

**File number:** K/230-65/2023

**Subject:** Establishing the results of the auction procedure for 'Entitlement to the radio spectrum use of the 32 GHz frequency band'

Attachment: Auction documentation

Electronic document

Date: 23 May 2023

## DECISION

The **results** of the auction procedure launched ex officio under no. K/230/2023 on 10 May 2023 for entitlement to the radio spectrum use of the 32 GHz radio frequency band (hereinafter: the '**Auction**' or '**Auction Procedure**') are announced by the Office of the National Media and Infocommunications Authority (hereinafter: the '**Office**' or the '**Auctioneer**') as follows:

### 1. Successful applicants and the radio spectrum rights obtained

1.1. The successful applicants are as follows:

1.1.1. **Vodafone Magyarország zrt.** (registered address: 1112 Budapest, Boldizsár u 2., company registration number: 01-10-044159, hereinafter: '**Vodafone**') has acquired the right to 10 (ten) lots of 2x28 MHz each, i.e. **user blocks** established by the Auctioneer in the **31.871-32.151/32.683-32.963 GHz** frequency range, in total: 560 MHz;

1.1.2. **Magyar Telekom Nyrt.** (registered address: 1097 Budapest, Könyves Kálmán krt. 36.; company registration number: 01-10-041928; hereinafter: '**Telekom**') has acquired the right to 6 (six) lots of 2x28 MHz each, i.e. **user blocks** established by the Auctioneer in the **32.375-32.543/33.187-33.355 GHz** frequency range, in total: 336 MHz;

1.1.3. **CETIN Hungary Zrt.** (registered address: 2045 Törökbálint, Pannon út 1.; company registration number: 13-10-042052, hereinafter: '**CETIN**') has acquired the right to 2 (two) lots of 2x28 MHz each, i.e. **user blocks** established by the Auctioneer in the **32.151-32.207/32.963-33.019 GHz** frequency range, on total: 112 MHz.

1.2. Having obtained the entitlement, Vodafone, Telekom and CETIN (in the operative part of the Decision hereinafter as: '**Winner(s)**'), as holders of the radio spectrum use entitlements for the user blocks specified in Sections 1.1.1–1.1.3, shall have exclusive right, after the time limit specified in Section 2.1, to initiate a procedure for the issue of the framework licence required in order to use the awarded user blocks.

### 2. Duration of the entitlements to radio spectrum use

2.1. The first day of the term of the entitlement to radio spectrum use shall be the day this Decision becomes definitive.

2.2. The duration of the radio spectrum use entitlements for the user blocks under Section 1.1 shall be 15 (fifteen) years from the date specified in Section 2.1.

### 3. The extension, renewal and termination of the entitlements to radio spectrum use

- 3.1. The term of entitlement to radio spectrum use for the user blocks specified in Section 1.1, as specified in Section 2.2, may be extended on a single occasion by a period of 5 (five) years without a tender procedure by a procedure according to the rules set out in Section 34/C of NMHH Decree 7/2012 (I. 26.) on certain official procedures of civil spectrum management, provided that the conditions specified therein are met.
- 3.2. Subject to Section 9(2) of NMHH Decree 7/2015 (XI.13.) on the national frequency allocation and the rules of using frequency bands (hereinafter as: **NFFF**), renewal is not ruled out in the case of the 32 GHz frequency band.
- 3.3. Upon the request of the holder of the entitlement of radio spectrum use, the Auctioneer shall withdraw the entitlement and right of radio spectrum use. If, as a result of the Auction Procedure, the obtained radio spectrum use entitlement is withdrawn upon the request of the holder of the radio spectrum use entitlement, the amount paid for the radio spectrum use entitlement (including the full auction fee) shall not be reimbursed.

#### **4. Conditions for the secondary trading of entitlements of radio spectrum use**

The entitlement to radio spectrum use or right of use acquired at the auction procedure may be partially or entirely transferred or leased; this transfer or lease of frequencies may occur in units of base blocks in accordance with the provisions of the NFFF and NMHH Decree 7/2013 (IX. 19.) on the secondary trading of radio frequencies ('**Rmkr.**').

#### **5. The full auction fee and payment of the fee**

5.1. The full auction fee shall be payable by the Winners as follows:

5.1.1. **Vodafone** shall pay **HUF 567,000,176 (Five Hundred Sixty-Seven Million One Hundred Seventy-Six Forints)**,

5.1.2. **Telekom** shall pay **HUF 303,004,922 Ft (Three Hundred Three Million Four Thousand Nine Hundred Twenty-Two Forints)**,

5.1.3. **CETIN** shall pay **HUF 100,002,006 Ft (One Hundred Million Two Thousand Six Forints)**,

as the total auction fee within 30 (thirty) days from the announcement of this Decision by wire transfer to the Concession Fees account number 10032000-01031582 managed by the Hungarian State Treasury. The words '32 GHz full auction fee' are to be included in the Comments field of the transfer.

