



Český telekomunikační úřad

MONTHLY MONITORING REPORT

September 2014

Newsflash on telecommunications

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CTU's Council is complete again

Ondřej Filip, who decided to leave the CTU's Council at the end of August, was replaced by Jan Duben. So far, Mr. Duben served as director of the Department of digital economy and protection of consumer at the Ministry of Industry and Trade. The Government appointed him in the position of the Member of the Council until 2019.

European Commission relaxes the regulation of fixed lines

On October 9, the European Commission promulgated the Amendment of Recommendation in which it newly defines only four relevant markets instead of previous seven. The Commission has canceled existing markets no. 1 and 2 of the Recommendation. Fixed and mobile connections to the internet remain under the control of regulator. The Office will prepare new methodology to the Measure of General nature on the basis of amended Recommendation, which will determine the list of relevant markets.

House of Deputies endorsed the Act on Electronic Communications in the first reading

The limit of the amount of contractual fine on early termination of contract, concluded for an indefinite period of time, will now only concern consumers. According to existing legal regulations, operators shall not charge any subscriber for early withdrawal more than one fifth of the sum of remaining monthly flat fees or contracted minimum of monthly payment. Amendment is now heading to the Senate.

Czech consumer will remain protected as elsewhere in Europe

On Friday, September 26, the House of Deputies endorsed the Amendment of the Act on Electronic Communications which substantially restricts rights of consumers of telecommunication operators. However, already during the debate on the Amendment the CTU pointed out that the proposed modifications are in conflict with European Directive on Universal service.

Compared with the wording of the Directive national modification approved by the House limits rights of consumer to react to the situation when telecommunication operator unilaterally changes the contract. Currently, the operator has four obligations towards a customer in this case (broken down on page 2 in Article Change of contract allows subscriber to leave), inter alia, it must inform customer

er about this change and customer has the right to withdraw from the contract. It is, however, general principle, which does not concern telecommunications

of contract leading to deterioration of position of subscriber." However, Union legislation does not admit any such additional condition.

On the basis of proposed changes of contractual conditions participants have the right to repeal contract without any sanction. Not later than one month before such a change participants must be informed in corresponding form and, simultaneously, they must be informed about their right to cancel such a contract without any sanction if they do not accept new conditions.

Article. 20 Para. 4 of the Directive 2002/22/EC

The Amendment will be discussed in the Senate. The CTU, as the authority applying the Act on Electronic communications expects that the Upper Chamber will put the Amendment in harmony with the Union's Directive so that the Czech Republic will be protected against the risk of the process of infringement

When deciding disputes the CTU will continue to respect the right based on the Directive which has, as harmonizing instrument of the European Commission, greater legal power than the Act which would implement it incorrectly and which would not comply with it.

only as it is anchored also in § 1752 of the Civil Act, for example.

There is a new provision in the contract according to which contract may be terminated without any sanction under condition that „it is essential change



From the decision-making practice of the CTU:

Contractual fine must be a part of consumer contract and must be definite

Arrangements forming contractual fine cannot be a part of the so-called general commercial conditions but must exclusively be a part of consumer contract itself under which a client attaches his signature. Moreover, this arrangement must precisely specify which obligation consumer must violate that supplier may seek fine. This follows from final decision promulgated by the CTU in September in the dispute of one of clients of the company DIGI Czech Republic.

The company Company DIGI Czech Republic demanded the payment of contractual fine from its customer. It based its claim on contractual relation resulting from the contract dated October 2006. Respondent refused to pay contractual fine because the service was not working and yet he paid proportional part of it.

While the body of first instance admitted the claim of contractual fine of petitioner, the Chairman of the Council of the CTU. In its decision on the appeal it deduced that the arrangement of contractual fine in the wording of submitted contract is inva-

lid. Given the finding of the Constitutional Court of the Czech Republic sp.zn. I ÚS 3512/11 it stated that „...commercial conditions shall not serve contractor to hide, in frequently confusing, intricately formulated and in small print written form, the arrangements which are disadvantageous for consumer and about which it assumes that they will rather escape attention of consumer (...). Within the framework of consumer contracts arrangements founding contractual fine cannot be principally part of the so-called general commercial conditions, but only of consumer contract

itself (document on which consumer attaches his or her signature)...“.

