommendations in accordance with Section 62 Subsections 1 and 2;
- d) does not use the provided information for the determined purpose or does not secure its confidentiality in accordance with Section 81 Subsection 2; or

- e) fails to deliver to the Office a full text of a contract or any amendments thereto under Section 80 Subsection 2.

(3) A holder of authorisation to use a number commits administrative offence if he fails to carry out technical adaptations when the numbering plan is changed in accordance with Section 29 Subsection 3.

(4) An undertaking providing publicly available telephone service commits administrative offence if it:

- a) breaches the obligation to enable free call to emergency call numbers in accordance with Section 33 Subsection 1;
- b) fails to ensure permanent access to emergency call numbers in accordance with Section 61 Subsection 3, or fails to enable its subscribers free calls to those numbers in accordance with Section 69 Subsection 1 Clause c);
- c) fails to fulfil its obligation in respect of call forwarding in accordance with Section 94;
- d) fails to inform end users about the introduction of a special mode for calls between border areas in accordance with Section 29 Subsection 2;
- e) fails to ensure that end users from other member states have access to non-geographic telephone numbers on the territory of the Czech Republic in accordance with Section 35;
- f) does not maintain an up-to-date database of all its subscribers in accordance with Section 61 Subsection 4;
- g) fails to make public in each of its establishments, and in a manner allowing for remote access for end users, the information indicated in Section 63 Subsection 1;
- h) fails to deliver available personal or identification data of the subscribers for purposes of information and operator services in accordance with Section 66 Subsection 1;
- i) fails to provide the service of malicious and annoying call identification in accordance with Section 67;
- j) fails to fulfil its obligation in accordance with Section 69 Subsection 1 Clauses a) or b) or Subsection 2 Clause a) or b);

- k) breaches its obligation in respect of subscriber number displaying in accordance with Section 92; or
- l) fails to deliver subscriber data for the purpose of maintaining subscriber directories or for the purposes of the information service in accordance with Section 41 Subsection 3.

(5) An undertaking providing a public telephone network commits administrative offence if it:

- a) in respect of calls to emergency call numbers, fails to make the information about the caller's location available to the bodies or services intervening in a crisis situation in accordance with Section 33 Subsection 3;
- b) fails to ensure for subscribers to the publicly available telephone service the possibility to continue keeping their telephone number in accordance with Section 34, Subsection 1;
- c) fails to fulfil its duty in respect of call forwarding in accordance with Section 94;
- d) fails to inform the public about the existence and use of emergency call numbers in accordance with Section 33 Subsection 4;
- e) fails to ensure establishment of all international calls to the European telephone numbering area in accordance with Section 61 Subsection 6; or
- f) fails to provide access to operator services and at least one information service to all end users of the public telephone network in accordance with Section 66 Subsection 2.

(6) The universal service provider commits administrative offence if it:

- a) fails to submit to the Office an overview of the valid prices of universal service in accordance with Section 45 Subsection 1, does not apply uniform prices, or fails to respect the price determined by the Office in accordance with Section 45 Subsection 2;
- b) endangers the provision of partial services by failure to maintain the values of quality parameters or performance targets for the individual services in accordance with Section 47;
- c) fails to publish prices in accordance with Section 54 Subsection 1 Clause a) or fails

to submit the valid prices to the Office in accordance with Section 54 Subsection 1 Clause b);

- d) fails to enable low-income persons to select special prices in accordance with Section 38 Subsection 3, although it is obliged to provide partial service in accordance with Section 38 Subsection 2 Clauses a) and b);
- e) fails to notify the user, or notifies him with a delay, about the impossibility of fulfilment of the obligation in accordance with Section 40 Subsection 1 or Subsection 3, or fails to notify or notifies with a delay the substitute date in accordance with Section 40 Subsection 6 for fulfilment of the obligation in accordance with Section 40 Subsections 1 or 3; or
- f) fails to handle the subscriber data in a non-discriminatory manner in accordance with Section 41.

(7) An undertaking with significant market power commits administrative offence if it:

- a) fails to determine prices in accordance with Section 55 Subsections 1, 3 or 4, although it has the obligation to ensure telephone number portability in accordance with Section 34 or to enable carrier selection and preselection in accordance with Section 70;
- b) changes the prices or delivery conditions in the provision of the lease line service in accordance with Section 55 Subsection 5 without the consent of the Office;
- c) applies prices that do not reflect actual costs, taking into account the rate of return on investment in accordance with Section 60, or prices that do not correspond to the methodology of separate records of costs in accordance with Section 86, although it has an obligation to ensure cost orientation of prices;
- d) fails to fulfil an obligation relating to the lease line service in accordance with Section 76 Subsections 3 and 5, although it has the obligation to provide the lease line service to the extent of a minimum set of leased lines;
- e) fails to apply for the Office's consent with rejection of the draft contract under Section 84 Subsection 6; or

- f) fails to publish a reference offer for the metallic local loop unbundling with details and conditions specified in accordance with Section 85, although it has a duty to unbundle metallic local loop.

(8) The undertaking providing publicly available electronic communications service commits administrative offence if it:

- a) fails to publish the prices in accordance with Section 54 Subsection 1 Clause a) or fails to submit the valid prices to the Office in accordance with Section 54 Subsection 1 Clause b);
- b) fails to publish a draft contract on the provision of such a service, including the general conditions in accordance with Section 63 Subsection 2;
- c) fails to notify a subscriber within the mandatory period of time about any change in the contractual conditions or about the subscriber's right to terminate the contract without sanction under Section 63 Subsection 6;
- d) fails to fulfil its obligation in accordance with Section 71 Subsection 2;
- e) fails to fulfil an obligation in providing the security and confidentiality of communications in accordance with Section 88 Subsections 1 and 2;
- f) fails to provide the electronic communications service on a continuous basis in accordance with Section 61 Subsection 1 at a quality level specified in Section 71;
- g) fails to settle a claim in respect of the billing of the price or in respect of the provision of service in accordance with Section 64;
- h) fails to provide the billing of the price for the provided service in accordance with Section 64 Subsections 2, 4, 5 or 6;
- i) fails to notify the subscriber in advance in a provable manner about the consequences of failure to pay telephone bills in accordance with Section 65 Subsection 1; or
- j) fails to proceed in accordance with Section 65 Subsections 2 and 3 in cases of delayed payment or failure to pay the telephone bill.

(9) An undertaking providing a public communications network commits administrative offence if it:

- a) fails to fulfil an obligation in the dissemination of widescreen television services and programmes in accordance with Section 68 Subsection 1;
- b) fails to publish or notify to the Office in a manner, extent and time periods specified in Section 73 Subsections 7 and 8 the types of interfaces and the technical specification thereof, which the undertaking offers for the connection of apparatus, or any change to those specifications;
- c) endangers the integrity of the network or service by breaching an obligation based on Section 98;
- d) endangers the security, integrity or provision of services in states of crisis by breaching an obligation based on Section 99;
- e) fails to enable connection of termination telecommunications equipment to an interface in accordance with Section 73 Subsection 6; or
- f) does not negotiate about interconnection in spite of having been so requested by another undertaking which has notified business in accordance with Section 13 (Section 79 Subsection 1).

(10) An undertaking providing the service of dissemination of protected content network commits administrative offence if it does not offer services in accordance with Section 83 Subsection 5 to all radio and television broadcasters.

(11) For an administrative offence referred to in Subsection 1 Clauses a) to m), Subsection 2 Clauses a) to d), Subsection 3, Subsection 4 Clauses a) to c), Subsection 5 Clauses a) to c), Subsection 6 Clauses a) to c), Subsection 7, Subsection 8 Clauses a) to e), Subsection 9 Clauses a) to d) and Subsection 10, a fine is imposed up to 10% of the revenues gained for the last complete calendar year, but not greater than CZK 10,000,000.

(12) For an administrative offence referred to in Subsection 1 Clause n), Subsection 2 Clause e), Subsection 4 Clauses d) to k), Subsection 5 Clauses d) and e), Subsection 6 Clause d), Subsection 8 Clauses f) and g) and Subsection 9 Clause e), a fine is imposed up to 10% of the revenues gained for the last complete calendar year, but not greater than CZK 5,000,000.

(13) For an administrative offence referred to in Subsection 1 Clauses o) to t), Subsection 4 Clause l), Subsection 5 Clause f), Subsection 6 Clauses e and f), Subsection 8 Clauses h) to j) and Subsection 9 Clause f), a fine is imposed of up to CZK 2,000,000.

Section 119

(1) A legal entity or an undertaking who is a natural person shall not be responsible for an administrative offence if he/it is able to prove having exerted all efforts as could be required to prevent breaching the legal obligation.

(2) Provisions of this Act applying to legal entities' responsibility and sanctions shall apply to the responsibility for any action that occurred during the business activities of an undertaking who is a natural person, or in direct relation to such activities.

(3) Responsibility of the legal entity or the undertaking who is a natural person for administrative offences shall lapse if the administrative body did not initiate any proceedings relating thereto within 3 years of learning about such an administrative offence and, at the latest, within 10 years of such offence's being committed.

(4) In determining the amount of the fine to be imposed on a legal entity or an undertaking who is a natural person, account shall be taken of the seriousness of the offence including, but not limited to, the manner in which it was committed, its consequences, its duration, and the circumstances in which it was committed.

Section 120

Contraventions

(1) A natural person may commit contravention by:

- a) using the radio frequencies for which an individual radio frequency use authorisation is required in accordance with Section 17 Subsection 1 without having such an authorisation;
- b) failing to notify a change to the circumstances indicated in Section 18 Subsection 5;
- c) performing the operation of radio equipment without having a valid

- certificate as required in accordance with Section 26;
- d) failing to comply with any one or more conditions of the general authorisation or the individual authorisation to use radio frequencies, and failing to remove these faults within the period prescribed by the Office;
 - e) making malicious call to the emergency call number (Section 33);
 - f) putting into operation, or operating, apparatus in contradiction with Section 73;
 - g) using an electronic mail address to send a message or messages to third parties without the consent of the holder of the electronic mail address (Section 93);
 - h) offering marketing advertising or any other method of the offer of goods or services to a subscriber who indicated that he does not wish being contacted for advertising purposes (Section 96 Subsection 3);
 - i) breaching the ban on activities in the protective zone in accordance with Section 102 Subsections 3 and 4;
 - j) breaching the ban on activities in the protective zone specified in the planning decision about the protective zone in accordance with Section 102 Subsection 5 or Section 103; or
 - k) failing to immediately inform the Office about having removed the identified faults in accordance with Section 114.

