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The first ever spectrum auction in Poland - assumptions, expectations, results¹

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Abstract

So far no general exclusive frequency licenses have been granted in Poland through an auction. In the *Regulatory Strategy until 2015*, President of the Office of Electronic Communications pointed to auction as a method of choosing companies which will be granted frequency licenses from 800 MHz band (so called digital dividend). The auction has been scheduled to take place at the turn of 2013 and 2014, and is considered the biggest event of 2014 on the Polish telecommunications market. The article presents the main assumptions of the first ever spectrum auction in Poland on the basis of materials for auction assumptions' consultations, auction documentation, opinions of entities involved that have been submitted during consultations as well as the position of the President of UKE. The author focuses on threats to execution of the auction itself as well as implementation of its results. The text is preceded by a short description of the Polish telecommunications market, especially in terms frequencies owned by the main players on this market, including their joint ventures and capital connections.

Key words: regulation, spectrum auction, mobile services, LTE

1. INTRODUCTION

So far (May 2014) no general exclusive frequency licenses have been granted in Poland through an auction. Amendment of the Telecommunications Act [1] which came into effect in January 2013 pointed to auctions as one of the possible ways of choosing entrepreneurs who will obtain frequency licenses. Earlier, the only approved methods in this respect have been: a contest (in the case of licenses for digital broadcasting or re-broadcasting of radio or television programs) and a tender (in the remaining cases). Even though the ordinance of the Infrastructure Minister of 2009 [2] allows for the possibility of holding an auction within a tender, this solution has never been applied in practice.

In her *Regulatory Strategy until 2015*, President of the Office of Electronic Communications (UKE) pointed to auction as a method of choosing companies which will be granted frequency licenses from 800 MHz band (range of 791-821 MHz and 832-862 MHz) and 2.6 GHz band (range of 2500-2570 and 2620-2690 MHz). The auction has been scheduled to take place at the turn of 2013 and 2014 [3]. The first of the above-mentioned frequency ranges belongs to the so-called digital dividend, that is, frequency resources that have been released as a result of the switch from analog ground television to digital version. This process was completed in Poland in the middle of 2013. Due to its propaganda qualities, 800 MHz band is considered one of the best bands to ensure availability of wireless broadband services in large areas of low population density, e.g. in rural areas. 2.6 GHz band, on the other hand, is fit for ensuring appropriate network capacity in areas of high population density where services

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must be provided to a large number of users and significant capacity must be guaranteed. Releasing of frequencies from the digital dividend range as well as obliging operators to invest in non-urbanized areas are to lead to new investments in data transfer networks and contribute to implementing of one of the goals of the Digital Agenda, that is, making sure that all inhabitants of the European Union have access to broadband internet of the capacity of at least 30 Mb/s until 2020.

Considering frequency licenses that have been granted before and, thus, resources owned by the main players on the market, as well as attractiveness of the offered frequency ranges for LTE network development, expectations of the telecommunications market, users and the state, this auction stirs emotions and controversy. The auction is considered the biggest event of 2014 on the Polish telecommunications market.

The article presents the main assumptions of the first ever spectrum auction in Poland on the basis of materials for auction assumptions' consultations, auction documentation, opinions of entities involved that have been submitted during consultations as well as the position of the President of UKE. The author focuses on threats to execution of the auction itself as well as implementation of its results. The text is preceded by a short description of the Polish telecommunications market, especially in terms frequencies owned by the main players on this market, including their joint ventures and capital connections.

2. BACKGROUND

2.1. Frequency licenses granted to mobile networks until 2013

Frequency ranges owned by individual companies operating on the mobile market in Poland on the basis of earlier frequency licenses granted by UKE President and her predecessors until 2013 are presented in Table 1.