Decision further states that provisions on contractual fine, which became an integral part of contractual arrangement between petitioner and respondent, does not specify which obligation subscriber must violate in order to seek contractual fine. Formulation contained in the contract („If User violates any obligation determined by the Contract, including violation without any fault on the side of User (...), the company DCZ is entitled to demand from user payment of contractual fine at the amount of 5000 CZK for each individual violation of obligations...“) can, therefore, be considered as indefinite and invalid according to § 37 of the Civil Code.

For the above reasons the Chairman of the Council of the CTU denied petitioner a claim for the payment of contractual fine.

Change of contract is the basis for the right of subscriber to leave

The Right of operator to change unilaterally a contract is counterbalanced in the Act on Electronic Communications (ZEK) by Measures which, in such a case should protect customer as a weaker contractual party. Subscriber cannot namely intervene significantly in the draft of subscriber contract and the Act does not grant him/her the right to change contract unilaterally.

In provisions of § 63 Para. 6 of Act on Electronic Communications we can find four obligations of operators:

1. to publish information concerning the change of contract in each of its establishments,
2. to publish information concerning the change of contract in the Internet,
3. to inform subscriber about this change

using method which subscriber has chosen for sending bills and

4. to inform subscriber about the change of essential requirements of the contract or change of other provisions leading to deterioration of position of subscriber with instruction that he/she is entitled to terminate the contract without sanction.

If the operator unilaterally changes the contract, in addition to the immediate impact on the price of services provided, without allowing to its consumers, as a weaker contractual side, not to accept this newly stipulated price and to employ the option to choose another provider of services, this can be understood as an obvious attack against above described social interest which cannot enjoy protection of the Act.

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Situation on the electronic communication market



Starting from September the company O2 reduced in tariffs VoIP O2 Business and VoIP O2 Trend, designated for VoIP lines, basic prices of the service VoIP Line – unlimited national call by 145.20 CZK/monthly (from 363 CZK/monthly to 217.80 CZK/monthly). Basic price of the service includes local and remote calls in peak hours and off-peak hours to fixed networks in the Czech Republic and calls

to non-public telephone networks without limitation of volume of free calls.

Starting from 1st September the package of free minutes in mobile networks cannot be activated on VoIP Lines, which, for 1,815 CZK/monthly, contained 3,000 free minutes of calls to mobile networks in the Czech Republic. Supplementary package (Package of free minutes to mobile networks on VoIP Lines) was replaced by package VoIP Komfort, which is designed for VoIP lines of the type

connection Fixed line, ISDN2, ISDN30 and SIP¹. Package VoIP Komfort offers for 871.20 CZK/monthly 1,000 free minutes of calls to mobile networks in the Czech Republic and calls to international destinations, for example for calls to majority of EU countries, USA and Canada. The unused portion of free minutes is not transferred in the following billing period. Number of purchased packages must

¹ Supplementary service VoIP line SIP single (independent connection with SIP protocol), VoIP line SIP series (two or more SIP connection associated by supplementary service series line), VoIP line SIP DDI (two or more connections with SIP protocol associated by supplementary service DDI).

correspond to the number of voice channels of a given type of connection. Free minutes can be applied for calls within the framework of O2 Team Combi². Calls beyond free minutes are charged according to tariff used by customer.

Starting from 1st September O2 adjusted conditions for automatic calls from fixed networks. As a connection from fixed network to mobile network O2 is considered, besides calls to mobile numbers to O2 mobile voice service, also calls to numbers of virtual operators BLESKmobil, Gorila mobil and Bonerix.

In September O2 changed its offer of fixed subscriber connection to the Internet network. Existing tariff programs with obligation and automatic prolongation (Internet Start+, Internet Optimal+, Internet Aktiv+) are not offered any more actively because they were replaced by services designated as Internet Start Plus, Internet Optimal Plus and Internet Aktiv Plus. Besides adjustment of prices these new tariff programs with obligation and automatic prolongation after 12 months in all speed variants are replenished for customers (natural persons) by free distribution of digital television O2TV. Basic configuration of tariff programs includes supplementary service O2TV Start offering reception of 21 free television channels. The service Internet Start Plus can one have now for 349 CZK/monthly, Internet Optimal Plus for 499 CZK/monthly and Internet Aktiv Plus for 599 CZK/monthly. Prices and other conditions in tariffs without obligations (Internet Start, Internet Optimal, Internet Aktiv) remain in force unchanged, with the exception of replenishment of free distribution of digital television O2TV Start.