(2) A fine of up to CZK 100,000.- may be imposed for a contravention referred to in Subsection 1 above.

Section 121

(1) Administrative offences and contraventions specified herein shall be considered by the Office.

(2) The fines shall be levied and collected by the Office. The income from the fines represents income to the State Budget. Procedure specified in a special legal regulation²²⁾ shall be used to levy and collect the fines.

(3) For repeated breach of the same obligation within 2 years, the Office may impose a fine up to double the amount of the fine indicated in Sections 118 and 120.

(4) The Office shall maintain records of effective decisions on fines imposed on the basis hereof for the last four years.

TITLE VIII

Procedural Provisions

Volume 1

General Procedural Provisions

Section 122

Relation to the Rules of Administrative Procedure

(1) Proceedings in matters covered by this Act shall be governed by the Rules of Administrative Procedure, unless otherwise specified herein.

(2) In the case of price regulation in the retail market, the end users are not parties to the proceedings.

(3) Concurrently with notifying the participants about commencement of the proceedings on the issue of decision in accordance with Section 107 Subsection 8 Clause b) Points 3 to 5, the Office shall invite the participants to submit their opinions, including proposed evidence, with indication of the period and manner in which the opinion can be submitted. The period shall not be shorter than 7 days. The Office shall neglect opinions submitted later, except the opinions and proposed evidence related to the facts which the participant was unable to address sooner due to reasons outside its control. The participant of proceedings must be expressly notified about this.

(4) The Office may impose a disciplinary fine of up to CZK 100,000 for delays in the proceedings.

(5) The Office shall give the participants an opportunity before the issue of any decision to express their opinions as to the information and evidence supporting the decision and as to the method of obtaining the evidence, and to propose any extension thereof

(6) If there are more than 5 participants (hereinafter "proceedings with a higher number of participants"), or if a participant is unknown, or his whereabouts or registered

address are known or if attempts at effective delivery of papers fail, the Office shall ensure the delivery to the participants through a public notice, except the delivery of summons or delivery of decisions in the matter itself.

(7) In proceedings with a higher number of participants, the Office is entitled to replace the procedure described in Subsection 5 by publishing the concept of the decision award and justification, and with indication of the time, place and manner of filing objections against the concept or propose extension of the proceedings. The period shall not be shorter than 10 days. The Office shall neglect opinions submitted later. The participant of proceedings must be expressly notified about this. No objections that the participant could have raised during the proceedings may be raised once the concept is published.

(8) New circumstances and proposals to present new evidence indicated in the appeal may only be taken into account if the facts concerned are such as would justify renewal of the proceedings after the finality of the decision.

(9) Fulfilment of an obligation imposed on an undertaking with a significant market power or on another undertaking through decisions based on Section 17 Subsection 2, Section 30 Subsection 1, Section 38 Subsection 2, Section 51 Subsections 3, 4, 8 and 9, Section 57 Subsections 1 and 4, Section 70, Section 71 Subsection 1, Section 72 Subsection 1, Section 76 Subsection 4, Section 77, Section 79 Subsection 2, Section 82, Section 83 Subsection 7, Section 84, Section 86 Subsections 2 and 5, Section 100 Subsection 8 and Section 114 Subsections 1 and 2, may be enforced by imposition of coercive fines up to a total amount of CZK 10,000,000.

Section 123

Remedies

(1) Appeal can be filed against a decision of the Office, unless otherwise provided herein. The Chairman of the Council shall decide on the appeal against a decision, if such a decision was not made by the Chairman of the Council in the first instance.

(2) If the Chairman of the Council decided in the first instance, he shall not vote when the decision is being made about the appeal.

Section 124

Measures of General Nature

(1) Measures of general nature are binding on both the legal entity and natural persons performing communications activities in accordance with Section 7. Settlement of comments from consultation based on Sections 130 and 131 shall constitute part of the justification of the measure of general nature.

(2) The measure of general nature shall enter into effect on the fifteenth day of the publishing thereof in the Communications Bulletin, unless the Office determines a later effective date. An earlier effective date for the measure of general nature (but not earlier than the date of publishing) may be prescribed if so required by public interest.

(3) An obligation determined by law, the extent of which is defined by a measure of general nature within the scope of the law, may only be enforced in execution proceedings if a decision declaring the existence of such an obligation and specifically indicating the person to whom the obligation applies was issued.

Section 125

Publishing

(1) Measures of general nature, decisions, information and any other documents or facts which the Office is required to make public in accordance with this Act, shall be published by the Office to the extent indicated in Subsections 2 and 3 above in the Telecommunications Bulletin (Telekomunikační věstník) or on the Office's electronic official board, and shall be so published in a manner allowing for remote access. The date of publishing in the Telecommunications Bulletin is the date of issue of the concerned Telecommunications Bulletin Chapter through the public

administration portal⁴⁹, which date is indicated in the heading.

(2) The following information publishes Office in the Telecommunications Bulletin:

- a) full texts of measures of general nature and any change thereto or cancellation thereof;
- b) full texts of decisions on price and any change thereto or cancellation thereof;
- c) results of analyses of relevant markets (Section 51);
- d) announcements, changes, completion and results of any tendering procedure held on the basis hereof;
- e) announcement of the decisions referred to in Subsection 3 Clause a), issued by the Office;
- f) network plans (Section 62).

Also published by the Office in the Telecommunications Bulletin shall be communications concerning corrections of misprints.

(3) Published without any delay on the electronic official board of the Office shall be the following, without limitation:

- a) full texts of the Office's decisions in respect of disputes between persons performing communications activities and Office's decision referred to in Section 107 Subsection 8 Clause b) Points 3 to 5;
- b) full texts of the Office's decisions in respect of disputes between a person performing communications activities and a subscriber or user, this being so in the cases where the subject of the dispute relates to a greater number of subscribers or users;
- c) information, other documents and facts as may relate to this Act.

(4) The Office shall publish, in particular, information about:

- a) the rights, duties, conditions, procedures and fees related to the general authorisation and the individual authorisation to use radio frequencies and authorisation to use numbers;

⁴⁹ Section 2 Clause r) and Section 4 Subsection 1 Clause i) of Act No. 365/2000, on public administration information systems and on amendment to certain other Acts, as subsequently amended.

- b) the special obligations imposed on entities under to Section 11;
- c) determination of relevant markets in accordance with Section 52.

(5) The Office shall also publish information concerning the procedures and conditions related to the rights of construction of electronic communications networks in accordance with a special regulation⁴¹.

(6) If the information referred to in Subsection 4 Clause a) and Subsection 5 are available from different agencies of public administration, the Office shall create a user overview of availability of such information, including the information about the respective state administration agencies.

(7) The Office shall see to it that any information is published in a user-friendly manner, and continuously updated.

(8) The Office shall not publish data to which confidentiality⁵ arrangements apply or which are prevented from publishing by a special legal regulation^{34, 48}, including, but not limited to information about the undertakings, about their business relations or their cost items. This is not to the prejudice of publishing information about the conditions related to the granting of the rights to use radio spectrum, unless such information is confidential.

(9) Provisions in Subsection 8 above is not to the prejudice of the fulfilment of the Office's obligation to provide information to authorised bodies and agencies.

Section 126

The Telecommunications Bulletin

(1) The Telecommunications Bulletin is a collection of the documents of administration bodies in the electronic communications area.

(2) The name "Telekomunikační věstník" (Telecommunications Bulletin) may only be used to denote the Telecommunications Bulletin on the basis of this Act.

(3) The form of the Telecommunications Bulletin, the method of publishing the information referred to in Section 125 Subsection 2 and the method of the delivery thereof to publication shall be indicated in an implementing legal regulation.

Volume 2

Resolution of Disputes

Chapter 1

**Resolution of Disputes between Persons
Performing Telecommunications Activities**

Section 127

(1) The Chairman of the Council shall resolve disputes between the persons performing telecommunications activities (Section 7) on the basis of a motion filed by any of the parties to the dispute, as far as the dispute is related to obligations imposed by this Act or on the basis hereof. An administrative fee is charged for the filing of a motion. The Chairman of the Council shall proceed so as to ensure that an effective decision can be issued within 4 months of the presentation of the proposal, except if extraordinary circumstances arise.

(2) The Chairman of the Council is entitled to impose a disciplinary fine of up to CZK 100,000.- on a person who fails without excuse, or fails repeatedly, to appear at a duly notified oral proceedings or who fails to cooperate. Such a fine may be so imposed repeatedly.

(3) The Office shall publish its decision in respect of the dispute.

(4) The Chairman of the Council shall award to the party who fully succeeded in the proceedings a compensation for the costs required for effective application of law, or defence thereof, against the losing party to the proceedings. In the event that a party succeeded only partially in the proceedings, the Chairman of the Council may split the compensation for the costs to appropriate proportions, or may decide that neither of the parties is entitled to such compensation. Even in the case that a party succeeded only partially may the Chairman of the Council award full compensation for such costs to such a party provided that such a party was unsuccessful in only a negligible part of the proceedings or that the decision on the amount to be discharged depended on an expert opinion or was at the discretion of the Chairman of the Council.

(5) In the event that a regulatory body of another Member State is simultaneously a relevant body in a dispute, the Chairman of the Council shall proceed in accordance with this Act and in co-operation with the regulatory body of the other member state. The Chairman of the Council is only entitled to refuse resolving the disputes under Section 128 below if the regulatory body of the other Member State so agrees.