Table 1 Frequency ranges granted to mobile operators

Operator	900 MHz band	1,8 GHz band	1,9/2,1 GHz band	2,6 GHz band
T-Mobile (former PTC)	2 × 9 MHz	2 × 10 MHz 2 × 9,6 MHz	2 × 14,8 MHz 1 × 5 MHz	×
Orange Polska (former PTK Centertel)	2 × 6,8 MHz	2 × 9,6 MHz	2 × 14,8 MHz 1 × 5 MHz	×
Polkomtel	2 × 9 MHz	2 × 9,6 MHz	2 × 14,8 MHz 1 × 5 MHz	×
Aero 2	2 × 5 MHz	2 × 5 MHz	×	50 MHz
CenterNet	×	2 × 9,8 MHz 1 × 0,2 MHz	×	×
Mobyland	×	2 × 9,8 MHz + 1 × 0,2 MHz	×	×
P4	2 × 5 MHz	2 × 15 MHz	2 × 14,8 MHz 1 × 5 MHz	×

Source: UKE

It is worth drawing attention to the fact that T-Mobile and Orange share some of their frequencies within NetWorkS! company and Polkomtel, Aero2, Mobyland and Centernet are all a part of capital group created around Cyfrowy Polsat by a Polish businessman, Zygmunt Solorz-Żak.

The picture stemming from Table 1 may be disturbed by the Supreme Administrative Court's verdict of May 2014 saying that the tender of 2007 during which CenterNet and Mobyland were granted frequency licenses within 1.8 GHz band, should be annulled as a whole. Theoretically, CenterNet and Mobyland may be deprived of the frequencies which will be subsequently put up for sale. Meanwhile, Cyfrowy Polsat and Polkomtel use these frequencies to provide retail LTE services. Their annulment would be an unprecedented event on the Polish telecommunication market.

2.2. The case of Sferia

The procedure of granting frequency licenses within digital dividend range (800 MHz band) was influenced by the fact that on July 16, 2013 the Ministry of Administration and Digitization concluded a settlement with Sferia and its investors under which the latter withdrew a claim against Poland from the International Court of Arbitration in Paris. In return Sferia was granted frequency license for 2×5 MHz block within 800 MHz band valid by the end of 2018. The company will not apply for other frequencies from that band before 2016.

The subject of that dispute was Sferia's inability to use radio frequencies within 850 MHz band efficiently (the company wanted to use them to develop LTE network). The value of the dispute's subject was estimated at USD 475.2 million (ca. PLN 1.5 billion). The source of the row are decisions made more than 10 years ago. On December 31, 2003 the Office of Telecommunications and Post Regulation (URTIP), through its President, granted frequency license within the range 838-843 MHz and 883-888 MHz to use for landline telephone network in Poland, valid until December 31, 2018. Due to discovery of harmful electromagnetic interference, the license has been altered under the President's decision of October 20, 2005. Sferia was granted the right to use the range 824-830 MHz and 869-875 MHz that the company has been using in the past years. On March 19, 2009 Sferia obtained the right to use the frequencies in both mobile and fixed service. At the same time UKE refused to issue radio licenses on the basis of the above-mentioned decision as usage of the granted frequencies would generate interference in the radio band embracing digital dividend and within frequencies that the EU allocates to GSM-R system, which would be a real threat to the security of rail transport.

At the end of 2011 Sferia's investors took the first steps against the Polish government in the Court of Arbitration. Poland delegated minister of administration and digitization as the minister proper for telecommunication issues to handle that case. Analyses of the Ministry of Administration and Digitization showed that the problem lies in incorrect decision regarding granting of frequency licenses in 2003 and their subsequent modifications. It was observed that the problems with frequencies that formally remained at Sferia's disposal may in the future deepen and affect:

- European Commission's plans regarding extension of frequency bands for GSM-R system,
- planned EU regulations regarding allocation of the range 821-832 MHz to PMSE systems (*Programme Making Special Events*) for exclusive use,
- predicted interference in Sferia's network resulting at LTE-related BTS which will start operating after granting of frequencies from the digital dividend.