O2 prolonged until the end of the year validity of marketing event „Internet in mobile“ with higher data limit for a price of lower data limit. The offer is earmarked for subscribers of tariffs FREE who have simultaneously, within the framework of their tariffs, contracted Internet in mobile with minimum data limit of 200 MB. Each subscriber, who will increase his data limit, will pay, for the period of two months from the day of increase of data limit, monthly flat price corresponding to the tariff with

² Service O2 Team Combi allows customers of O2 to create voice VPN employing existing telephone connections (situated in fixed network of O2) and mobile stations active in O2 network.

the nearest data limit. O2 further prolonged marketing event „Higher tariff for the price of lower one“ for the service O2 Mobile internet connection.



Společnost Vodafone od 13. září upravil Starting from 13th September the Company Vodafone modified offer of flat tariffs. Customer can have available tariffs Smart 50, Smart 100, Smart 250, Red LTE, Red LTE Plus and Red LTE Premium. In case of the tariff Smart 50 customer will receive 50 free minutes to all networks within the framework of the Czech Republic and unlimited SMS in its own network within the framework of the Czech Republic. Price of calls beyond free minute is 3.49 CZK/minute (tariffication 1+1), price of SMS is 1.51 CZK/SMS. Part of voice tariff is also the so-called data package LTE with data limit of 50 MB. Price of the tariff is 249 CZK/month in the variant with commitment for 24 months and 311.25 CZK/month in the variant without commitment. In case of the tariff Smart 100 customer will receive 100 free minutes to all networks within the framework of the Czech Republic and unlimited SMS in its own network within the framework of the Czech Republic. Price of call beyond the framework of free minutes is 3.49 CZK/minute (tariffication 1+1), price of SMS is 1.51 CZK/SMS. Part of voice tariff is also the data package of LTE with data limit of 100 MB. Price of the tariff is 349 CZK/month in the variant with commitment for 24 months and 436.25 CZK/month in the variant without commitment. In case of tariff Smart 250 customer will receive 250 free minutes to all networks within the framework of the Czech Republic and unlimited SMS to all networks within the framework of the Czech Republic. Price of call beyond the framework of free minutes is 3.49 CZK/minute (tariffication 1+1). Part of voice tariff is also data package LTE with data limit of 250 MB. Price of the tariff is 549 CZK/month in the variant with commitment for 24 months and 686.25 CZK/month in the variant without commitment.

In tariff Red LTE (formerly tariff Red) prices increased to 749 CZK/month in the variant with commitment for 24 months (original price was 699 CZK/month), in the variant without commitment customer will pay 936.25 CZK/month (original price was 873.7 CZK/month). In case of the tariff Red LTE Plus (formerly tar-

iff Red all-in) prices increased in the variant without commitment to 1248.75 CZK/month (original price was 1100,00 CZK/month). In the tariff Red LTE Premium (formerly tariff Red Premium) prices were increased in the variant without commitment to 1873.75 CZK/month (original price was 1665.56 CZK/month).

Vodafone further offers the service Data beyond package. After exhausting of the basic volume of data data limit will be automatically increased depending on the type of voice tariff. In case of crossing of volume of data of tariffs Vodafone "First step for a child free of charge" and Vodafone "First step" data limit will be automatically increased by another 20 MB for 20 CZK. In case of crossing of volume of data of tariffs "Red to network for partner", Fair tariff 399³, Smart 50, Smart 100 and Smart 250 data limit will be automatically increased by another 50 MB for 49 CZK. In case of crossing of volume of data of tariffs Fair tariff 1499⁴, Red LTE, Red LTE Plus and Red LTE Premium data limit will be automatically increased by another 250 MB for 49 CZK. Service "Data beyond the framework of package" also applies to mobile connection to the Internet.⁵ In case of crossing of volume of data data limit will be automatically increased by another 250 MB for 49 CZK.