5.2. The full auction fee is exempt from the payment of value-added tax.

5.3. In the event of late payment of the full auction fee, the Auctioneer is entitled to charge a late payment penalty as per Act CL of 2016 on the Code of General Administrative Procedure ('**GPAP Act**') and, following a one-off demand for payment and the expiration of the payment deadline specified in the demand for payment, to satisfy its claim from the performance guarantee provided pursuant to Section (138) of the Auction Procedure documentation (hereinafter: **Documentation**).

5.4. The Auctioneer may call up the full amount of the performance guarantees provided by the Winner or up to the amount of the outstanding fee if the Winner fails to comply with its obligation to pay the full auction fee under Section 5.1, or any part thereof, subsequent to the demand for payment under Section 5.3.

5.5. Once the full auction fee has been paid, the Auctioneer shall release the performance guarantee provided under the auction procedure in accordance with paragraphs (148) to (151) of the Documentation.

## 6. Band fee

### 6.1. Preferential band fee for a period of 4 (four) years subsequent to obtaining the entitlement to radio spectrum use

In return for the use of the user blocks under Section 1.1, the Winners shall pay a frequency fee during the term of the radio spectrum use entitlement. The start date of band fee liability shall be the earliest starting date of the term of the framework licence, i.e. the day following the day on which the full auction fee is credited to the bank account set out in Section 5. For a period of four (4) years after the day of obtaining the radio spectrum use entitlement, the Winners shall pay a band fee as follows:

- 6.1.1. Vodafone shall pay a monthly net amount of **HUF 3,094,000 (Three Million Ninety-Four Thousand Forints)**,
- 6.1.2. Telekom shall pay a monthly net amount of **HUF 1,856,400 (One Million Eight Hundred Fifty-Six Thousand Four Hundred Forints)**,
- 6.1.3. CETIN shall pay a monthly net amount of **HUF 618,800 (Six Hundred Eighteen Thousand Eight Hundred Forints)**.

### 6.2. The band fee after expiry of the four-year period following the obtaining of the radio spectrum use entitlement

After the expiry of the 4th (fourth) year following the date of obtaining the radio spectrum use entitlement, the Winners shall pay, until the expiry of the term of the radio spectrum use entitlement, for the user blocks under Section 1.1, a band fee as follows:

- 6.2.1. Vodafone shall pay a monthly net amount of **HUF 6,188,000 (Six Million One Hundred Eighty-Eight Thousand Forints)**,
- 6.2.2. Telekom shall pay a monthly net amount of **HUF 3,712,800 (Three Million Seven Hundred Twelve Thousand Eight Hundred Forints)**,
- 6.2.3. CETIN shall pay a monthly net amount of **HUF 1,237,600 (One Million Two Hundred Thirty-Seven Thousand Six Hundred Forints)**.

- 6.3. For the purposes of the band fee payment liability, each inchoate month shall be considered as a full month. The payor shall pay the full monthly fee for each month during which any band fee liability arose or existed due to the right holder's radio spectrum use entitlement.
- 6.4. The band fee shall be paid each month, upon the invoice issued by the Auctioneer, via bank transfer to the National Media and Infocommunications Authority's bank account held with the Hungarian State Treasury under account no. 10032000-00300939-00000017.
- 6.5. In the event that the switch from the preferential band fee occurs mid-month, in its invoice payable during the month of the switch, the Auctioneer shall specify the preferential and non-preferential parts of the fee on a pro rata basis.

## 7. Detailed conditions for the use of the radio spectrum

- 7.1. With regard to the user blocks defined in Section 1.1, the design, installation and radio spectrum use conditions of radio systems are set out in the Documentation, in the specifications under Sections 7.2–7.5 and the NFFF.
- 7.2. The entitlement holders shall only install and operate fixed service FDD point-to-point applications on the basis of the framework licence.
- 7.3. In order to prevent potential interference between surface movement radars that can be primarily designated by the radio navigation service jointly using the 31.8-33.4 GHz frequency

band and stations of the 32 GHz point-to-point systems, radars of such nature must be taken into account in the design of fixed service stations to be deployed in the vicinity of airfields. The Authority shall notify the entitlement holder if it is informed of the deployment of such station on the basis of the regulation.