Section 128

Refusal to Decide a Dispute

(1) The Office is entitled to refuse resolving a dispute in accordance with Section 127 if, having conducted oral proceedings with the participation of all parties to the proceedings, the Office arrives at the conclusion that other ways of addressing the matter could better contribute to timely resolution of the dispute in accordance with Section 5 Subsections 2 to 4. The Office shall issue a decision in respect of the refusal to resolve the dispute. No remedy may be sought against such a decision.

(2) In the event that a dispute fails to be resolved within 4 months of the date of issue of the decision in accordance with Subsection 1 above, the Office shall, upon a motion filed by either party, proceed in accordance with Section 130, unless any of the parties appeals to a court.

(3) An initiation to institute dispute-resolution proceedings in accordance with Section 127 concerning a dispute between parties neither of which is an undertaking with significant market power on the relevant market shall be considered as a proposal to commence investigation. The Office shall, without issuing a decision, notify the proposing party in writing about the acceptance or rejection of the proposal or about its reference to another body.

Chapter 2

Resolution of Subscriber Disputes

Section 129

(1) The Office shall resolve disputes between a person performing telecommunications activities (Section 7) on

the one hand and a subscriber or user on the other, on the basis of a motion filed by any of the parties to the dispute, as far as the dispute relates to obligations imposed by, or on the basis of, this Act. An administrative fee is charged for the presentation of the proposal.

(2) If the undertaking providing publicly available electronic communications service fails to meet a claim filed in accordance with Section 64 Subsections 7 to 9, the subscriber or user shall be entitled to file with the Office a motion to initiate proceedings in respect of objection against the settlement of a claim, which the subscriber shall do without undue delay but no later than 1 month after the delivery of the claim settlement.

(3) The Office shall award to the party who fully succeeded in the proceedings a compensation for the costs required for effective application of law, or defence thereof, against the losing party to the proceedings. In the event that a party succeeded only partially in the proceedings, the Office may split the compensation for the costs to appropriate proportions, or may decide that neither of the parties is entitled to such compensation. Even in the case that a party succeeded only partially may the Office award full compensation for such costs to such a party provided that such a party was unsuccessful in only a negligible part of the proceedings or that the decision on the amount to be discharged depended on an expert opinion or was at the discretion of the Office.

Volume 3

Consultations

Section 130

Consultations with the Entities Concerned

(1) In discharging its authority, the Office shall consult about:

- a) the drafts of measures of general nature and decisions on price;
- b) decisions having a significant effect on the relevant market;
- c) any other action to be taken by the Office, where this Act provides that consultations be held

(hereinafter referred to as “measures”), with the entities concerned, such entities being, without limitation, end-user and consumer associations, including those representing disabled persons, and associations of manufacturers and undertakings providing electronic communications networks or services. The Office shall do so in the form of public consultation. The purpose of the consultation is, in the context of meeting the principles of transparency and objectivity, to obtain the concerned entities’ comments, opinions and views in respect of the draft measures to be taken by the Office.

(2) The consultation referred to in Subsection 1 above shall not apply to dispute resolution under this Act.

(3) In the consultations referred to in Subsection 1 above, the Office shall also consult the Office for the Protection of Economic Competition, if the proposed measure concerns the protection of competition. Further, it shall consult the Broadcasting Council if the proposed measure concerns audio or television broadcasting, and also the Office for the Protection of Personal Data if it concerns the protection of personal data.

(4) In the consultations referred to in Subsection 1 above, the Office shall consult the Ministry about the proposed measures where the Ministry so requests.

(5) For the purposes of the public consultations referred to in Subsection 1 above, the Office shall establish and manage a discussion site, where it publishes the draft measures, allows submission of comments, and publishes the result of the consultation procedure, doing so in a manner allowing for remote access.

(6) Anyone whose rights, obligations or interests may be directly affected by the proposed measure may express his opinion concerning the proposed measure in the manner described in Subsection 8, or may present written comments to the Office, within 1 month of the date of making the draft measure public. If there is a danger of delay, the Office may reduce this period adequately. However, the period for rising comments shall not be shorter than 5 workdays.

(7) The Office shall publish the results of the public consultation, including the settlement of comments, on its electronic official board within 1 month of the expiration of the commenting period.

(8) The Office shall define the rules for the conduct of the consultation at the discussion site referred to in Subsection 5 above.

Section 131

Consultations with the Commission and with other Member States

(1) If a measure referred to in Sections 51, 52, 59, 79, 80 and 84 would have an impact on trade between the Member States, the Office shall make the draft measure – together with a justification – available to the Commission and to the regulatory bodies of other Member States. If there is any information representing commercial secret contained in the draft measure, the Office shall mark that information as such.

(2) The Office shall take maximum account of the comments of the other Member States' regulatory bodies and of the Commission, provided that those comments were submitted within 1 month of making the draft available under Subsection 1 above.

(3) If the measures referred to in Section 51 or Section 52 Subsection 1 would have an impact on trade between the Member States and would in the Commission's view create a barrier to the single market, or if the Commission has serious doubts as to the compatibility of the draft measure with the legislation of the European Communities, particularly with the objectives set out in Section 5, the Office shall suspend the adoption of the measure being proposed and wait until the Commission makes its decision. If the Commission fails to issue a decision within 2 months after the end of the period specified in Subsection 2 above, the Office shall be entitled to adopt the proposed measure.

(4) The Office shall notify the Commission about any newly adopted measure as referred to in Subsection 1.

(5) If there is an urgent need to act in order to protect competition and users'

interests, the Office is entitled in compliance with the proportionality principle to take a measure in a manner different from the procedure described in Subsections 1 to 3. The validity of such a measure shall be limited to 2 months at the maximum. The Office shall provide the measure, including also an explanation of the need for exclusion of the procedure described in Subsections 1 to 3, available to the Commission and the regulatory bodies of other Member States in accordance with Subsection 1 above immediately after taking it. With respect to the comments based on Subsections 2 and 3 above, submitted by the Commission or by other Member States' regulatory bodies, the Office may cancel the measure, or change it, or extend the term of its validity.

TITLE IX

Joint, Transition and Closing Provisions

Section 132

(1) The provisions hereof shall be applied unless otherwise stipulated in an international treaty binding on the Czech Republic and published in the Collection of Laws or Collection of International Treaties.

(2) Starting from the effective date of this Act, the issuance of measures of general nature in accordance herewith shall follow the provisions of the Rules of Administrative Procedure concerning the issuance of measures of general nature.

Section 133

Fees

(1) The Office shall allocate and collect:

- a) administrative fees;
- b) fees for the right to use radio frequencies (Section 24);
- c) fees for the right to use numbers (Section 37).

(2) The fees based on Subsection 1 Clauses a) and c) represent income of the State Budget of the Czech Republic. The fees based on Subsection 1 Clause b) represent income of the State Budget of the Czech Republic and the Radiocommunications Account at a ratio to be defined by a Government Order.

(3) The Office shall collect and recover the fees under Subsection 1 by a procedure specified in a special legal regulation²².

Section 134

The Ministry of Interior, the Regional Offices and the Municipalities with extended powers shall make available – also doing so by a method enabling remote access – certain information from their population records information system⁵⁰ to the Office for the purposes of carrying out the state administration tasks imposed on the Office by law.

- a) For citizens of the Czech Republic:
 1. name(s), surname, former surname;
 2. the birth certificate code;
 3. permanent domicile address, including previous permanent domicile addresses;
 4. date, place and district of death; if the citizen died outside the Czech territory, then the date and the State where he died;
 5. the date as at which a person was declared dead, such date being indicated in the court decision to declare the person dead;
- b) for foreigners maintained in the population records information system:
 1. name(s), surname, former surname;
 2. the birth certificate code, if any;
 3. type of domicile and domicile address;
 4. date, place and district of death; if the person died outside the Czech territory, then the State where he died and the date of death, if available;
 5. the date as at which a person was declared dead, such date being indicated in the court decision to declare the person dead.

Section 135

Official Language

(1) Proceedings before the Office shall be conducted in the Czech language. Any and all written submissions shall be in the Czech

language and any written evidence, if not in Czech, must be accompanied by an authenticated translation. In oral proceedings, the Office may allow the presence of an interpreter who is on the List of Interpreters if the party to the proceedings before the Office provides the interpreter at its own expenses.

(2) Citizens of the Czech Republic who are members of national and ethnic minorities may use their languages before the Office but must provide an interpreter who is on the List of Interpreters. The expenses for the interpreter shall be paid by the Office. The obligation to provide an interpreter does not apply to citizens whose mother tongue is Slovak.

(3) Deaf citizens may use sign language before the Office, but they must provide an interpreter. The expenses for the interpreter shall be paid by the Office.

Transition of Provisions

Section 136

(1) Unless otherwise provided, the legal relations that arose in the electronic communications area in accordance with the legal regulations in force before the effective date hereof shall also be governed by this Act.

(2) As to the illegal action committed before the effective date hereof and bearing characteristics of illegal action also hereunder, a fine may be imposed in accordance with the legal regulations in force until the effective date hereof, unless the levels of the fines hereunder are less strict.

(3) Proceedings instituted but not completed before the effective date hereof shall be completed in accordance with the previous legal regulations by the administrative bodies that initiated such proceedings. The Office may discontinue proceedings in access-related cases which were instituted upon the Office's initiative before the effective date hereof, but may only do so if all parties to the proceedings so agree.

(4) The Office shall suspend as at the date when this Act come into effect the proceedings commenced before the effective date hereof, which do not need to be completed with respect to the provisions of this Act.

(5) Any telecommunications licence issued in accordance with Act No. 151/2000 on

⁵⁰ Act No. 133/2000, on population registration and birth certificate codes and on amendment to certain Acts (Population Registration Act), as thereafter amended

Telecommunications and on Amendment to Other Acts, as subsequently amended, shall be considered as valid for 1 month after the effective date of the measure of general nature in respect of a general authorisation to regulate the communications activity concerned.

(6) The Office shall grant an allocation of radio frequencies, including the same rights and obligations to the same extent, which rights and obligations are related to those frequencies and are indicated in the telecommunications licences, which were issued on the basis of previous legal regulations, but no later than 3 months after the effective date hereof.