As a consequence of that settlement, at the end of December 2013 UKE President changed Sferia's license, but the whole procedure was sued by T-Mobile which had obtained court guarantee for the frequency use. Sferia's rival operators question the unprecedented method of signing the settlement – the market has not been notified that such a settlement was even under negotiation. They also criticize the fact that Sferia was granted effective radio frequencies within the precious 800 MHz band without any additional payments. Dissatisfied operators

brought that case to the European Commission's attention which asked the Ministry of Administration and Digitization for explanations.

The second problem regarding Sferia in the context of the first ever spectrum auction in Poland and possible limitations for capital groups is related to controversy around its alleged affiliation with Zygmunt Solorz-Żak's holding. Officially, Sferia is not tied to the businessman's companies. But the telecommunication sector is convinced that it is not so in practice. The operator cooperates elaborately with companies from Midas group that is controlled by Zygmunt Solorz-Żak. He sold Sferia in 2011, which was supposed to help him obtain permission to take over Polkomtel and avoid any related problems in the process. Details of the deal have not been revealed. In the beginning of 2013 Sferia rejected all suggestions that the company's operations could affect the result of tender proceedings regarding 1.8 GHz frequencies announced by UKE and assessed by the Office of Competition and Consumer Protection (UOKiK). A Management Board statement which was published at the time declared that the company was not controlled by Zygmunt Solorz-Żak and the only thing it had in common with Midas group were business relations.

Influence of Sferia's suspended settlement and controversy around its ties to the capital group controlled by one of the main players on the mobile market should not be underestimated. Lack of solution to the first problem and no full transparency in the second issue may lead to long-term court battles which, in turn, could freeze the auction itself or make it impossible to implement its results for years to come.

3. FROM CONSULTATIONS TO...

By 2013 the Polish Telecommunications Act has not assumed directly the option of choosing a company which would be granted a frequency license. By then the only methods applied to this end were: a contest (in the case of licenses for digital broadcasting or re-broadcasting of radio or television programs) and a tender (in the remaining cases). Even though the ordinance of the Infrastructure Minister of 2009 [2] allows for the possibility of holding an auction within a tender, this solution has never been applied in practice. The possibility of holding an auction was introduced with modification of the Telecommunications Act [1] which came into effect in January 2013. Following that modification, in July 2013 the minister of administration and digitization issued an ordinance specifying detailed course of an auction (as well as other procedures) whose aim is to select entities which will be granted frequency licenses. The ordinance also specified in detail requirements regarding content of documentation as well as terms and method of organizing, conducting and completing of an auction, including appointment and work of auction commission and the process of paying and returning bid bond [4].

3.1. The first consultations

Under article 118 of the Telecommunications Act, UKE President announces an auction immediately after closing related consultations. Information on commencing of consultations regarding frequency licenses from 800 MHz and 2.6 GHz bands, covering the whole country and allocated to provide telecommunication services in mobile or fixed service, was published on August 21, 2013 in the Official Journal of the Office of Electronic Communications. The deadline for completing consultations was set at October 1, 2013 and later it was extended until October 8, 2013.

According to draft auction documentation that was subject to consultations, the first Polish auction embraces 12 frequency licenses, including:

- 5 blocks² of 2×5 MHz bandwidth (range of 791-816 MHz and 832-857 MHz) – the so-called 800 MHz band,
- 7 blocks of 2×10 MHz bandwidth (range of 2500-2570 MHz and 2620-2690 MHz) – the so-called 2.6 GHz band.

The frequency ranges that will be offered within the auction are allocated to telecommunications services over mobile or fixed networks all around Poland. Licenses will be valid for 15 years and winners of the auction are obliged to launch services at the acquired frequencies within 12 months for 800 MHz band and within 36 months for 2.6 GHz band. Investment obligations of companies selected during the auction have been specified in detail. They are to lead to the soonest possible launching of services based on the granted frequencies as well as implementation of essential investments in up-to-date mobile internet network all around Poland.