Vodafone also offers to its consumers the opportunity to buy additional volume of data services. In case of voice tariffs Smart 50, Smart 100, Smart 250, "Red in the network for partner", Fair tariff 399, Vodafone "First step for a child free of charge" and Vodafone "First step" have a sufficient volume of data with the data limit of 250 MB for 99 CZK/month. In case of voice tariffs Fair tariff 1499, Red LTE, Red LTE Plus, Red LTE Premium and in case of data tariff Mobile connection 500 MB, Mobile connection 1.5 GB, Mobile connection 4 GB and Mobile connection 10 GB it is sufficient volume of data with data limit of 1 GB for 99 CZK/month.

Starting from 1st September the Vodafone came with the offer of unlimited calls (continue on page 4)

³ This tariff is bound to special offer „Tariff for student“ – 25% discharge from monthly price (399 CZK/month) for the period of 12 month.

⁴ This tariff is bound to special offer „Tariff for student“ – 67% discharge from monthly price (1,499 Kč/month) for the period of 12 month.

⁵ Specifically there are data tariffs Mobile connection 500 MB, Mobile connection 1,5 GB, Mobile connection 4 GB and Mobile connection 10 GB.

(continue from page 3)

in its own network within the framework of the Czech Republic for the period of 30 days earmarked for pre-paid Card for student. Customer, who will buy pre-paid Card for 200 CZK, will get advantage in the form of unlimited calls in the network of Vodafone for the period of 30 days. After the expiry of the deadline of 30 days customer may call to four selected numbers in the network Vodafone for 1.90 CZK/minute, price of other

calls is charged with the amount of 3.50 CZK/minute (tariffication 60+1). Price of SMS is 1.90 CZK/SMS.



Starting from September 2014 the company UPC extended the opportunity of application of free minutes of call of tariffs earmarked for business men and entrepreneurs.

Free minutes of tariffs Telefon 100 Business, Telefon 150 Business and Telefon 250 Business can be newly applied in international calls, for example to neighbouring countries, Italy, France, Great Britain, USA etc. Tariff Telefon Unlimited Business includes newly 1,000 free minutes of calls to international zone 0 beyond free minutes earmarked for calls to public fixed and mobile networks in the Czech Republic (except calls to lines beginning with 8XY and 9XY).

Changes in the market of mobile virtual operators

<p>Šlágr mobil It started its activities on 1st September 2014 company: BEI MULTIMEDIA INTERACTIVE s.r.o. network operator: T-Mobile Czech Republic a.s.</p>	<p>On 1st September virtual operator Šlágr mobil entered the market of mobile services offering in total three basic flat tariffs "Šlágr Volání", "Super Šlágr CALL" and "Zlaté Šlágr CALL".</p>
<p>Mobil od ČEZ special offer of voice tariffs company: ČEZ Prodej, s.r.o. network operator: O2 Czech Republic a.s..</p>	<p>Virtual operator Mobil from ČEZ came for the month of September with the special offer of discount at the amount of 25 % in voice packages "Volám občas" and "Volám rád". After activation of relevant package during validity of special offer, consumer will be charged (during five months) voice package "Volám občas" for the price of 150 CZK/month (standard price of 200 CZK/month) and Voice package "Volám rád" for the price of 255 CZK/month (standard price 340 CZK/month).</p>
<p>Nej MOBIL new tariff company: Nej TV a.s. network operator: T-Mobile Czech Republic a.s.</p>	<p>On 1st September virtual operator Nej MOBIL included in the offer of mobile services new tariff "Nej v Síti", which allows unlimited calls and sending of SMS for the price of 199 CZK/month in the „network“ NEJ CZ. Operator further cancelled the offer of additional data package of internet in mobile "Nej Komfort" with data limit of 1,500 MB and the price of 409 CZK/month.</p>
<p>NETBOX Mobil new data packages company: SMART Comp. a. s. network operator: T-Mobile Czech Republic a.s.</p>	<p>Starting from 1st September virtual operator NETBOX Mobil offers its new additional data package of the internet in mobile with capacity of 600 MB and 1,200 MB. Operator further reduced the price of existing additional data package of the internet in mobile with data limit of 300 MB from original price of 200 CZK/month to the level of 130 CZK/month.</p>
<p>LAMA mobile nový price-list company: LAMA MOBILE a.s. network operator: Vodafone Czech Republic a.s.</p>	<p>Starting from 3rd September virtual operator LAMA mobile offers new package of 50 SMS with price of 50 CZK/month*. In month of September 2014 operator also modified the offer of wthe tarif "CHYTRÁ LAMA" in the variant with the price of 249 CZK/month, which newly contains 150 free minutes and 50 free SMS to all networks in the Czech Republic and data limit at the level of 150 MB. Operator ceased to offer the tariff "CHYTRÁ LAMA" in the price variant of 399 CZK/month.</p>
<p>opencall new price-list company: DH Telecom a.s. network operator: Vodafone Czech Republic a.s.</p>	<p>Starting from 18th September virtual operator opencall reduced prices of data packages with limits of 150 MB, 300 MB, 500 MB and 1,000 MB. Operator also reduced price for call and sent SMS within the framework of its own „network“ to the level of 1 CZK/minute, and/or 1 CZK/SMS.</p>