(7) Any certificate of registration issued in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall remain in effect for 1 month after the effective date of the measure of general nature in respect of a general authorisation to regulate the communications activity concerned.

(8) A general licence issued in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall be treated as general authorisation hereunder until the issuance of a new general authorisation but not longer than for 5 months of the effective date hereof.

(9) The Office shall issue general authorisations based on Section 9 within 5 months of the effective date hereof.

(10) Public telecommunications network operators and businesses providing public telecommunications services that carry out telecommunications activities under a telecommunications licence or under an authorisation or registration based on a general licence shall fulfil their notification duty in accordance with Section 13 no later than 1 month after the date of issue of the general authorisation.

(11) Permissions to operate transmitting radio equipment and decisions on number allocation issued on the basis of Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall remain in effect until the date indicated therein, except for that part concerning the fees for the allocated

frequencies or numbers as indicated therein; that part of the permission or decision shall expire as at the entry into effect hereof. These permissions or decisions are considered as individual authorisations to use radio frequencies as specified in this Act.

(12) The frequency band assignment plan and the numbering plans issued in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall remain in effect until the issue of appropriate implementing regulations under Section 16 Subsection 1 and Section 29 Subsection 4 and until adoption of appropriate measures of general nature under Section 16 Subsection 2.

(13) Undertakings providing public communications network shall within 2 months of the effective date hereof notify the Office, and publish in a manner allowing for remote access, the types of interfaces and the technical specifications thereof as they offer for the connection of apparatus. The technical specifications shall be processed by the method defined in Section 73 Subsection 9.

(14) An undertaking providing a mobile telephone network must fulfil the obligation indicated in Section 34 no later than 6 months of the effective date of the measure of general nature specifying the technical conditions. The Office shall issue the measure of general nature under Section 34 Subsection 4 within 2 months of the effective date hereof.

(15) The validity of the certificates of special competence to operate radio equipment, issued in accordance with 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall remain unchanged.

(16) Any business authorisation issued for the licensed business of "Provision of Telecommunications Services" shall expire on the date on which the person making business on the basis thereof has notified performance of communications activities in accordance with Section 13 hereof, but shall not expire later than 1 year after the effective date hereof.

(17) The proceedings in respect of the issue of the business authorisation for the licensed business of "Provision of Telecommunications Services" that were

commenced before or on the effective date hereof shall be halted.

(18) If a holder of an audio or television broadcasting licence gave his consent that an authorisation to operate broadcasting radio equipment might be granted to an operator of a network designed for the dissemination and conveyance of audio and television broadcasts in accordance with the previous regulations, or that radio frequencies might be granted to such an operator within the range of the technical parameters indicated in his licence, then such a holder is entitled to be allocated such frequencies by the Office if the contractual relation between him and the network operator is terminated. This right shall belong to the holder of the licence throughout the time of validity of the licence, defined as at the effective date hereof.

(19) An entity that gathers subscribers' personal data to issue a directory of subscribers shall inform the subscribers to the publicly available fixed or mobile telephone service, whose personal data were indicated in the directory of subscribers issued before the effective date hereof, about their entitlements specified in Section 96 Subsections 1 and 2. Such an entity shall no later than 2 months of the effective date hereof inquire the subscribers as to whether their personal data may be left in the directory. If a subscriber requests a change in his data or requests deletion of his data, the given entity must do so immediately. If printed directories or those in electronic form on data media have already appeared, the given entity's obligation referred to above shall apply to the nearest update of the directory.

(20) Where a special legal regulation contains provisions about:

- a) telecommunications traffic, this will mean the message being transmitted in accordance herewith;
- b) data concerning telecommunications traffic, this will mean the traffic and location data relating to the message being transmitted in accordance herewith;
- c) telecommunications service, this will mean an electronic communications service provided on the basis hereof;
- d) telecommunications network, this will mean an electronic communications network on the basis hereof.

Section 137

(1) The Office is obliged to perform a first analysis of all parts of the electronic communications market in accordance with Section 51 so as to make it possible to define the situation in the relevant markets in accordance with Section 52 Subsection 1, and, if such is the case, also in other markets in accordance with Section 52 Subsection 2. In that analysis the Office shall use the consultation procedures in accordance with Sections 130 and 131, and in publishing the information it shall proceed in accordance with Section 125. The Office is obliged to complete that analysis no later than 9 months after the effective date hereof.

(2) No later than 12 months of the effective date hereof, the Office is obliged on the basis of the analysis referred to in Subsection 1 above to examine the obligations of the licence holders with significant market power, which obligations are maintained on the basis of the existing legal regulations, and shall decide whether they are to be maintained further, or changed or cancelled, and also decide on imposition of the obligations specified in Section 51 on undertakings with significant market power.

(3) Within the analysis based on Subsection 1, the Office shall examine whether the situations in the market in terms of retail prices are or are not significantly distorted by the cross-financing of the public telephone service provided by an undertaking with significant market power through the public fixed telecommunications network. If such a price deformation is identified, the Office shall issue a decision to impose obligations based on Section 51 on the person concerned so as to ensure improvement of the situation identified by the Office no later than one year of the effective date of that decision made by the Office.

Section 138

(1) A provider of the leased lines public telecommunications service who was obliged to provide such a service – upon the basis of a telecommunications licence granted in accordance with Act 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended – as at the effective date hereof, shall continue

providing that service until the Office issues its decision based on Section 137 Subsection 2. The service shall be so provided under the conditions and to the extent defined in the previous legal regulations, unless otherwise provided herein.

(2) A provider of the leased lines public telecommunications service referred to in Subsection 1 shall maintain separate records of costs, sales and revenues in accordance with the methodology approved in compliance with the measure adopted by the Office under Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, and shall submit to the Office an annual report on the developments in costs, sales, revenues and profitability, including the capital invested, within the period prescribed by the Office. This shall be so until the Office issues a decision based on Section 137 Subsection 2.

Section 139

(1) Contracts on access to network, special access to network, network interconnection or local loop unbundling, concluded in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall remain in effect, unless otherwise agreed between the parties to those contracts. Such contracts shall be treated as having been concluded in accordance herewith.

(2) Until the issue of the Office's decision in accordance with Section 137 Subsection 2, the public telecommunications network operator and public telecommunications service provider who was designated as undertaking with significant market power before the effective date hereof shall – in providing access or interconnection or local loop unbundling – continue fulfilling its current obligations related to network access, network interconnection and local loop unbundling, as defined in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended. These include:

- a) the duty of non-discrimination;
- b) the obligation to make the signed contracts on network interconnection or local loop unbundling available to the

Office for the purpose of the publishing thereof;

- c) the duty to notify the Office, and publish in the Telecommunications Bulletin, reference bids for interconnection and local loop unbundling; and
- d) the obligation to maintain separate records of costs, sales and revenues in accordance with the approved methodology in accordance with the Office's measure issued in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, and to submit to the Office an annual report on the development of costs, sales, revenues, and profitability, including the capital expended, within the period of time prescribed by the Office.

Section 140

Any public fixed telecommunications network operator, which – as at the effective date hereof – was obliged to allow its subscribers in its network, on the basis of the numbering plan, to access the services of any public telecommunications service provider interconnected with that network, except for the leased lines service, doing so both through carrier preselection and through carrier selection for individual calls, shall remain obliged to continue providing such services at least until the Office issues relevant decisions on the basis of Section 137 Subsection 2.

Section 141

(1) For a period of 5 years after the effective date of this Act, the judicial and natural persons that provide electronic communications services shall, as far as technically feasible in crisis states, preferentially provide on their own cost electronic communications services to entities whose lists shall be submitted by specified authorities. For inclusion in the database of entities for preferential provision of services, the judicial and natural persons concerned shall be entitled to cost compensation in amounts to be determined by the Government.

(2) The Government shall issue an order to specify the authorities to be entitled under Subsection 1 above to submit lists of entities for preferential provision of services in crisis

states and to determine the procedure of submission of the lists and the amounts to be paid for inclusion of the listed entities in the database.

(3) For any judicial and natural person for whom the obligation specified in Section 99 Subsection 3 is to arise within 2 years of the effective date of this Act, the periods indicated in Section 99 Subsections 7 and 9 shall be extended to 4 years.

Section 142

(1) The measures of the Czech Telecommunications Office, issued in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall remain in effect for 12 months after the effective date hereof, unless otherwise stipulated herein.

(2) The price decisions, issued in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall remain in effect until the Office issues its relevant price decisions (Sections 57 to 59) but no later than 12 months after the effective date hereof. In such a case, however, the effective period of such decisions shall be limited to the time until the date of issue of the decisions on imposition of the obligation based on Section 137 on undertakings with significant market power.

(3) The contracts concluded under Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, and the general conditions for the provision of public telecommunications services, issued under the same Act, shall be considered as contracts concluded, and general conditions issued, in accordance with this Act.

(4) If the contract for the provision of public telecommunications service, referred to in Subsection 3, does not comply with the provisions hereof, the undertaking shall align it with these provisions within 4 months of the effective date hereof.

(5) If the general conditions specified in Subsection 2 do not comply with the provisions hereof, the undertaking shall align them with these provisions within 4 months of the effective date hereof.

Section 143

(1) The universal service provider who was obliged to provide that service in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall continue providing that service after the effective date hereof until the Office makes a decision in accordance with Subsection 2.

(2) The Office shall examine within 6 months of the effective date hereof whether the provision of the universal service, including affordability in terms of prices, complies with the provisions of Title III Volume 6, and shall issue a decision no later than within 9 months of the effective date hereof to impose the obligations to provide partial services in accordance with Section 39.

(3) The universal service provider referred to in Subsection 1 shall maintain separate records of costs, sales and revenues in accordance with an approved methodology in compliance with the Office's decision issued on the basis of Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, and submit to the Office an annual report on the development of costs, sales, revenues and profitability, including the capital expended, within the period of time prescribed by the Office.