- 7.4. While the international coordination of stations is not obligatory, in instances in which the holder of the radio spectrum use entitlement intends to provide protection against stations of a neighbouring country, individual coordination is recommended. The coordination distance recommended by the HCM Agreement for the 32 GHz frequency band is 30 km.
- 7.5. Agreements concluded or amended after the auction procedure may supplement or override previous agreements. The Auctioneer shall involve the holders of the radio spectrum use entitlements concerned in the preparation of the amendments.

## 8. Miscellaneous provisions

Throughout the full term of their entitlement, holders of radio spectrum use entitlements shall

- 8.1. comply with the provisions on preparation for special law, coordinated defence operations and unexpected attacks, economic and financial contribution and cooperation with government organisations for the interests of national defence as set out in Act C of 2003 on electronic communications (**'Electronic Communications Act'**) and in other legislation, as well as in Act XCIII of 2021 on the coordination of defence and security operations and its implementing decrees. The use of certain frequency bands may be restricted during qualified periods;
- 8.2. cooperate for the purposes of gathering confidential information as per the Electronic Communications Act and other legislation;
- 8.3. make available to the Auctioneer the data specified in the relevant legislation and required for the performance of activities relegated to the Auctioneer's competence in the manner and under the conditions specified by law, even where such information qualifies as confidential business information;
- 8.4. comply with the conditions and provisions set out in the Documentation relating to obtaining the radio spectrum use entitlement and the rights and obligations associated with the radio spectrum use entitlement, including conditions not specified in this Decision, and with the rules for electronic communications.

No appeal lies against this Decision, which becomes final upon publication. Administrative action may be brought against the Decision; an application addressed to the Budapest-Capital Regional Court must be lodged with the Authority (1015 Budapest, Ostrom u. 23-25.) within fifteen days of the communication of the Decision.

In the application, the plaintiff may request that a hearing be held.

The application must be put forward by the plaintiff and legal representative under Section 9(1) of Act CCXXII of 2015 on the General Rules on Electronic Administration and Trust Services (**'e-Administration Act'**) by electronic means only, in the manner as specified in the law.

The submission of the appeal shall not have a suspensory effect on the implementation of the Decision.

The Winners have paid the charge for participating in the Auction and no additional procedural expenses were incurred during the Auction Procedure.

## FOUNDATIONS

### Competence rules

Pursuant to Article 114(2) of Act CLXXXV of 2010 on Media Services and Mass Media, the Authority exercises, according to Article 10(2) of the Electronic Communications Act, within the scope of authority defined under Article 10(1)(10), state ownership rights over radio frequencies and identifiers in line with Government policy, manages radio frequencies and identifiers, makes decisions on the announcement of auctions and tenders for obtaining entitlement to radio spectrum use, conducts the auctions and tenders for obtaining radio spectrum use entitlement and implements the European Union acts on spectrum management, addressed to the frequency management authority.

On the basis of Section 3(1) of NMHH Decree 4/2011 (X. 6.) on the rules of auction or tender for obtaining entitlement to frequency use ('**Ápszr**'), the procedure related to obtaining civil radio spectrum use entitlement through a tender is an administrative affair and an administrative procedure, which fall within the administrative competence of the Authority. The procedure is subject to the applicable provisions of the Electronic Communications Act and the GPAP Act.

Pursuant to Section 3(3) of the **Ápszr**, the detailed rules for the tender procedures are laid down in the auction documentation drawn up by the Authority in each individual administrative case within the context of the legislation specified above.

### Background – publication of the Auction

Subject to the rules for negotiating with the stakeholders under Section 40/A of the Electronic Communications Act, on 8 November 2022, the Authority published on its website a call for a consultation ('**Consultation**') on the draft documentation of the auction procedure for the entitlement to radio spectrum use of the 32 GHz frequency band; concurrently, it published the draft documentation referred to in the call, as demonstrated by notarial records no. 11023/K/1433/2022/2.

The Consultation took place on 22 November 2022. The stakeholders were allowed by the Authority to participate in person or through online connection. At the Consultation, observations were voiced concerning the payment of the band fee and Consultation participants raised questions on how the frequency ranges remaining after the sale, if any, will be handled and on the establishment of protective bands. A written question concerned the coordination that may be required between service providers at the edges of user blocks without protective bands.

The questions received or raised at the Consultation and the relevant replies were published by the Authority on its website on 1 December 2022, as borne out by notarial records no. 11023/K/1552/2022/2.

On 10 February 2023, the Authority published on its website the notice and the Documentation, as borne out by notarial records no. 11023/K/992/2023/2. With the publication of the notice, the auction procedure for the radio spectrum use entitlement of the 32 GHz frequency band commenced ex officio on the basis of Section 5(4) of the **Ápszr**.