It has been established that one entity can get no more than two frequency blocks (20 MHz) within 800 MHz band and three frequency blocks (40 MHz) within 2.6 GHz band. Additionally, spectrum cap has been introduced for participants of the auction that already have frequency licenses within digital dividend range or 900 MHz band (880-95 MHz and 925-960 MHz). They could apply only for such an amount of frequencies from 800 MHz band that would prevent them from exceeding a total of 40 MHz within digital dividend and 900 MHz per company.

The auction for frequency licenses will be conducted via Electronic Auction System (ESA) that is used for submission of offers and exchange of information between bidders and auction committee. It will be a SMRA (Simultaneous Multiple Round Ascending) auction. It means that all frequency blocks will be available at the same time and the price per block will increase after every round with multiple rounds anticipated.

The starting price suggested during consultations amounts to PLN 250 million per frequency block within 800 MHz and PLN 50 million per block within 2.6 GHz. It means that if the whole procedure turns out to be successful, the Treasury will post total revenues of at least PLN 1.6 billion. However, there are doubts whether all blocks within 2.6 GHz band will be sold. Revenues from this auction have already been included in Poland's budget for 2014.

Consultations' results were announced at the end of December 2013, two and a half months after their completion. On its website UKE published only opinions submitted by 20 companies during consultations. For the first time in history, the office has not commented on the parties' postulates in a separate document.

3.2. Auction announcement

The auction was announced on December 30, 2013. The deadline for submitting initial bids was set for February 14, 2014. The published documentation did not bring any significant changes to the consulted project. One of the most important modifications regards fragmentation of frequency blocks in 2.6 GHz band (14 blocks of 2×5 MHz bandwidth, not 7 blocks of 2×10 MHz, as planned before). As a result of this change, the starting price per block dropped by half – to PLN 25 million. At the same time the limit for frequency licenses within that band was cut from 60 to 40 MHz. The minimum fee of PLN 250 million per block in 800 MHz band and the limit of no more than two blocks per one company was maintained. The spectrum cap (the limit of 40 MHz per bidder including the frequencies it already owns within 800 and 900 MHz bands) still applies as well. This is a significant limitation for the group that includes, among others, Polkomtel – it could fight for only one block, while its

² It has been earlier planned to grant 6 blocks, but as a result of the state's settlement with Sferia, one of these blocks was granted to the company outside the action, which is mentioned in section 2.2.

rivals – for two. Besides, UKE softened some investment obligations, deciding that the range of networks would be measured in areas of 7 km radius (instead of 5 km), which means that companies will have to install fewer transmitters in order to obtain the required coverage.

According to the auction documentation announced in December 2013, the subject of the first Polish auction are 19 frequency licenses, including:

- 5 blocks of 2×5 MHz bandwidth (range of 791-816 MHz and 832-857 MHz) – the so-called 800 MHz band,
- 14 blocks of 2×5 MHz bandwidth (range of 2500-2570 MHz and 2620-2690 MHz) – the so-called 2.6 GHz band.

Participants will bid abstract bands of 10 MHz bandwidth; there will be no specified information on which frequencies are in question exactly. It means that operators will not know exactly which block they will eventually get. It will be specified at the stage of issuing license decisions *'consistently with the rule of maximally effective radio spectrum usage'*. It is important as a limit block could collide with channel 60 of DVB-T system.