(4) The universal service provider referred to in Subsection 1 shall submit to the Office a statement of loss as calculated in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, and shall do so within 4 months of the appointment of a new provider on the basis of Subsection 2. Such a provider shall be entitled in the year in which this Act entered into effect to compensation for the loss (supported by evidence) for the period before the Office's decision based on Subsection 2. Such a provider shall make it possible to verify the amount of the loss in the manner described in the legal regulations currently in force. The undertakings that held telecommunications licences in the given period shall contribute to the compensation for the abovementioned loss. The calculation of the proportions and the respective payments shall be based on the

provisions of the legal regulations in force before the effective date hereof.

Section 144

The telex and telegraph service provider who was obliged to provide that service in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, shall continue to provide this services until the end of 2005.

Section 145

(1) The undertaking providing the service of audio and television signal distribution and conveyance, which – on the basis of a telecommunications licence awarded in accordance with Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended – was obliged to provide such services as at the effective date hereof, shall continue doing so at least until the Office issues its decision based on Section 137 Subsection 2. Such services shall so be provided under the conditions, and to the extent, defined in the current legal regulations, unless otherwise provided herein.

(2) If the undertaking referred to in Subsection 1 was obliged to maintain separate records of costs, sales and revenues in accordance with an approved methodology in compliance with the Office's decision issued on the basis of Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as subsequently amended, and submit to the Office an annual report on the development of costs, sales, revenues and profitability, including the capital expended, within the period of time prescribed by the Office, such an undertaking shall continue doing so until the Office issues its decision based on Section 137 Subsection 2.

Section 146

The Office shall open a Radiocommunications Account within 1 month of the effective date hereof. The Office shall establish the databases in accordance with Sections 14, 15 and 28 within 6 months of the effective date hereof.

Section 147

(1) The matter burdens that arose before the effective date hereof and any other agreements, including those concerning compensation for restriction of the ownership right, concluded before the effective date hereof for the purpose of implementation of the entitlements based on Section 90 Subsection 1 Clauses a) and b) of Act No. 151/2000 on Telecommunications and on Amendment to Other Acts, as amended, shall remain unaffected.

(2) In case that no agreement on the implementation of the entitlements based on Section 90 Subsection 1 Clauses a) and b) of Act No. 151/2000 or agreement on compensation for restriction of the ownership right was concluded between the undertaking and the owner of the property before the effective date hereof, the decision on the application of the matter burden and on the level of compensation shall be made by the general Building Authority on the basis hereof.

(3) In the case that any matter burdens for exercise of the entitlements based on Section 90 Subsection 1 Clauses a) and b) of Act No. 151/2000 arose in favour of the undertakings providing public telecommunications network that built the public communications network before the effective date hereof, or in the case that matter burdens for exercise of the entitlements based on Section 90 Subsection 1 Clauses a) and b) of Act No. 151/2000 or Section 104 Subsection 1 Clauses a) and b) of this Act arise in favour of such undertakings after the effective date hereof, the entitlements based on such matter burdens shall also apply to transferees who acquired a public communications network or any part thereof irrespective of whether they acquired it before or after the effective date hereof.

(4) The entitlements based on the matter burdens referred to in Subsection 3 shall arise for the transferees of the public communications network:

- a) at the moment of the rise of the matter burdens, if the matter burdens arise after the effective date hereof and if the public communications network was transferred to the transferee before or at the moment of the rise of the matter burdens;

- b) on the effective date hereof, if the matter burdens arose before the effective date hereof and if the public communications network was simultaneously transferred to the transferee before the effective date hereof;
- c) at the moment of acquisition of the public communications network by the transferee, if the public communications network is transferred to the transferee after the rise of the matter burdens and after the effective date hereof.

Section 148

As at the entry into effect hereof:

- a) the Czech Telecommunications Office, established on the basis of Act 151/2000 on Telecommunications and on Amendment to Other Acts, as amended, is dissolved;
- b) the rights and duties in respect of labour relations and other such relations shall be transferred from the Czech Telecommunications Office, established on the basis of Act 151/2000 on Telecommunications and on Amendment to Other Acts, as amended, to the Office;
- c) the Office is entitled to manage the assets of the State that have so far been managed by the Czech Telecommunications Office, established on the basis of Act 151/2000 on Telecommunications and on Amendment to Other Acts, as amended.

Section 149

Upon the effective date hereof, the Government shall appoint one member of the Council of the Office for 1 year, one for 2 years, one for 3 years, one for 4 years and one for 5 years.

Closing Provisions

Section 150

Authorisations

(1) The Government shall issue an order to implement Section 24 Subsection 4, Section 25 Subsection 3, Section 27 Subsection 5, Section 37 Subsection 2, Section 38 Subsection 4, Section 43 Subsection 5, Section 99 Subsection 11 and Section 136 Subsection 2.

(2) The Ministry of Informatics shall issue an implementing legal regulation to provide Section 16 Subsections 1, 7 and 8, Section 26 Subsection 5, Section 29 Subsection 4, Section 40 Subsection 7, Section 43 Subsection 3, Section 47 Subsection 5, Section 48 Subsection 7, Section 53 Subsection 4, Section 80 Subsection 5, Section 99 Subsection 12, Section 113 Subsection 9, and Section 126 Subsection 3.

(3) The Ministry of Informatics, in co-operation with the Ministry of Interior, shall issue an implementing legal regulation to provide Section 33 Subsection 3 and Section 97 Subsection 3.

(4) The Ministry of Interior shall issue an implementing legal regulation to provide Section 97 Subsections 4 and 8.

(5) The Office shall issue an implementing legal regulation to provide Section 97 Subsection 6.

Section 151

This is to repeal:

1. Act No. 151/2000, on Telecommunications and on Amendment to Other Acts;
2. Government Order No. 181/2000, laying down the amounts of fees for allocated frequencies and allocated numbers;
3. Decree No. 182/2000 on the authorisation mark for the telecommunications terminal equipment;
4. Decree No. 191/2000 on the technical conditions for connection and operation of equipment for the tapping and monitoring of telecommunications traffic;
5. Decree No. 195/2000 laying down the types and characteristics of the public telecommunications network termination points and interfaces;
6. Decree No. 196/2000 laying down the characteristics, parameters and quality indicators of services provided by telecommunications licence holders within the framework of the universal service;
7. Decree No. 197/2000 on the extent of line leasing and leased lines technical parameters;

8. Decree No. 198/2000 on the details of the draft contract on network interconnection and network access and on the technical and operating conditions of network access and network interconnection, and connection of non-public telecommunications networks to the public telecommunications networks;
9. Decree No. 199/2000 on the method of proving the availability of sufficient means to carry out telecommunications activities;
10. Decree No. 200/2000 on the method of creating call signals and the use thereof and on the types of radiocommunications services for which they are required;
11. Decree No. 201/2000 on the technical and operating conditions of the amateur radiocommunications service;
12. Decree No. 202/2000 on the details of the application for test to prove special competence to operate transmitting radio equipment, the extent of knowledge needed for the individual types of special competence and method of performance of the tests, the types of the special competence certificates and the validity period thereof;
13. Decree No. 92/2001 laying down a list of specially fitted telephone terminal equipment;
14. Decree No. 235/2001 laying down the details of the calculation and payment of compensation for provable loss from the provision of universal service by the telecommunications licence holder.

PART TWO

Amendment to the Water and Sewage Act

Section 152

In Act No. 274/2001 on water and sewage lines for public use and on amendment to certain Acts (the Water and Sewage Act), as amended under Act No. 320/2002, Act No. 274/2003, Act No. 20/2004 and Act No. 167/2004, Part Five is cancelled.

PART THREE

Amendment to the Act Amending Certain Acts due to the Adoption of the Rules of Administrative Procedure

Section 153

In Act No. 151/2002 amending certain acts due to the adoption of the Rules of Administrative Procedure, as amended under Act No. 436/2004, Part Twelve is cancelled.

PART FOUR

Amendment to the Act Amending the Act on the Technical Requirements for Products

Section 154

In Act No. 205/2002 amending Act 22/1997 on the technical requirements for products and on amendment to certain Acts, as subsequently amended, and certain other Acts, Part Three is cancelled.

PART FIVE

Amendment to the Act Amending the Acts Relating to the Adoption of the Public Service Act

Section 155

In Act No. 309/2002 on amendment to the Acts relating to the adoption of the Act on the Service by public servants in administration offices and on the remuneration to these public servants and other employees in administrative offices (the Public Service Act), as amended under Act No. 123/2003, Act No. 274/2003, Act No. 281/2003, Act No. 362/2003, Act No. 424/2003, Act No. 186/2004, Act No. 326/2004, Act No. 436/2004, Act No. 501/2004 and Act No. 626/2004 Part Twenty Four is cancelled.

PART SIX

Amendment to the Act Implementing Certain Measures in the System of the Central Bodies of State Administration and Amending Certain Acts

Section 156

In Act No. 517/2002 implementing certain measures in the system of central bodies of

state administration, as amended under Act No. 41/2004, Part Six is cancelled.

PART SEVEN

Amendment to the Act Amending the Telecommunications Act

Section 157

In Act No. 225/2003 amending Act No. 151/2000 on telecommunications and on amendment to certain other Acts, as amended, and Act No. 29/2000 on postal services and on amendment to certain acts (Postal Service Act), as amended under Act 517/2002, Part One is cancelled.

PART EIGHT

Amendment to the Act on the Prison Guard Service and Court Police of the Czech Republic

Section 158

In Act No. 436/2000, amending Act No. 555/1999 on the Prison Guard Service and Court Police of the Czech Republic, as subsequently amended, and certain other Acts, Part Four is cancelled.

PART NINE

Amendment to the Act Amending Certain Acts Related to the Area of Population Registering

Section 159

In Act No. 53/2004, amending certain acts related to the area of population registering, Part Eleven is cancelled.

PART TEN

Amendment to the Act Amending the Act on Businesses

Section 160

In Act No. 167/2004, amending Act No. 455 on Business Undertakings (Act on Businesses), as subsequently amended, and certain related acts, Part Four is cancelled.