In view of the principles of an objective, transparent and non-discriminative procedure, the Authority amended the Documentation with effect from 27 February 2023; the publication of said amendment on the website is demonstrated by notarial records no. 11023/K/165/2023/2.

### Background – the submission and opening of applications

The applications were submitted at the time specified in advance in the Documentation, by electronic means as specified, on 13 March 2023; applications were submitted in a chronological order, by Tele-

kom, CETIN and Vodafone (hereinafter collectively referred to: prior to registration in the auction register, as the **Applicants** and subsequently, until they were declared as winners of the entitlement, as the **Participants**).

The submission of Telekom's application is attested by notarial records no. 11023/K/220/2023/2, the submission of CETIN's application is attested by notarial records no. 11023/K/221/2023/2, whereas the submission of Vodafone's application is attested by notarial records no. 11023/K/222/2023/2. The applications to participate, submitted as part of the applications, were opened by the Authority in the presence of a public notary on 14 March 2023, as specified in paragraph (187) of the Documentation. The opening of Telekom's application is attested by notarial records no. 11023/K/224/2023/2, the opening of CETIN's application is attested by notarial records no. 11023/K/225/2023/2, whereas the opening of Vodafone's application is attested by notarial records no. 11023/K/226/2023/2.

On 14 March 2023, the Authority forwarded the records to the applicants, to Telekom, in letter no. K/230-19/2023, to CETIN, in letter no. K/230-20/2023, and to Vodafone, in letter no. K/230-21/2023.

### **Background – registration in the participants' register**

Within fifteen days of the expiry of the deadline for applications, on the basis of paragraph (193) of the Documentation, the Authority reviewed the applications, verifying whether they complied with the personal (participation) requirements under Section 9 of the Ápszr and point 2.10 of the Documentation and the formal requirements of eligibility under point 3.11 of the Documentation.

Based on the review, the Authority called upon Vodafone to provide missing information in its order of 27 November 2023, no. K/230-29/2023.

Said information was sent by Vodafone to the Authority within the specified time-limit.

Based on its scrutiny, the Authority established that the applications by Telekom, CETIN and, in view of the subsequent information provided, Vodafone satisfied the eligibility conditions set out in the Documentation.

On 3 April 2023, on the basis of paragraph (196) of the Documentation, the Authority registered the Applicants in the auction register under number K/230-31/2023, notifying Telekom thereof by letter no. K/230-32/2023, CETIN by letter no. K/230-33/2023 and Vodafone by letter no. K/230-34/2023 on 3 April 2023 subject to paragraph (197) of the Documentation. The list of participants registered in the auction register was published by the Authority on its website on 3 April 2023 pursuant to paragraph (197) of the Documentation.

Pursuant to paragraph (198) of the Documentation, in its order no. K/230-35/2023, the Authority called upon Telekom, in its order no. K/230-36/2023, it called upon CETIN and in its order no. K/230-37/2023, it called upon Vodafone to submit a declaration stating whether it is in the same group of companies as any other participants registered in the auction register.

Telekom submitted its declaration on 5 April 2023, which was filed by the Authority under no. K/230-43/2023. CETIN submitted its declaration on 5 April 2023, which was filed by the Authority under no. K/230-44/2023. Vodafone submitted its declaration on 5 April 2023, which was filed by the Auctioneer under no. K/430-39/2023. On the basis of the declarations, none of the participants is in the same group of companies as the other participants.

### **The opening and assessment of bids**

The bids forming part of the Applications were, subject to paragraph (201) of the documentation, opened on 11 April 2023 in line with the protocol set out in paragraph (202) of the Documentation, in the presence of a notary public, as attested in the case of Telekom by the notarial records no. 11023/K/292/2023/2, in the case of CETIN by the notarial records no. 11023/K/293/2023/2, and for Vodafone by the notarial records no. 11023/K/291/2023/2. The records on the opening of the relevant bid

were dispatched by the Auctioneer on 12 April 2023 pursuant to paragraph (209) of the Documentation to Telekom in notification no. K/230-45/2023, to CETIN in notification no. K/230-46/2023 and to Vodafone in notification no. K/230-47/2023.

Once the bids were opened, it was ascertained that Telekom had submitted a bid for 6 (six) lots, CETIN had submitted a bid for 2 (two) lots, while Vodafone had submitted a bid for 6 (six) lots.