* Validity of SMS packages coincides with billing period which starts on the 3rd day in a month and terminates on the 2nd day of the following month.

Regulation of telecommunication in the EU

On 1st September Vice-President of the European Commission Ms Nellie Kroes announced three events from the field of radio spectrum – information on the [report](#) of former European Commissioner for commerce Pascal Lamy which includes Recommendation concerning utilisation of the UHF band and concerning [inventory](#) of radio spectrum.

The third event was publication of [Implementing decision of the Commission no. 2014/641/EU from 1st September 2014 on Harmonized technical conditions of utilisation of radio spectrum by wireless sound devices to ensure news programs and organizing public social events \(PMSE\) in the Union](#). The Czech telecommunication Office received a major responsibility for this regulation of the European Union, Ministry of Industry and Trade enlisted itself as coordinator. Member States will inform the Commission about discharge of this decision not later than nine months after it becomes effective on publication in the Official Journal of the European Union.

Newly elected President of the European Commission Jean-Claude Juncker

introduced on 10th September new [European Commission proposed](#).

On 25th and 26th September 20th Plenary session of the Association of regulators BEREC was held in Rome within the framework of which Working plan of BEREC for 2015 and Strategy BEREC for years 2015 – 2017 were discussed. European regulators agreed that they prepare common standpoint to the current proposal for the regulation concerning unified telecommunication market, approved report on regulatory accounting practice for 2014, report on the data collection for international roaming for Q4 2013 – Q1 2014, report on monitoring of quality of service of connection to the Internet in the context of network neutrality, and complied with the request of Albanian regulator concerning granted observer status in BEREC sessions.

On 16th October 2014 top representatives of BEREC will introduce medium-term strategy of BEREC and Working plan for 2015 within the framework of „2nd BEREC Stakeholder Forum Meeting“. After subsequent discussion with all interested parties both documents will be finalized so that they can be endorsed on December BEREC meeting.

Market analysis

- **Market no. 4 – wholesale (physical) access to the infrastructure of the network (including shared or full unbundling of subscriber line) in fixed location and market**
- **no. 5 – wholesale broadband access in networks of electronic communications**

During September the CTU began notification process on draft analysis of relevant markets no. 4 and no. 5. The European Commission accepted both proposals on 10th October.

- **Market no. 6 – wholesale end segments of leased circuits regardless of technology employed to ensure leased or reserved capacity**

The Council of the CTU discussed draft analyses of relevant market no. 6, supplemented by findings of public consultation. On 4th September the Office forwarded the draft to the protection of economic competition for its standpoint.

The auctions of frequencies

Within the framework of preparation for the auction of radio frequencies in bands of 1,800 MHz and 2,600 MHz the CTU published on its Internet pages [Results of public consultation](#) including settlement of comments received to draft conditions of the auction.

On its Internet pages the CTU published also [communication to the standpoint concerning commitments of subjects](#) to Basic principles of tender procedure relating to frequency band 3,600–3,800 MHz.

Next steps in preparation of both tender procedures depend on the process of discussing amendments of Government Regulation no. 154/2005 Coll., on Determination of the amount and method of calculation of charges for the use of radio frequencies and numbers, as later amended.

Information from working groups of CEPT ECC

The project team CEPT/ECC/PT1 focused on the issues of mobile communication (IMT) on its 47th meeting in Zagreb dealt with comments from public consultation to the proposal of Report ECC no. 53, processed on the basis of the mandate of the European Commission. Public consultation confirmed proposal of future harmonized channel arrangement of 700 MHz band, compatible with channel arrangement in Asia-Pacific and American regions. Report will be submitted to November meeting of the ECC for adoption.