PART ELEVEN

Amendment to the Act on Business Undertakings

Section 161

Act No. 455/1991 on Business Undertakings (the Business Act), as amended under Act No. 231/1992, Act No. 591/1992, Act No. 600/1992, Act No. 273/1993, Act No. 303/2003, Act No. 38/1994, Act No. 42/1994, Act No. 136/1994, Act No. 200/1994, Act No. 237/1995, Act No. 286/1995, Act No. 94/1996, Act No. 95/1996, Act No. 147/1996, Act No. 19/1997, Act No. 49/1997, Act No. 61/1997, Act No. 79/1997, Act No. 217/1997, Act No. 280/1997, Act No. 15/1998, Act No. 83/1998, Act No. 157/1998, Act No. 167/1998, Act No. 159/1999, Act No. 356/1999, Act No. 358/1999, Act No. 360/1999, Act No. 363/1999, Act No. 27/2000, Act No. 29/2000, Act No. 121/2000, Act No. 122/2000, Act No. 123/2000, Act No. 124/2000, Act No. 149/2000, Act No. 151/2000, Act No. 158/2000, Act No. 247/2000, Act No. 249/2000, Act No. 258/2000, Act No. 309/2000, Act No. 362/2000, Act No. 409/2000, Act No. 458/2000, Act No. 61/2001, Act No. 100/2001, Act No. 120/2001, Act No. 164/2001, Act No. 256/2001, Act No. 274/2001, Act No. 477/2001, Act No. 478/2001, Act No. 501/2001, Act No. 86/2002, Act No. 119/2002, Act No. 174/2002, Act No. 281/2002, Act No. 308/2002, Act No. 320/2002, Judgment of the Constitutional Court promulgated under No. 476/2002, Act No. 88/2003, Act No. 130/2002, Act No. 162/2003, Act No. 224/2003, Act No. 228/2003, Act No. 274/2003, Act No. 354/2003, Act No. 438/2003, Act No. 38/2004, Act No. 119/2004, Act No. 167/2004, Act No. 257/2004, Act No. 326/2004, Act No. 499/2004, and Act No. 695/2004 shall be amended as follows:

1. In Section 3: Subsection 3 Clause i), including footnote No. 19, shall read as follows:

“i) performance of communications activities in accordance with a special legal regulation¹⁹⁾,

¹⁹⁾Act No. 127/2005 on electronic communications and on amendment to certain

related acts (Electronic Communications Act).”.

2. In Annex No. 2, GROUP 205: Electrical Apparatus, the text “Provision of telecommunications services” is cancelled.

PART TWELVE

Amendment to the Act on the Competence of the Authorities of the Czech Republic in the Price Area

Section 162

In Section 2b Act No. 265/1991 on the Competence of the Authorities of the Czech Republic in the Price Area, as amended under Act No. 135/1994, Act No. 151/1997 and Act No.320/2000, Subsection 2 shall read as follows:

“(2) The Czech Telecommunications Office shall exercise its authority in the application, regulation and control of prices of postal services provided abroad and services relating to the provision of postal services abroad, and foreign postal services¹⁾. The Ministry shall not exercise its competence in the application, regulation, negotiation and control of prices in the electronic communications area.”.

PART THIRTEEN

Amendment to the Crisis Act

Section 163

Act No. 240/2000 on crisis management and on amendment to certain acts (the Crisis Act), as amended under Act No. 320/2002, shall be amended as follows:

1. In Section 12 in the heading, the words “and communications” shall be cancelled and the paragraph shall read as follows:

“(1) In a crisis state, the obligation to ensure that transport needs are met may be imposed by the Ministry of Transport upon the operator of the railways, railway transport, road transport, aircraft, airports, inland waterway transport and public ports, as well as upon the owners and operators of other structures, equipment and transport routes serving for transport purposes.”.

2. After Section 12, a new Section 12a shall be inserted, which shall read as follows, including the heading and footnote No. 15a:

“12a

Ministry of Informatics

(1) In the crisis state, the Ministry of Informatics is entitled to impose the obligation to secure the publicly available electronic communications service upon the undertaking providing a public communications network or publicly available electronic communications service.

(2) If there is a danger of delay, the obligation referred to in Subsection 1 may be imposed by the decision of the Czech Telecommunications Office on the basis of a special legal regulation^{15a)}. The Rules of Administrative Procedure shall not apply to the imposition of this obligation.

(3) In the decision, the Office shall designate the liable undertaking, the content and extent of the public obligation, the method of fulfilment thereof, the period of validity of the decision, and instructions as to the consequences of fulfilment.

^{15a)}Act No. 127/2004 on electronic communications and on amendment to certain related acts (Electronic Communications Act).”.

PART FOURTEEN

Amendment to the Broadcasting Act

Section 164

In Act No. 231/2001 on broadcasting and on amendment to other acts, as amended under Act No. 309/2002, Act No. 274/2993 and Act No. 341/2004, after Section 24, a new Section 24a shall be inserted, which shall read as follows:

“Section 24a

(1) Provisions of this Act related to the set of technical parameters shall not apply to terrestrial digital broadcasting.

(2) The Broadcasting Council shall determine the territorial range of terrestrial digital broadcasting in compliance with the

opinion of the Czech Telecommunications Office by issuing a list of districts, including the districts of the City of Prague, completely or partially covered by the broadcasting.”.

PART FIFTEEN

Amendment to the Budgetary Rules

Section 165

In Section 36 of Act No. 218/2000 on budgetary rules and on amendment of certain related Acts (Budgetary Rules), as amended under Act No. 482/2004, at the end of Subsection 3, add the sentence “The Radiocommunications Account, established under a special legal regulation, is also part of the financial assets of the State.”.

PART SIXTEEN

Amendment to the Act on Administrative Fees

Section 166

Act No. 368/1992 on Administrative Fees, as amended under Act No. 10/1993, Act No. 72/1993, Act No. 72/1994, Act No. 85/1994, Act No. 273/1994, Act No. 36/1995, Act No. 118/1995, Act No. 160/1995, Act No. 301/1995, Act No. 151/1997, Act No. 305/1997, Act No. 149/1998, Act No. 157/1998, Act No. 167/1998, Act No. 63/1999, Act No. 166/1999, Act No. 167/1999, Act No. 223/199, Act No. 326/1999, Act No. 352/1999, Act No. 357/1999, Act No. 360/1999, Act No. 363/1999, Act No. 46/2000, Act No. 62/2000, Act No. 117/2000, Act No. 133/2000, Act No. 151/2000, Act No. 153/2000, Act No. 156/2000, Act No. 158/2000, Act No. 227/2000, Act No. 307/2000, Act No. 365/2000, Act No. 140/2001, Act No. 231/2001, Act No. 76/2002, Act No. 107/2002, Act No. 120/2002, Act No. 149/2002, Act No. 308/2002, Act No. 129/2003, Act No. 131/2003, Act No. 148/2003, Act No. 149/2003, Act No. 219/2003, Act No. 274/2003 and Act No. 276/2003, is amended as follows:

1. Item 155 shall read as follows:

“Item 155

Presentment of an objection against non-settlement of a claim	CZK	100.-“.
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2. Item 156 shall read as follows:

“Item 156

- | | | |
|---|-----|-------|
| a) issuance of a professional competence certificate for the operation of: | | |
| aa) radiotelephony and radiotelegraphy transmitting radio equipment aboard aircraft and ships: | | |
| - radiotelephony; | CZK | 400.- |
| - radiotelegraphy; | CZK | 600.- |
| ab) radiotelephony and radiotelegraphy terrestrial transmitting radio equipment of the mobile aerial service and mobile navigation service: | | |
| - radiotelephony; | CZK | 300.- |
| - radiotelegraphy; | CZK | 400.- |
| ac) radiotelephony and radiotelegraphy terrestrial transmitting radio equipment operating in the short wave band: | | |
| - radiotelephony; | CZK | 300.- |

- radiotelegraphy;	CZK	400.-
ad) transmitting radio equipment for amateur radiocommunications service;	CZK	400.-
b) Extension of validity or making changes in the professional competence certificate.	CZK	200.-“.

3. Item 157 shall read as follows:

“Item 157

Issue of certificate of notification of communications activities	CZK	1,000.-
Issue of certificate of notification of change to the reported data	CZK	500.-“.

4. Item 158 shall read as follows:

“Item 158

a) Presentment of an application for decision in dispute, except dispute over the fulfilment of liability to pay, between a person performing communications activities on the one side and a subscriber, or user, on the other;	CZK	200.-
b) Presentment of an application for decision in dispute, except dispute over the fulfilment of liability to pay, between persons performing communications activities;	CZK	10,000.-
c) Presentment of an application for decision in dispute to the fulfilment 4% of this liability to pay at least.	CZK	200.-

Note:

The fee in respect of item c) may only be collected in an amount of CZK 500,000 at the maximum.”.

5. Item 159 is cancelled.

6. Item 160 shall read as follows:

“Item 160

a) Issuance of decision on authorisation to use numbers	CZK	5.000.-
b) Extension of the validity of, or making changes in, the authorisation to use numbers	CZK	500.-

Note:

The fee in respect of this item shall not be collected if the administrative body allocates numbers for emergency calls, damage reporting, calls to the national and international call office, and information notifying the calling subscriber about changes in the subscriber numbers.”.

7. Item 161 shall read as follows:

“Item 161

a) issue of decision on individual authorisation to use radio frequencies:		
aa) for transmission and conveyance of audio or television broadcasting (radio service):	CZK	7,000.-
ab) or the fixed service;	CZK	5,000.-
ac) for the amateur radiocommunications service;	CZK	500.-
ad) for other radiocommunications services;	CZK	3,000.-
b) extension of or making changes in the individual authorisation to use radio frequencies:		
ba) for transmission and conveyance of audio and television broadcasting (radio service)	CZK	500.-
bb) for the fixed service	CZK	500.-

bc) for the amateur radiocommunications services
bd) for other radiocommunications services

CZK 200.-
CZK 500.-

Note:

Fee based in respect of this item shall not be collected for the issue of decision on the basis of Section 25 of Act No. 127/2005 on electronic communications and on amendment to certain related acts (Electronic Communications Act).”.