Pursuant to Chapters 4.6 and 4.7 of the Documentation, the Authority assessed the bids submitted by the Participants. The assessment included the formal and substantive validity of the Bid Form and, in terms of the performance guarantees submitted as part of the bids, an examination of whether they comply with the requirements set out in the Documentation and in the Ápszr.

On the basis of the assessments, the Authority found that all bids submitted by Telekom and CETIN are valid on the basis of Chapter 4.9 of the Documentation, that the number of valid bids reached the acquisition threshold referenced in subparagraph (50.1) of the Documentation and that the bids submitted by Telekom and CETIN met the formal and substantive validity conditions specified in the Documentation. The assessment of Vodafone's bid found that all bids submitted by Vodafone are valid on the basis of Chapter 4.9 of the Documentation, and that the number of valid bids reached the minimum acquisition limit referred to in subparagraph (50.1) of the Documentation. Following a formal and substantive assessment of Vodafone's bid, the Authority called on Vodafone to submit missing information in its order no. K/230-52/2023 of 13 April 2023. Vodafone complied with said request in due time. The Authority then ascertained that the bids of all three Participants were valid.

Subsequently, the Authority assessed the valid bids as specified in Chapter 4.10 of the Documentation.

In view of the facts that, following the assessment in accordance with paragraphs (229) to (257) of the Documentation, some participants obtained six lots as a result of the assessment (Telekom and Vodafone), and that more than 1 (one) lot remained of the available 24 (twenty-four) lots after the assessment of valid bids submitted as part of the Application, pursuant to paragraphs (258) to (260) of the Documentation, subject to the acquisition limit under paragraph (51) of the Documentation, 8 (eight) lots of the remaining 10 (ten) lots could be sold in round 2 of the Auction Procedure. Therefore, on the basis of paragraph (261) of the Documentation, on 18 April 2023, the Authority called on Vodafone in order no. K/230-54/2023 and Telekom in order no. K/230-55/2023 to submit bids in round 2 of the Auction Procedure, informing them of the time and manner of submitting a bid. On 19 April, in its order no. K/230-56/2023, the Authority notified Vodafone, and in order no. K/230-57/2023, it notified Telekom of the time of the opening of their bids submitted in round 2 of the Auction Procedure, if any, and of the manner of dispatching the password required for the opening.

In round 2 of the Auction Procedure, a bid was submitted by one of the 2 (two) participants called upon to submit a bid, i.e. Vodafone. Its offer was submitted and opened on 25 April 2023. In round 2 of the Auction Procedure, Vodafone submitted a bid for 4 (four) lots. The bid was submitted and opened, subject to paragraphs (263) and (265) of the Documentation and on the basis of paragraphs (180) and (203) of the Documentation, in the presence of a notary public. The submission is attested by notarial records no. 11023/K/339/2023/2, whereas the opening is attested by the notarial records no. 11023/K/340/2023/2. The records were sent by the Authority to Vodafone on 27 April 2023, in notification no. K/230-58/2023.

The assessment of Vodafone's bid found that all bids submitted by Vodafone are valid on the basis of Chapter 4.9 of the Documentation and that the bid complied with the formal and substantive validity conditions of the Documentation and the acquisition limits set out in the Documentation.

### **Ascertaining the quantitative results of the Auction Procedure**

Of the available 24 (twenty-four) lots, as a result of the assessment of the bids submitted as part of the application and of the bid submitted in round 2 of the Auction Procedure, Telekom obtained 6 (six) lots, CETIN obtained 2 (two) lots, while Vodafone obtained 10 (ten) lots, i.e. Telekom obtained 6x2x28 MHz

frequency, CETIN obtained 2x2x28 MHz frequency, and Vodafone obtained 10x2x28 MHz frequency (quantitative results).

### **The design of user blocks and ascertaining the Winners**

On the basis of paragraph (277) of the Documentation, the user blocks are to be established by the Auctioneer once the quantitative results have been ascertained in accordance with paragraph (233). The Auctioneer shall merge the base blocks awarded into a single theoretical user block for each participant, and subsequently shall perform the placement of the theoretical user blocks in the 32 GHz frequency band as set out in Chapter 5.1 of the Documentation.

On the basis of the quantitative results, the size of the theoretical user blocks are as follows:

Vodafone a theoretical user block consisting of 10 (ten) lots, i.e. 10x2x28 MHz, a total of 560 MHz,

Telekom a theoretical user block consisting of 6 (six) lots, i.e. 6x2x28 MHz, a total of 336 MHz,

CETIN a theoretical user block consisting of 2 (two) lots, i.e. 2x2x28 MHz, a total of 112 MHz.

During the placement of the theoretical user blocks in the 32 GHz frequency band, the Auctioneer applied the rules set out in paragraphs (278) to (287) of the Documentation.