The auction documentation does not include obligations regarding wholesale provision of networks using auctioned frequencies or pressure on operators to develop infrastructure together. But there is an incentive to such activity stemming from a regulation that suggests implementation of investment obligations within cooperation with other operators. Such cooperation would consist in sharing frequencies and infrastructure on condition that the shared band does not exceed total bandwidth of 30 MHz. There is a suspicion that the aim of this limitation is not to let T-Mobile and Orange develop 2×20 MHz block (in case each of them won 2 blocks in 800 MHz band), which no other operator would be able to do. Such objections were worded by competitors of both operators during consultations [5]. UKE President commented on the rules of the auction, stating that cooperation between operators may result from voluntary agreement and suggesting that two national LTE800 networks could be developed at the offered frequencies. At the same time, the fact that blocks are anonymous could make it easier to create market alliances during and after the auction.

Minimum revenues from the auction should amount to PLN 1.6 billion. UKE assumes that the total revenues will amount to at least PLN 1.8 billion.

3.3. Auction cancellation

On February 11, 2014 UKE President cancelled the auction announced on December 30, 2013. The official reason for that was a delay of a few hours in the access to explanations regarding auction documentation. Even though they appeared on UKE's website on February 6, 2014 at 10.11 pm (within the assumed time frame) potential bidders could not access this information due to technical problems. It was concluded, then, that publication of accessible explanations took place a day later. UKE President immediately modified auction announcement of December 27, 2013 so that the deadline for filing initial offers was extended by one day (until February 14, 2014). Despite that, the auction has been eventually cancelled by UKE President who made that decision *'keeping in mind how significant it was for the whole telecommunication market to conduct the auction process in a way that minimizes all formal and legal risks'*. The President's rhetoric was *'both, the necessity to guarantee formal and legal safety of the auction process and related care for securing interests of potential bidders'* [6] with an emphasis put on the fact that *'the auction process itself as well as accompanying documentation have been prepared correctly and in consistence with the law'*. UKE's spokesperson was blamed for the whole situation and was immediately laid off.

In the light of further events related to the planned auction (at least two more rounds of consultations over significantly modified documentation), cancelling the auction for a trivial reason may arouse doubts about actual causes of that step.

3.4. New consultations

Immediately after cancellation of the auction, on February 17, 2014, UKE President opened another round of consultations regarding auction for frequencies from 800 MHz and 2.6 GHz bands. The deadline for submitting remarks was set for March 19, 2014. The main assumptions of the auction (prices, division of blocks, coverage requirements) remained unchanged. Despite assurances of UKE President who claimed that the previous documentation had been prepared correctly, a number of changes have been made. They modify the auction's mechanism in a significant way. One of them is lifting the ban to return to blocks that a company has been bidding earlier. Another one regards announcements on the number of bids submitted for individual blocks. A new definition of capital group has been introduced – different than the one specified in the Telecommunications Act, based on the Act on Competition and Consumer Protection. This definition may be questioned as there are no regulations that allow UKE President to define notions whose detailed descriptions are included in the acts.

Soon after those consultations had been completed, UKE President opened the second round of consultations on the same issue; they lasted from April 4 until May 5, 2014. UKE President justified announcing of the second round of consultations with significant changes in the draft documentation postulated by participants of the first round of consultations which was held at the turn of February and March 2014. The goal of these modifications is to create such a framework of the auction to encourage operators to cooperate with the use of frequencies acquired during the auction. However, such cooperation must not disturb market competition and has to be conducted under specified regulatory terms.

To this end, more significant changes were made in the documentation. One of them is transfer of a provision about limitation of frequency co-sharing to 30 MHz maximum, to sections of offer model which describe obligations of auction participants regarding frequency licenses within 800 MHz band. Thus, limitation of co-sharing frequencies from the digital dividend range will be included in license decisions for companies that will manage to obtain frequencies during the auction.

Another important change is modification of *spectrum cap* rules within 800 MHz band. Provisions referring to frequencies from 900 MHz band and digital dividend that companies owned earlier have been removed. UKE President believes that the former change (the one transferring provision which limits frequency co-sharing to 30 MHz to license decisions) will be a sufficient guarantee of maintaining competitive balance between companies that currently have frequencies within 900 MHz band and will, potentially, acquire frequencies within 800 MHz band. It was emphasized that UKE President had such regulatory tools at her disposal that will make it possible, once frequency licenses are granted and the usage of frequencies from the auction commences, to guarantee implementation of goals set for the regulator in the context of shaping proper market development and securing adequate environment for functioning of both, telecommunication companies and consumers.