PART SEVENTEEN

Amendment to the Act on Establishment of Ministries and Other Central Bodies of State Administration of the Czech Republic

Section 167

In Section 18 of Act No. 2/1969 on establishment of ministries and other central bodies of state administration of the Czech Republic, as amended under Act No. 517/2002 and Act No. 95/2005, substitute the words “electronic communications” for the word “telecommunications”.

PART EIGHTEEN

Amendment to the Building Act

Section 168

Act No. 50/1976 on territorial planning and the building regulations (the Building Act), as amended under Act No. 103/1990, Act No. 425/1990, Act No. 262/1992, Act No. 43/1994, Act No. 19/1997, Act No. 83/1998, Judgment of the Constitutional Court published under No. 95/2000, Judgment of the Constitutional Court published under No. 96/2000, Act No. 132/2000, Act No. 151/2000, Act No. 239/2000, Act No. 59/2001, Act No. 254/2001, Act No. 320/2001, Judgment of the Constitutional Court published under No. 405/2002, Act No. 422/2002, Act No. 362/2003, Act No. 218/2004, Judgment of the Constitutional Court published under No. 300/2004 and Act No. 437/2004 is amended as follows:

1. In Section 56, at the end of Subsection b), add the words”, except the structures supporting antenna systems (including the antenna systems themselves) at a total height of more than 15 m”.

2. In Section 56, Clause g) shall read:

„g) for structural adaptations of electrical lines without voltage limitation and for structural adaptations of above- and underground lines of telecommunications network, unless their route is changed.”.

3. In Section 56, at the end of Clause i), substitute a comma for the full stop and add new Clauses j) and k), which shall read as follows:

„j) in structures up to 20 m² of built-up area and 4 m of height, as far as they represent part of, or accessory facility to, the telecommunications network line;

k) in the structures supporting antenna systems (including the antenna systems themselves) up to a total height of 15 m.”.

PART NINETEEN

Amendment to the Act on the Collection of Acts and Collection of International Treaties

Section 169

Act No. 309/1999 on the Collection of Acts and on the Collection of International Treaties, as amended under Act 114/2003, shall be amended as follows:

1. In Section 1 Clause e), substitute a comma for the word “and” after the word “offices” and insert the words “and the Czech Telecommunications Office” after the word “bank”.

2. In Section 2 Clause a), insert the words “and judgements of the Supreme Administrative Court” after the words “the Constitutional Court”.

PART TWENTY

Amendment to the Public Service Act

Section 170

Act No. 218/2002, on the service of public servants in administrative offices and on remuneration of these employees and other employees in administrative offices (the Public Service Act), as amended under Act 131/2003, Act No. 281/2003, Act No. 426/2003, Act No. 359/2003, Act No. 436/2004, Act No. 586/2004, and Act No. 626/2004 shall be amended as follows:

1. In Section 9 Subsection 9, substitute the first sentence by “Appointed to a senior position may only be a public (state) servant, with the exception of a senior employee serving abroad for a fixed period of time, senior employee serving for a fixed period of time as Chairman of the Securities Commission, Member of the Presidium of the Securities Commission, or Member of the Council of the Czech Telecommunications Office.” for the first sentence.

2. In Section 20, Subsection 2 shall read as follows:

“(2) Tender is not held in respect of the service position of a senior employee serving for a limited period of time, including the Chairman of the Securities Commission, Member of the Presidium of the Securities Commission, or Member of the Council of the Czech Telecommunications Office, if the natural person meets the requirements specified in Section 17 Subsection 1 and the requirement set out in the legal regulations on confidential information.¹⁸⁾”

3. In Section 29, Subsection 2, substitute the sentence “The service for a fixed period of time, for which the period in office continues in accordance with a special legal regulation, is also performed by the Chairman of the Securities Commission, Members of the Presidium of the Securities Commission, Chairman of the Office for the Protection of Economic Competition, Chairman of the Energy Regulation Office and Members of the Council of the Czech Telecommunications Office²⁶⁾.” for the third sentence.

Footnote No. 26 shall read as follows:

“²⁶⁾ Section 23 Subsection 3 of Act No. 15/1998.

Section 1 Subsections 3 and 5 of Act No. 273/1997 on the competence of the Office for the Protection of Economic Competition, as amended under Act No. 187/1999.

Section 107 Subsection 1 of Act No. 127/2005 on electronic communications and on amendment to certain related acts (Electronic Communications Act).

Section 17 Subsection 4 of Act No. 458/2000 on business conditions and on the performance of public administration in the energy utilities and on amendment to certain acts (Energy Act).”

4. In Section 42 Subsection 2, substitute the sentence “A natural person who is not a public servant may also be appointed to a senior position, including the positions of Chairman of the Securities Commission, Member of the Presidium of the Securities Commission, or Member of the Council of the Czech Telecommunications Office serving for a fixed period of time, provided that such a person meets the requirements specified in Section 17 Subsection 1 and the requirement set out in the legal regulations on confidential information¹⁸⁾ as well as other requirements set out in other legal regulations^{18a)}” for the last sentence.

Footnote No. 18a shall read as follows:

“^{18a)} For example, Section 107 of Act No. 127/2005 on electronic communications

and on amendment of certain related acts (Electronic Communications Act).”.

5. In Section 53 Subsection 5, substitute the sentence “The appointment of the Director General of the Prison Guard Service of the Czech Republic and members of the Council of the Czech Telecommunications Office shall follow special legal regulations.”.

6. In Section 237, Subsection 2 shall read as follows:

“(2) The Chairman of the Securities Commission, Members of the Presidium of the Securities Commission, Chairman of the Office for the Protection of Economic Competition, Chairman of the Energy Regulation Office and Members of the Council of the Czech Telecommunications Office are considered as public servants for the fixed period of time, which is their term of office based on a special legal regulation²⁶). The Chairman of the Office for the Protection of Economic Competition, Chairman of the Energy Regulation Office and Member of the Czech Telecommunications Office may be appointed to a service vacancy for an indefinite period of time upon the expiry of the service period for which they were initially appointed, if they apply for that in writing.”.

7. In Section 237, Subsection 4 shall read as follows:

“(4) The Chairman of the Securities Commission, Members of the Presidium of the Securities Commission, Chairman of the Office for the Protection of Economic Competition, Chairman of the Energy Regulation Office and Members of the Council of the Czech Telecommunications Office shall make a service oath before the Director General; otherwise Sections 33 and 34 shall apply.”.

8. In Section 237, Subsection 6 shall read as follows:

“(6) No tender procedure is announced for senior positions including that of the Chairman of the Securities Commission,

Members of the Presidium of the Securities Commission, Chairman of the Office for the Protection of Economic Competition, Chairman of the Energy Regulation Office or Members of the Council of the Czech Telecommunications Office.”.

PART TWENTY-ONE

Amendment to the Rules of Administrative Procedure

Section 171

Act No. 150/2002 on the Rules of Administrative Procedure, as amended under Act No. 192/2003, Act No. 22/2004, Act No. 237/2004, Act No. 436/2004 and Act No. 555/2004 shall be amended as follows:

1. In Section 4 at the end of Subsection 2, substitute a comma for the full stop and add Clause c), which shall read as follows:

“c) cancellation of a measure of general nature or a part thereof for contradiction with law.”.

2. In Section 48, Subsection 2, after Clause d), insert a new Clause e), which shall read as follows:

“e) the panel or a judge, who are to decide on the motion, arrived at the conclusion that the measure of general nature or its part which was applied in the case is in contradiction with law, a motion for cancellation whereof having been filed.”.

Renumber Clause e) is renumbered to Clause f).

3. In part three, Chapter two, after Volume 6, insert a new volume 7, which, including the heading, shall read as follows:

„Volume 7

Proceedings to Repeal a Measure of General Nature or a Part Thereof

Section 101a

(1) A motion to repeal a measure of general nature or any part thereof may be submitted by anyone who asserts having been restricted in his rights by the measure

of general nature, issued by the administrative body. If the petitioner is at the same time entitled in accordance with to file a complaint or any other motion to an administrative court in the matter in which the measure of general nature was used, he may only propose repeal of the measure of general nature in conjunction with such a motion.

(2) A motion for repeal of a measure of general nature or any part thereof, issued by a local or regional municipality, may also be filed by the Ministry of Interior.

(3) A motion for repeal of a measure of general nature or any part thereof, issued by a regional municipality, may also be filed by a local municipality.

(4) The defendant is the person who issued the measure of general nature the repeal of which, or any part thereof, is required.

Section 101b

Participation of other persons in the proceedings (Section 34) is excluded.

Section 101c

The appropriate venue for the proceedings to repeal a measure of general nature is the Supreme Administrative Court.

Section 101d

The Judgment and the Effect Thereof

(1) In making its decision, the Court considers the compliance of the measure of general nature with law and also considers whether the person who issued it proceeded within the range of his powers and competence and whether the measure of general nature was issued in the manner prescribed by law. The legal reasons for the motion are not binding on the Court.

(2) If the Court arrives at the conclusion that the measure of general nature or its parts are in contradiction with law, or that the person who issued it

surpassed the limits of his powers and competence, or that the measure of general nature was not issued in the manner prescribed by law, it repeals the measure of general nature or a part thereof as at the date which it specifies in the judgement. If the motion is ill-grounded, the Court rejects it. The Court shall make its decision on the motion to repeal the measure of general nature or its part within thirty days after the date on which the motion reached the Court.

(3) If a decision on an administrative offence was made on the basis of a measure of general nature that was repealed or on the basis of a part of a measure of general nature that was repealed, and the decision has become final but has not yet been executed, the repeal of such a measure of general nature or a part thereof provides grounds for resumption of the proceedings in accordance with the provisions of the applicable procedural rules.

(4) The rights and duties resulting from the legal relations that arose before the repeal of the measure of general nature shall remain unaffected.