The Auctioneer aligned the theoretical user blocks as per the rules of the Documentation referred to above, first taking into account the size of the theoretical user blocks. In view of the fact that no two theoretical user blocks were of the same size, no further criteria had to be taken into account for determining the order of the theoretical user blocks. Starting from the largest theoretical user block to the smallest theoretical user block, the following order was established:

1.	Vodafone	a theoretical user block consisting of 10 (ten) lots
2.	Telekom	a theoretical user block consisting of 6 (six) lots
3.	CETIN	a theoretical user block consisting of 2 (two) lots

On the basis of their sequence, starting from the lower band boundary and moving upward in frequency, the result in terms of the placement of the frequency blocks was that the base block 12 under the NFFF (32.179-32.207/32.991-33.019 GHz) would be placed within (but not at the edge of) Telekom's user block, which means that, on the basis of paragraph (285) of the Documentation, placement was not based on sequence.

In view of the fact that, on the basis of paragraphs (281) to (285) of the Documentation, no single possible manner of designing the user blocks could be determined with regard to the fact that several lawful designs of the user blocks were possible, on the basis of paragraph (286) of the Documentation, the Auctioneer drew up 4 (four) alternative plans for determining the user blocks.

Pursuant to paragraph (287) of the Documentation, the Auctioneer sent the plans to all concerned participants on 9 May 2023, to Vodafone in order no. K/230-59/2023, to Telekom in order no. K/230-60/2023, and to CETIN in order no. K/230-61/2023. In the notifications, it called on the participants to specify the most suitable design for the user blocks in a declaration by designating a time limit of 12 May 2023.

On 11 May 2023, CETIN and Vodafone stated in their responses filed under no. K/230-62/2023 and no. K/230-63/2023 that they considered the design specified in detail under the subheading 'Plan 1' as the most suitable user block design. In its response received on 15 May 2023 and filed under no. K/230-64/2023, Telekom also specified the design as per the subheading 'Plan 1'.



As all concerned participants had opted for the design as per the subheading 'Plan 1', acting on the basis of paragraph (287) of the Documentation, the Auctioneer designed the user blocks according to the design specified in Section 1.1 of the operative part.

**Following the above, the Auctioneer ascertained that all three participants had, since the submission of their applications, continued to comply with the conditions set out in the Ápszr and the Documentation and that the Auction Procedure had been successful.**

**In view of the above, in Section 1.1 of the operative part of this Decision, the Auctioneer declared that the bids of Vodafone, Telekom and CETIN had been successful in the Auction Procedure and the user blocks awarded to the Winners.**

The procedure for the issue of the framework licence required for the use of the user blocks can be initiated on the basis of Section 22(1) of the Ápszr and paragraph (294) of the Documentation. Pursuant to Section 22(1) of the Ápszr, the party awarded the contract has an exclusive right to initiate a procedure for the issue of the individual licences required for the use of the radio spectrum concerned on the basis of the right to use the radio spectrum obtained by it, as per the Auction Documentation. Pursuant to paragraph (294) of the Documentation, by obtaining their entitlement of radio spectrum use, the winning participant obtains exclusive rights to initiate a framework licencing procedure for the use of the radio spectrum obtained.

#### **Duration of the entitlements to radio spectrum use**

The first day of the term of the entitlement to radio spectrum use is, pursuant to paragraph (53) of the Documentation and Section 22(2) of the Ápszr, the day the exclusive entitlement is obtained.

The 15 (fifteen) year term of the entitlement is based on Section 55(9b) of the Electronic Communications Act and paragraph (53) of the Documentation.

The provisions under Section 2 of the operative part were set out in view of the above.

Insofar as the entitlement to radio spectrum use under this Decision cannot be actually exercised on account of an administrative decision affecting the implementation of this Decision or a measure ordered by a court in accordance with Act I of 2017 on the Code of Administrative Court Procedure ('ACP Act'), pursuant to paragraph (53) of the Documentation, the concerned period shall be added to the term of the entitlement to radio spectrum use for the frequency band awarded.

#### **Extension, renewal and suspension of the entitlements to radio spectrum use**

The provisions of Sections 3.1 and 3.2 of the operative part have been drawn up on the basis of the provisions on the extension and renewal of the entitlement to radio spectrum use under paragraphs (54) and (55) of the Documentation.

The provisions of Section 3.3 of the operative part have been drawn up on the basis of the provisions on the withdrawal of the entitlement to radio spectrum use upon request under paragraphs (320) and (321) of the Documentation.

