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Technology, Media & Telecommunications

NEWSLETTER FROM VINGE

This newsletter is of a general, informational nature. The content does not purport to be exhaustive and should not be relied upon as a substitute or replacement for individual legal advice on any specific matter. If you have a specific legal question you are welcome to address it to one of our lawyers.

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Sweden

Current issues

Spectrum auction for licenses in the 1900-1905 MHz and 2.6 GHz band

In January 2008, the Swedish National Post and Telecom Agency (PTA) invited interested parties to participate in spectrum auctions for licenses in the 1900-1905 MHz band and in the 2500-2690 MHz band (2.6 GHz). The licenses will be service and technology neutral within certain limitations and could e.g. be used for wireless broadband access or mobile telephony services.

The auction for licenses in the 1900-1905 MHz band comprised one national license. Out of two participants, iBand AS submitted the highest bid of SEK 60,100. Consequently, PTA decided on 18 March 2008 to grant the license to iBand AS. The license is valid for 15 years.

The auction for licenses in the 2.6 GHz band is scheduled to start on 14 April 2008 and comprises 15 frequency blocks, 14 FDD blocks and one TDD block, each license covering the whole of Sweden. The licenses will be valid for 15 years.

For further information, please refer to
<http://www.pts.se/en-gb/News/Press-releases/2008/PTS-invites-applications-for-auctions-for-licenses-in-the-26-GHz-band-and-the-19001905-MHz-band/>

Revised hybrid model for interconnection charges in the fixed network

PTA is currently reviewing the hybrid model for determination of LRIC based cost for certain (wholesale) access and interconnection services in Sweden originally developed in 2002/2003.

The revised hybrid model will reflect the development of increased usage of IP telephony since IP telephony, according to PTA, is less costly for a fixed telephony operator to provide than traditional telephony traffic. As a result, the costs calculated based on the revised hybrid model will be substantially lower, which in turn will reduce the permitted cost based interconnection charges for fixed telephony. To ease the transition into the new hybrid model, PTA has introduced a glide path pursuant to which the cost reductions will be implemented gradually. Pursuant to PTA's proposal, the revised hybrid model will be fully implemented in 2014.

PTA will present its final revised hybrid model in April 2008.

For further information, please refer to
<http://www.pts.se/pts/Templates/Page.aspx?id=26789&epslanguage=SV> (in Swedish)

Legislation and case law

Improved broadband competition through functional separation

On 18 March 2008, the Swedish Government presented a proposal for amendments to the Electronic Communications Act (ECA) to the Swedish Parliament. The proposal is based on a report by PTA, which was presented to the Government on 14 June 2007.

The Government proposes to include a new regulatory tool in the ECA providing PTA with powers to impose requirements for the functional separation of a specific vertically integrated operator with SMP (significant market power) on the markets for LLUB (local loop unbundling) and bitstream access, in order to secure non-discrimination and transparency on the markets for LLUB and bitstream access.

As an alternative to the mandatory requirements for functional separation, the Government also proposes to introduce powers in the ECA enabling PTA to accept a voluntary commitment to secure non-discrimination and transparency from the vertically integrated operator. As long as PTA's decision to accept a voluntary commitment is in force, no mandatory requirements for functional separation may be imposed on the concerned vertically integrated operator.

According to the Government, the proposed legislation will improve the competition on the Swedish broadband market which, in the long-term, will enable end-consumers to benefit from better and cheaper broadband services.

The new legislation is proposed to come into force on 1 July 2008.

For further information, please refer to <http://www.regeringen.se/sb/d/10141/a/96050> (in Swedish)

Proposal for constitutional protection of personal privacy

Swedish citizens' personal privacy shall, pursuant to a legislative proposal presented by an investigatory governmental committee (the "Committee"), be granted constitutional protection.

The Committee, which was appointed to investigate and analyze the protection of personal privacy under Swedish law, published its report on proposed legislation on 23 January 2008 (SOU 2008:3). The legislative proposal includes inter alia constitutional protection against invasion of privacy performed by the State in secret or without consent and which involves significant monitoring or mapping of an individual's privacy. The proposal limits the possibilities of the State to initiate advanced forms of monitoring as well as extensive registering and processing of personal data. This proposal is in line with the regulations of the European Convention on Human Rights. Further, the Committee proposes criminal liability for unauthorized photographing or filming of an individual at places in which the general public does not have access to.

The report will be submitted to interested parties for comments.

For further information, please refer to <http://www.regeringen.se/sb/d/9952/a/96426> (in Swedish)

EU

European Regulators Group's first report on roaming charges

On June 30 2007, the regulation on international roaming services (Regulation (EC) No 717/2007), came into force. Pursuant to the regulation, roaming charges for European mobile phone operators may not exceed EUR 0.49 per minute for outgoing calls and EUR 0.24 per minute for incoming calls.

On 17 January 2008, the European Regulators Group (ERG) presented its first report on roaming charges, covering data collected during April-September 2007. Pursuant to the report, the roaming regulation has generally been implemented with a high level of compliance in all EU member states. However, roaming charges for SMS and data services remain high and varies considerably across the different EU countries. The report is the first in a series of reports that the ERG expects to produce with the purpose of providing a sound evidence base for the Commission's review of the roaming regulation, required by the end of 2008. Unless the roaming charges for SMS and data services by then has decreased substantially, the Commission will consider regulating roaming charges for SMS and data services.

For further information, please refer to http://ec.europa.eu/information_society/activities/roaming/data/index_en.htm

European Commission imposes a EUR 899,000,000 penalty on Microsoft

On 27 February 2008, the European Commission announced that it has imposed a penalty payment of EUR 899 million on Microsoft for non-compliance with a decision from the Commission as of 24 March 2004. Pursuant to the 2004 decision, Microsoft had abused its dominant position under article 82 of the EC treaty and required Microsoft to disclose interface documentation in order to allow non-Microsoft work group servers to achieve full interoperability with Windows PCs and servers at a reasonable price. The decision was upheld by the Court of First Instance on 17 September 2007.

According to the European Competition Commissioner Neelie Kroes, Microsoft is the first company in fifty years of EC competition policy that the Commission has fined for non-compliance with an antitrust decision.

For further information, please refer to <http://europa.eu/rapid/pressReleases.Action.do?reference=IP/08/318&format=HTML&aged=0>