Meeting of the working group CEPT/ECC/CPG ensuring preparation of European countries for the World's radiocommunication conference ITU (WRC-15) was held on 23rd – 26th September in Marseille. The Meeting discussed and endorsed updated wording of CEPT reports and Common European proposals (ECP) concerning individual agenda items of WRC-15. For future meetings it will remain to discuss, in particular, the issues of protection of development of the service in the band under 694 MHz, suitable particularly for pilotless instruments, automotive applications in the band of 75 GHz and particularly compliance with proposals of identification of another bands for IMT. As a fundamental change can be considered shift of bands 1,350 – 1,375 MHz, 1,375 – 1,400 MHz, the band 2,700 – 2,900 MHz and the band of 5,350 – 5,470 MHz in the category of unsupported bands for identification of IMT.

The CTU checked in September ...

...performance of communication activities without authorization – the Office discovered four cases of performance of communication activities without authorisation and will open legal procedure in these cases.

...observance of conditions of individual authorisation for the employment of radio frequencies – CTU performed two inspections of observance of conditions of individual authorisation for the employment of radio frequencies, and subsequently it issued two calls to eliminate shortcomings and began legal procedure in these cases.

...observance of conditions of General authorisation no. VO-R/12/09.2010-12 for the employment of radio frequencies and operation of devices for broadband transmission of data in bands from 2,4 GHz to 66 GHz – the CTU performed 44 inspections. In 25 cases it discovered shortcomings, particularly employment of indoor frequencies outside building. In relevant cases the Office called for elimination of discovered shortcomings and legal procedures were or will be commenced.

...employment of radio frequencies without authorisation – the CTU performed in total 13 inspections focused at subjects employing frequencies without authorisation or after its expiry, particularly operation of wifi devices outside permitted frequency bands and telephones DECT 6.0 according to USA standard. In 13 cases the CTU discovered employment of frequencies without authorisation and will open legal procedure in these cases.

...sources of jamming of operation of electronic communication devices and networks, provision of services of electronic communications or operation of radiocommunication services – the CTU performed in total 234 local investigations of which investigations were closed in 190 cases of jamming of DVB-T reception in total, one case of jamming of meteoradar and nine cases of jamming of public mobile networks GSM and UMTS. As sources of jamming were identified particularly 40 BTS LTE operating in the band 800 MHz three reprehensible phones DECT and two active television antennas causing jamming of GSM and UMTS networks.

...test operation of base stations LTE in the band 800 MHz – on 30th September 936 base stations were in test operation LTE in the band 800 MHz, in permanent operation 520 BTS. At the beginning of September, following the information in the media, rose sharply the number of reports received, however, only in each fifteenth case it was a legitimate case of jamming. In September the CTU received 600 reports of jamming of television, what represents ten times the normal monthly number. There are 140 reports more than during the whole year 2013. 40 BTS were determined as jamming devices in September what, in relation to the number of all BTS operated in test and permanent operation, represents 2.75 authorized reports in 100 BTS, since launching of test operation it is 73 BTS LTE in the band 800 MHz in total. The ratio of eligible cases of jamming to the numbers of received reports dropped from usual 10 – 20 % in April - August to 6.7 % in September.

...portability of telephone numbers – in September the CTU performed physical inspection of portability of telephone numbers according to the Measure of General nature stipulating technical and organisational conditions for implementation of portability of telephone numbers, and namely in the company T-Mobile and Vodafone including their brands MOBIL.CZ and Oskarta and within the framework of inspection no serious shortcomings were discovered. However, the Office still considers as problematic long notice periods which are precondition of portation of numbers. In the month

of September the CTU performed physical inspection of portability of telephone numbers of fourteen selected virtual mobile operators. Currently evaluation of results of inspection takes place and in justified cases acts preceding beginning of legal procedure will be performed.