#### **Conditions for the secondary trading of entitlements of radio spectrum use**

The procedural rules for transferring the entitlement and right to radio spectrum use obtained are set out in the Secondary Trading Decree. The rules for such transfer are based on paragraph 11 of Section 2.13.4 of Annex 3 to the NFFF and on Section 6.4 of the Documentation.

Section 4 of the operative part has been drawn up on the basis of the afore-mentioned provisions.

### The full auction fee and payment of the fee

Pursuant to Section 2(j) of the Ápszt, the full auction fee shall mean the sum of the final prices of all sets of frequencies obtained by the winner in the auction, plus the applicable value-added tax, if any.

On the basis of Section 4(1)(f) of the Ápszt, the Auction Documentation must specify the amount of the reserved price and conditions for the payment of the full auction fee.

Paragraph (49) of the Documentation specified the reserved price as follows:

The reserved price of 1 (one) lot in the 32 GHz frequency band is HUF 50,000,000 (Fifty Million Hungarian Forints).

In accordance with paragraph (302) of the Documentation, pursuant to Article 7 of Act CXXVII of 2007 on value added tax, the full auction fee due is exempt from VAT due to the public authority activity nature of this auction procedure.

As a valid bid was offered by the Participants in the Auction for a total of 18 (eighteen) lots of the 24 (twenty-four) lots available, the lots were awarded through the bids submitted by them.

The Winners have acquired the lots through their bids as follows:

#### Vodafone:

2x28 MHz lots	successful bid value (HUF)
Lot 1	60,500,022
Lot 2	60,500,020
Lot 3	60,500,018
Lot 4	60,500,016
Lot 5	60,500,014
Lot 6	60,500,010
Lot 7	51,000,022
Lot 8	51,000,020
Lot 9	51,000,018
Lot 10	51,000,016
<b>Total:</b>	<b>567,000,176</b>

Based on the above, the total auction fee payable by Vodafone is **HUF 567,000,176** (Five Hundred Sixty-Seven Million One Hundred Seventy-Six Forints).

**Telekom:**

2x28 MHz lots	successful bid value (HUF)
Lot 1	50,500,374
Lot 2	50,500,782
Lot 3	50,500,814
Lot 4	50,500,982
Lot 5	50,500,984
Lot 6	50,500,986
<b>Total:</b>	<b>303,004,922</b>

Based on the above, the total auction fee payable by Telekom is **HUF 303,004,922 (Three Hundred Three Million Four Thousand Nine Hundred Twenty-Two Forints)**.

**CETIN:**

2x28 MHz lots	successful bid value (HUF)
Lot 1	50,001,002
Lot 2	50,001,004
<b>Total:</b>	<b>100,002,006</b>

Based on the above, the total auction fee payable by CETIN is **HUF 100,002,006 (One Hundred Million Two Thousand Six Forints)**.

The rules for the payment of the full auction fee as set out in the operative part are based on Section 6.1 of the Documentation and Section 17 of the Ápszr.

The provision for the release of the performance guarantee as set out in Section 5.5 is based on sub-heading (145.6) of the Documentation.

Section 5 of the operative part has been drawn up based on the above-listed provisions.

**Band fee**

Pursuant to Section 22(3)(a) of the Ápszr and paragraph (310) of the Documentation, CETIN, Telekom and Vodafone shall pay a frequency fee (band fee) for the use of the radio spectrum from the date under Section 2.1 of the operative part until the expiry of the entitlement to radio spectrum use.

The detailed rules on establishing the amount of the band fee and its terms of payment are set out in the NMHH Decree 1/2011 (III. 31.) on the fees for frequency reservation and use ('**Fee Decree**').

The band fee, which is payable on a monthly basis, pursuant to Section 0 of the operative part has been determined by the Auctioneer on the basis of Section 20(1) to (3) and paragraphs 2 and 3 of Annex 9 of the Fee Decree as the product of the unit fee, the quantity of radio spectrum acquired and the band multiplier for the frequency band in question.