A more important argument for removing *spectrum caps* is surely inconsistency of that solution with the law, which has been confirmed by the opinion of the Bureau of Research (Chancellery of the Sejm) at the request of a deputy. Under the Telecommunications Act, it is

possible to exclude a potential bidder, but not limit them³. Even though UKE President disagrees with that provision, she decided to respect it for the sake of auction's legal safety.

At this occasion it is worth paying attention to other conflicts of the auction documentation with the Telecommunications Act. One of them is an additional criterion for offer assessment, while article 118a sec. 2a of the Telecommunications Act states that *'the only criterion for assessment of offers submitted during auction is the price declared by bidder'*. Similarly, an ordinance of the Ministry of Administration and Digitization of 2013 [4] refers to a *criterion* (singular) of an auction. Meanwhile, paragraph 6.22.6 of the contest documentation which was under consultations in April 2014 states that *'in case a few offers with the same price for the same block are submitted, their position in the ranking will be determined by ESA through drawing...'*. It means that the list of criteria must be extended by the random factor.

The subject of the auction has not changed. It will be five blocks of 2×5 MHz within 800 MHz band and 14 blocks of 2×5 MHz within 2.6 GHz band. Each company involved in the auction (considering provisions on capital group specified in the auction documentation) will have a chance to acquire no more than 2 frequency licenses within 800 MHz band and no more than 4 licenses within 2.6 GHz band.

Complete results of that round of consultations have not been revealed to the public yet⁴. However, some participants have published the remarks that they had submitted in the process.

For instance, President of the Office of Competition and Consumer Protection (UOKiK) postulates replacing of the auction with a tender which has been applied before. In his opinion, introduction of significant changes to the auction documentation in the short time proves that the administration is not prepared to grant such important frequency licenses through an auction. A tender would be safer in this context as next to the price criteria, there is also assessment of bidders' influence on competition. According to UOKiK President, the delay in sale of LTE frequencies does not necessarily have to translate into postponement of launching services based on these frequencies. There is a risk that an incorrectly prepared auction could begin soon and last for a very long time, which would make it inefficient [7].

In another opinion published in the beginning of April 2014, Business Centre Club expressed its support for the concept of development of a single network within 800 MHz, embracing all frequencies available in this range. BCC believes that it is in all market players' interest (both telecommunication companies and users of services) to develop common, up-to-date network infrastructure that uses all available frequencies from 800 MHz band. A single network will enable optimal use of operators' financial resources allocated to investments in telecommunication infrastructure without the necessity to duplicate it. BCC points to benefits for the environment and landscape as well and to reduction of bureaucracy load for all offices and institutions involved in the process of network development. Thanks to single network entrepreneurs will have equal conditions in competing for end users on the basis of quality of retail offers, not the radio spectrum they have exclusive rights to. BCC suggests that the state, with any available regulatory and political measures, actively supported that initiative instead of passively waiting for entrepreneurs to undertake steps to develop single network on their own. According to BCC, the auction in its current form will result in disturbance to market competition through probable creation of two coalition partners with dominating position of

³ Article 118, sec. 4a of the Telecommunications Act states that *'while specifying terms for involvement in auction, UKE President may point to frequency ranges of qualities corresponding to frequencies from the band subject to the auction whose ownership excludes company or companies from capital group from the auction...'*

⁴ By June 5, 2014 UKE President has not published remarks submitted by companies during consultations that ended on May 5, 2014.

one of them. Additionally, BCC is right to point out that in the long term no more auctions are planned so results of this year's auction will decide about the balance of power on the market for a long time [8].