Collaboration of the CTU with Česká obchodní inspekce – When checking wireless doorbells in Bystřice nad Perštejnem within the framework of regular inspection of telecommunication of end and radio devices controllers discovered no shortcomings. In other inspections of sellers in Jablonec, Varnsdorf and Železný Brod sale of radio controlled models of cars working in the bands of 31 MHz, 32 MHz, 45 MHz, 49 MHz and 81 MHz was discovered. Those radio equipment cannot be operated in the Czech Republic without individual authorisation for employment of radio frequencies. Shortcomings discovered will be resolved by the ČOI within its competence.



Postal service

The Office finished inspection of observance of obligations to label postal consignments so that from the label is clearly evident in which operator of postal services postal consignment was submitted. Inspections were performed from 3rd March until 30th May 2014 and were focused on 15 operators of postal services in total. Shortcomings discovered rested particularly in that labels of consignments of some subjects controlled did not allow to identify positively operator of postal services. The Office evaluated inspections and now acts preceding beginning of administrative procedure are performed.

The Survey of inspection activities in performance of control of Postal services and subscriber disputes for the month of September 2014

kind of activity	number of certifications of controls		the number of notices to eliminate deficiencies	the number of administrative proceedings commenced	the number of decisions promulgated ¹⁾	decided in favour		fines imposed	
	in total	of which				participant	provider	number	amount in CZK
1. The number of certifications notifying business activities issued (§ 14 of AEC)	14								
2. The number of changes of certifications notifying business activities (§ 14 of AEC)	33								
3. Performance of communication activities without certification	4			1	1			1	20000
4. Observance of conditions of general authorisations	61		25	24	29			28	282500
a) for the operation of public communication networks and associated facilities	0	0	0	0	0			0	0
b) for provision of services of electronic communications	0	0	3	3	3			3	8000
c) for utilization of radio frequencies and operation of instruments (radio equipment)	61	25	21	26				25	273500
5. Inspection of radio frequencies	249		4	11	10			9	147000
a) utilization of radio frequencies without authorisation for their utilization	13			7	4			4	101000
b) Observance of conditions of individual authorisation for utilization of radio frequencies	2	2	3	4				3	16000
c) locating sources of interference of operation of electronic communication facilities and networks, provision of services of electronic communication or operation of radiocommunication services	234		2	1	2			2	30000
6. Inspection of numbers for the purposes of management of numbers (number of inspection calls)	0		0	0	0			0	0
a) on objection against the settlement of reclamation of service provided	0		0	0	0			0	0
b) utilization of numbers violating authorisation for their utilization	0		0	0	0			0	0
7. Resolution of subscribers' disputes	0			1076	18741	4069	13088		
a) on objection against the settlement of reclamation of service provided	0			1	4	3	0		
b) on objection against the settlement of reclamation of charging of services	0			12	28	9	3		
ba) on access to data services with specific price (data and voice)	0			0	0	0	0		
bb) on access to data services with specific price provided on the Internet network or on other data networks (Dialer)	0			0	1202	490	599		
c) on reimbursement of price for services (monetary performance)	0			1056	18706	4057	13082		
d) others	0			7	3	0	3		
8. Withholding of information pursuant to § 115 of AEC					2	3		2000	38500
9. Others	12		4	37	69			59	2438500
IN TOTAL	322		33	1151	18853	4069	13088	2097	2926500

¹⁾ The total number of decisions promulgated includes also cases of termination of administrative proceedings in the form of resolution, i.e. cases of death of subscriber, extinction of a company, interruption of proceedings ex lege (bankruptcy), incompetency to decide etc.