**The preferential band fee determined for the first four years of the entitlement to radio spectrum use as per Section 6.1 of the operative part is 50% of the full band fee pursuant to Section 20(4) of the Fee Decree.**

**The full band fee was determined by the Auctioneer as follows.**

On the basis of the 9th row of the table under paragraph 5 of Annex 9 of the Fee Decree, the band multiplier is as follows:

Frequency band	Band multiplier value
32 GHz	0.0017

The amount of the band fee, payable on a monthly basis, has been determined under the provisions of the Fee Decree as follows:

For its user block in the **31.871-32.151/32.683-32.963 GHz frequency range**, of a total of 560 MHz, Vodafone shall pay the following monthly band fee:

Unit fee (HUF/kHz/month)	Sum of frequency bands kHz	band multiplier	band fee for 1 (one) month [HUF]
6,500 (Six Thousand Five Hundred)	560,000 (Five Hundred Sixty Thousand)	0.0017	$6,500 * 560,000 * 0.0017 = 6,188,000$ (Six Million One Hundred Eighty-Eight Thousand)

For its user block in the **32.375-32.543/33.187-33.355 GHz frequency range**, of a total of 336 MHz, Telekom shall pay the following monthly band fee:

Unit fee (HUF/kHz/month)	Sum of frequency bands kHz	band multiplier	band fee for 1 (one) month [HUF]
6,500 (Six Thousand Five Hundred)	336,000 (Three Hundred Thirty-Six Thousand)	0.0017	$6,500 * 336,000 * 0.0017 = 3,712,800$ (Three Million Seven Hundred Twelve Thousand Eight Hundred)

For its user block in the **32.151-32.207/32.963-33.019 GHz frequency range**, of a total of 112 MHz, CETIN shall pay the following monthly band fee:

Unit fee (HUF/kHz/month)	Sum of frequency bands kHz	band multiplier	band fee for 1 (one) month [HUF]
6,500 (Six Thousand Five Hundred)	112,000 (One Hundred Twelve Thousand)	0.0017	$6,500 * 112,000 * 0.0017 = 1,237,600$ (One Million Two Hundred Thirty-Seven Thousand Six Hundred)

**Based on the above, the preferential band fee is as follows:**

In the first four years of the entitlement to radio spectrum use, Vodafone shall pay a monthly preferential band fee of HUF 3,094,000 (Three Million Ninety-Four Thousand Forints).



The language of the proceedings is Hungarian. The English version is provided for reference only. In the event of any conflict or discrepancy between the Hungarian and English versions, the Hungarian version shall prevail.

In the first four years of the entitlement to radio spectrum use, Telekom shall pay a monthly preferential band fee of HUF 1,856,400 (One Million Eight Hundred Fifty-Six Thousand Four Hundred Forints).

In the first four years of the entitlement to radio spectrum use, CETIN shall pay a monthly preferential band fee of HUF 618,800 (Six Hundred Eighteen Thousand Eight Hundred Forints).

Following the expiry of the preferential period, the holders of the entitlement to radio spectrum use shall pay the full band fee as per paragraph 6.2 of the operative part.

The rules for the payment of the band fee as set out in paragraphs 6.3 and 6.4 of the operative part are based on Section 20/A of the Fee Decree.

The band fees under paragraph 6 of the operative part have been determined in consideration of the foregoing.

### **Detailed conditions for the use of the radio spectrum**

Paragraph 7 of the operative part is based on paragraphs (45) to (48) of the Documentation and Annex 1 thereof.

On the basis of the foregoing, the Authority has adopted a decision as set out in the operative part. Any matters not provided for in this Decision shall be governed by the Documentation, whose provisions shall be binding for holders of the entitlement to radio spectrum use. The definition and interpretation of terms and concepts used in this Decision, the definitions set out in the Documentation or, in the absence of such definition, the applicable provisions of the law shall apply.

In accordance with Section 43(2)(d) of the Electronic Communications Act, Section 21(5) of the Ápszr and paragraph (291) of the Documentation, the Authority shall publish on its website its decision, becoming final through its publication under Section 82(1) of the GPAP Act, subject to the protection of personal data, confidential information protected by the law and protected data.

The information on available remedies is, subject to Section 39(1) of the ACP Act, based on Section 44(7) and (8) of the Electronic Communications Act, Section 114 GPAP Act, Sections 13(3)(aa), 48(1)(l) and 77(2) of the ACP Act and, subject to Section 29(1) of the ACP Act, on Section 608 of Act CXXX of 2016 on the Code of Civil Procedure and Section 9(1) of the e-Administration Act.

The provision excluding the suspensory effect is based on Section 39(6) of the ACP Act.

*This is an electronically signed document.*

*Issued by: Károly Karl, Assistant Director General for and on behalf of Dr. Janka Aranyos, née Börcs, Director General of the Office of the National Media and Infocommunications Authority, in Budapest, at the time as per the electronic signature.*



The language of the proceedings is Hungarian. The English version is provided for reference only. In the event of any conflict or discrepancy between the Hungarian and English versions, the Hungarian version shall prevail.

The Decision is (electronically) dispatched to:

- Vodafone Magyarország Zrt.
- Magyar Telekom Nyrt.
- CETIN Hungary Zrt.