(5) None of the participants of the proceedings is entitled to reimbursement for the costs of the proceedings.“

PART TWENTY-TWO

Amendment to the Act on the Protection of Economic Competition

Section 172

Act No. 143/2001 on the protection of economic competition, as amended under Act No. 340/2004 and Act No. 484/2004, shall be amended as follows:

1. In Section 1, add Subsection 9, which, including Footnote No. 4a), shall read as follows:

“(9) Nor does this Act apply to the competitors’ conduct amounting to a breach of an obligation set out by the Electronic Communications Act^{4a)} or a decision on the basis thereof.

^{4a)} Act No. 127/2005 on electronic communications and on amendment of other acts (Electronic Communications Act).”.

2. In Section 11, after Subsection 1, insert a new Subsection 2, which, including the footnote No. 5a, shall read as follows:

“(2) The provisions of Subsection 1 Clause f) shall not apply to the conduct of competitors who carry out communications activities^{5a)} in accordance with the Electronic Communications Act.

^{5a)} Section 6 of Act No. 127/2005 on electronic communications and on amendment of other acts (Electronic Communications Act).”.

PART TWENTY-THREE

Amendment to the Act on Salary and Other Essentials Related to the Positions of Representatives of State Power, Members of Certain State Authorities, and Judges

Section 173

In Act No. 236/1995 on Salary and Other Essentials Related to the Positions of Representatives of State Power, Members of Certain State Authorities, and Judges, as amended under Act No. 138/1996, Act No. 287/1997, Act No. 155/2000, Act No. 231/2001, Act No. 309/2002, Act No. 420/2002, Act No. 425/2002, Act No. 362/2003, Act No. 427/2003, Act No. 49/2004, and Act No. 359/2004, after Title Six, insert Title Seven, which shall read as follows:

“TITLE SEVEN

Essentials Pertaining to Member of the Council and Chairman of the Council of the Czech Telecommunications Office

Salary

Section 27a

Members of the Council of the Czech Telecommunications Office are entitled to a salary derived as the salary base using the 1.424 coefficient.

Section 27b

Chairman of the Council of the Czech Telecommunications Office is entitled to a salary derived as the salary base using the 1.932 coefficient.”.

PART TWENTY-FOUR

Amendment to Act No. 427/2003

Section 174

In Section 1 of Act No. 427/2003, laying down for the years 2004, 2005 and 2006 an extraordinary measure for determination of the levels of salaries and certain cost reimbursements for persons holding of the positions of representatives of state power and certain state authorities, and judges and public prosecutors, and the level of additional salary for those persons for the first half of the year 2004, and amending certain related acts, as amended under Act No. 359/2004, after Clause f) insert clause g), which shall read as follows:

“g) Member and Chairman of the Council of the Czech Telecommunications Office,”.

Re-number the existing Clauses g) to n) as h) to o).

PART TWENTY-FIVE

Amendment to Act No. 483/1991 on Czech Television, as Subsequently Amended

Section 175

Act No. 483/1991 on Czech Television, as amended under Act No. 36/1993, Act No. 253/1994, Act No. 301/1995, Act No. 39/2001 and Act No. 231/2001, shall be amended as follows:

1. In Section 2 Subsection 1, after the word “programmes”, insert the words “, and/or other multimedia content and supplemental services”.

2. In Section 3 Subsection 1 Clause a), after the word “operate”, insert the word “analogue”; cancel the word “nation-wide”; and, at the end of the text of Clause a), add the words “so that the combination of the terrestrial analogue and terrestrial digital broadcasting gives the population of the Czech Republic the possibility to receive such television programmes to the extent specified in Subsection 3”.

3. In Section 3 Subsection 1, after Clause a), insert new Clauses b) and c), which, including footnote No. 1a, shall read as follows:

- “b) operate terrestrial digital television broadcasting of the television programmes referred to in Clause a) and at least another two television programmes included in the total data stream consisting of partial data streams pertaining to television and audio programmes, multimedia content and supplemental services provided under public service in the broadcasting area, adapted for joint dissemination over the terrestrial network of radio transmission facilities with a planned coverage of at least 95% of the population of the Czech Republic, calculated on the basis of the last census^{1a)} (hereinafter referred to as the “public service multiplex”);
- c) as public service multiplex operator, it shall, jointly with the Czech Radio, prepare the total data stream and bear responsibility for the management thereof and for the delivery thereof for dissemination via the terrestrial network of radio transmission facilities;

^{1a)} Section 12 Subsection 2 of Act No. 89/1995 on State Statistical Service, as subsequently amended.”

Renumber the existing Clauses b) to j) as d) to l).

4. In Section 3: Subsection 2, including Footnote No. 1b, shall read as follows:

“(2) The administrative body responsible for the administration of the frequency spectrum on the basis of a special legal regulation^{1b)} shall, in co-operation with the Broadcasting Council, reserve radio frequencies for Czech Television, allowing for broadcasting operation to the extent specified in Subsection 1 Clauses a) and b).

^{1b)} Act No. 127/2005 on electronic communications and on amendment to certain related acts (Electronic Communications Act).”

5. In Section 3: Subsection 3 shall read as follows:

“(3) For the purposes hereof, nation-wide broadcasting shall mean broadcasting within which a certain television programme, and the mandatory supplemental services related to it, can be received by at least 95% of the population of

the Czech Republic, calculated on the basis of the last census^{1a)}.”

6. After Section 3, insert a new Section 3a, which, including Footnote No. 1c, shall read as follows:

“Section 3a

(1) In the public service multiplex, at least 80% of the total data stream shall be reserved for the dissemination of television and audio programmes. The remaining part of the total data stream of the public service multiplex can be used for the dissemination of supplemental services.

(2) Czech Television shall locate in the public service multiplex the broadcasting of Czech Radio to the extent to which Czech Radio provides public service in the area of terrestrial digital radio broadcasting in accordance with a special legal regulation^{1c)}. Czech Television shall charge Czech Radio and/or the providers of supplemental services for the costs related to the operation of the public service multiplex, depending on their shares of the total public service multiplex data stream.

(3) The television programmes that are disseminated through the public service multiplex may also be digitally disseminated by Czech Television via satellites and cable networks.

^{1c)} Section 3 Subsection 1 Clause b) of Act No. 484/1991 on Czech Radio, as amended.”

Renumber the existing Footnote No. 1c as Footnote No. 1d, including all references to the footnote.

Section 176

Transition of Provisions

(1) Digital broadcasting of the television programmes referred to in Section 3 Subsection 1 Clause a) of Act No. 483/1991 on Czech Television shall be commenced by Czech Television within 60 days from the date of signature of a contract on the public service multiplex dissemination with the undertaking that provides the electronic communications network. Digital broadcasting of at least another two television programme shall be commenced by Czech Television step by step, depending on how Czech Television is prepared in economic, organisational and technical terms.

(2) The conditions for the dissemination of programmes and/or supplemental services of Czech Radio through the public service multiplex shall be agreed between Czech Television and Czech Radio in a contract. Director General of Czech Television shall submit the draft contract, agreed by both parties, to the Czech Television Council for information at least 30 days before the agreed day of commencement of the terrestrial digital radio broadcasting of Czech Radio.

PART TWENTY-SIX

Amendment to Act No. 484/1991 on Czech Radio, as Subsequently Amended

Section 177

Act No. 484/1991 on Czech Radio, as amended under Act No. 36/1993, Act No. 253/1994, Act No. 301/1995, Act No. 135/1997 and Act No. 192/2002, shall be amended as follows:

1. In Section 2 Subsection 1, after the word “programmes”, insert the words “, and/or other multimedia content and supplemental services”.

2. In Section 3 Subsection 1 Clause a), after the word “operate”, insert the word “analogue”.

3. In Section 3 Subsection 1, after Clause a), insert new Clauses b) and c), which, including footnote No. 1a, shall read as follows:

“b) operate terrestrial digital audio broadcasting by the dissemination of the 3 nationwide radio programmes referred to in Clause a) via the public service multiplex^{1a)}; in addition to these radio programmes, Czech Radio is entitled to disseminate via the public service multiplex other radio programmes and other multimedia content and supplemental services; the radio programmes, further multimedia content and supplemental services that are disseminated through the public service multiplex may also be digitally disseminated by Czech Radio via satellites and cable networks;

c) operate terrestrial digital audio broadcasting so as to ensure that public service tasks in the radio broadcasting area are fulfilled in a manner corresponding to the state of development of broadcasting technologies and services. It shall use for this purpose, in particular, the parts of the frequency spectrum that enable covering the territory of the Czech

Republic with radio programmes and other content within the band that is reserved, in the national frequency table, for digital radio broadcasting including, but not limited to, television band III;

^{1a)} Section 3 Subsection 1 Clause b) of Act No. 483/1991 on Czech Television, as subsequently amended.”.

Renumber the existing Clauses b) to f) as Clauses d) to h) and renumber the existing Footnotes No. 1a to 1c as Footnotes 1b to 1d, including references to the footnotes.

4. In Section 3, Subsection 3, the first sentence, after the word “operation”, insert the word “analogue”.

5. Footnote No. 1b shall read as follows:

^{1b)} Act No. 127/2005 on electronic communications and on amendment to certain related acts (Electronic Communications Act).”.

6. In Section 3 Subsection 4, before the words “the programme” insert the words “for the purposes hereof”, and replace the number “70” by the number “95”.

Section 178

Transition Provisions

(1) Digital broadcasting of the radio programmes referred to in Section 3 Subsection 1 Clause b) of Act No. 484/1991 on Czech Radio, as amended and as effective upon the entry into effect of this Act, shall be commenced by Czech Radio step by step, depending on how Czech Radio is prepared in economic, organisational and technical terms.

(2) The conditions for the dissemination of its programmes and/or other multimedia content and supplemental services through the public service multiplex shall be agreed between Czech Radio and Czech Television in a contract. Director General of Czech Radio shall submit the draft contract, agreed by both parties, to the Czech Radio Council for information at least 30 days before the agreed day of commencement of the terrestrial digital audio broadcasting of Czech Radio.

PART TWENTY-SEVEN

EFFECT

Section 179

This Act shall enter into effect on the first day of the second month following its promulgation.

Zaorálek

Klaus

Gross

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