UKE President categorically opposes resignation from auction in this case. She claims that the decision on granting frequency licenses within 800 MHz band through an auction has been made years ago. She also emphasizes that the idea of development of a single network that was imposed by the regulator in the auction documentation would have to be justified with detailed market analyses conducted over a few years to see how such a concept would affect competition and consumers, but there is no time for that now. UKE President also refutes media's allegations that terms of the auction allow participants to bid endlessly (*vide* the Finnish auction). She believes that the mechanism of bid bond and deposit effectively protect the auction from such a situation and in case one bidder inflates the price and does not apply for a frequency license, the next offer automatically wins.

4. AUCTION OPENNESS

One of the provisions of auction documentation in all versions that have been subject to consultations so far arouses particularly strong emotions among market players, analysts and media. The problem regards openness of individual stages of the auction and, consequently, transparency of the whole procedure.

Under initial assumptions behind the planned auction, openness of the auction procedure has been limited. Contrary to e.g. the German auction, the only pieces of information to be revealed in public were the list of companies which submitted initial offers and final results of the auction. Results of individual rounds were supposed to be known only by auction participants and commission. UKE President justified that with lack of appropriate regulations in the ordinance [4] that would introduce the obligation to provide information on subsequent stages of the auction while it lasts. The ordinance also does not ban publication of information about every round of the auction.

After the first tender was annulled in February 2012, the Polish Prime Minister backed auction openness, arguing that 'transparency is top priority unless there is a fixed legal obstacle to it' and ordered the Ministry of Administration and Digitization to solve that problem.

At the end of March 2014 a draft amendment of the ordinance [4] was prepared, including point 6a in the following wording: '*After the last round on a given auction day is completed, UKE President publishes information about the highest bid for frequency license or orbital resources on the office's website*' [9]. The Ministry of Administration and Digitization believes that this provision does not burden UKE President in any additional way and can come into effect without *vacatio legis*. Thus, the planned auction would be subject to the new regulation [10], which came into force on May 31, 2014.

5. CONCLUSION

So far almost all procedures, regarding primarily tenders, that aim at selecting companies to be granted frequency licenses in order to provide mobile services in Poland have been opposed by participants of these procedures. In some cases the reason for these protests were minor details, in other long legal justifications were provided. However, it never happened that terms of a procedure were in an obvious way inconsistent with the law. Careless implementation of provisions of the Telecommunications Act which is imperfect in this respect, increases the risk of auction fiasco. Even if the whole process ends with granting frequency

licenses, courts will need years to issue legally binding verdicts⁵. Financial consequences for the Treasury as well as social consequences of the auction after many years may be unimaginable.

The auction keeps being postponed for almost a year now because of numerous modifications of documentation and new rounds of consultations. It is obvious that UKE President is yielding to the market pressure and keeps changing the auction concept in subsequent versions of documentation, correcting numerous provisions that are inconsistent with the law. It proves that UKE not only has no clear vision of the auction, but also lacks competencies. In time the pressure to solve the issue – in any form – will be growing as the market is waiting for the possibility to use new frequencies and the Treasury is hoping for significant revenues. On the other hand, stalling for time by UKE President, probably in the context of a change at this post due at the end of 2014, may fall short of these expectations and postpone the solution by another few or even a dozen months.

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- [10] Rozporządzenie Ministra Administracji i Cyfryzacji z dnia 8 maja 2014 r. zmieniające rozporządzenie w sprawie przetargu, aukcji oraz konkursu na rezerwację częstotliwości lub zasobów orbitalnych (Dz.U. z 2014, poz. 713).

⁵ It is worth reminding of the Supreme Administrative Court's verdict of May 2014 which, after seven years, revoked the tender in which CenterNet and Mobyland from Midas group acquired radio frequencies within 1.8 GHz band. Theoretically, reopening of the tender could result in depriving these companies of frequencies that they have used for years to provide LTE services.