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kind of activity	the number of certifications or inspections		the number of measures in the interest of proper provision of services pursuant to § 6 Para. 4 and § 37 of the	the number of administrative proceedings from the preceding month	the number of administrative proceedings commenced	the number of decisions promulgated	Rozhodnuto ve prospěch			fines imposed		the number of administrative proceedings passing to the next month
	in total	of which					participant	provider	Others	number	amount in CZK	
1. 1 The number of certifications notifying business activities issued	0											
2. 2 The number of changes of certifications notifying business activities	0											
3. 3 Performance of postal activities without certification	0			0	0	0				0	0	0
4. 4 Observance of conditions of the Act on Postal services (hereinafter APS) and other regulations	14		0	3	1	1				1	60000	3
5. 5 Observance of postal conditions pursuant to § 6 of the Act on Postal services		7	0	3	1	1				1	60000	3
6. 6 Observance of conditions of quality requirements pursuant to the Decree no. 464/2012 Coll.		7	0	0	0	0				0	0	0
7. 7 Resolution on objections against the settlement of complaint pursuant to § 6a of the APS	0			4	1	0	0	0	0			5
8. 8 Resolutions on disputes pursuant to § 37, Para 3, Letter a) of the APS	2			0	0	0	0	0	0			0
9. 9 Withholding of information pursuant to § 32a) of APS				0	0	0				0	0	0
10. 10 Others	0		0	8	5	5				4	45000	8
11 administrative procedure pursuant to § 37a, Para.3, Letter a) of APS		0	0	2	1	1				1	15000	2
12 administrative procedure pursuant to § 37a, Para.3, Letter b) of APS		0	0	1	0	0				0	0	1
13 administrative procedure pursuant to § 37a, Para.2 Letter f) of APS		0	0	1	0	0				0	0	1
14 administrative procedure dealing with mail shipments contrary to § 7, Para.1 of APS - § 37a, Para.2 Letter e) of APS		0	0	2	4	2				2	27000	4
15 administrative procedure pursuant to § 24, Para. 7, Letter a) of the Act on Protection of consumer (provision of services in prescribed quality)		0	0	2	0	2				1	3000	0
TOTAL	16		0	15	7	6	0	0	0	5	105000	16

CTU on the side of consumer

During September of 2014:

- The CTU opened **1,076** administrative procedures concerning subscriber disputes between a person performing communication activity on the one hand and a subscriber on the other hand, regarding monetary payments and proposals to start procedure concerning objection against settlement of complaint of prices or publicly available service of electronic communications provided, which the CTU decides according to § 129 of the Act on Electronic Communications.
- The CTU promulgated **18,741** decision in case, of which **18,706** decision in case of monetary payments (payment of prices for services).

FUP Data in Vodafone

On 13th September the company Vodafone changed its contractual conditions. Within the framework of this change it introduced charged service „Data and framework of packages“, where, after exhaustion of basic data package belonging to relevant tariff employed, additional data package will be automatically activated. According to the statement of Vodafone,

subscribers are continuously informed about the status of utilisation of basic data package via SMS messages, together with the information that they are approaching the border of agreed data tariff and subsequently the service „Data above the framework of package“ will be activated. According to earlier statements of Vodafone, subscribers,

who are not interested in automatic activation of additional data package, should have the option to deactivate this service. Currently, the Office in this case performs operations before opening administrative procedure because of potential suspicion of utilization of aggressive commercial practices, both with respect to its own „opt-out“ nature of relevant data package (i.e. subscriber must deactivate the service which he/she did not order, otherwise the service may be used and consequently charged), and with respect to time concurrence of change of contractual conditions with update of systems of Internet, mobile, voice and SMS self-service, mobile application "My Vodafone", services of operators in call centres and sellers in branch offices scheduled from 12th September until 14th September, when subscribers had no chance to deactivate immediately the service, which was activated without their orders just in these days.

Universal service

Public telephones

On 15th September the CTU started administrative procedure with O2 regarding imposition of obligation to provide partial service of public telephones.

Concerning [draft decision](#) public consultation was started on 3rd October within the framework of which it is possible to submit comments during one month. Part of the decision is annex containing all.

Breakdown of costs and revenues

On 3rd September the CTU promulgated [Measure of General nature no. OOP/4/09.2014-6, stipulating methodology of purposeful division of costs and revenues and their assignment and determines structure of information submitted](#). Via this Measure the Office stipulates methodology of purposeful division of costs and revenues for provider of Universal service and for enterprises with significant market power, on which this obligation was imposed within the framework of corrective measures.

General authorisation no. 1

On 12nd September the CTU published in the Volume 17/2014 of the Telecommunication Journal General authorisation [č. VO-S/1/09.2014-5](#), which modified conditions for provision of services of electronic communications. New legal adjustment of General authorisation will allow easier access to the so-called identifiers inevitable for changing operator, change of extent of services or termination of provision of services of electronic communications.

This General authorisation becomes effective on 1st December 2014.

Discussion document on implementation of Universal service in the sector of postal services and effects of recent changes in some countries regarding extent of obligations of the Universal service



Original document, the whole wording of Czech translation and information on potential sending of comments can be found [here](#).

Basic postulates

Purpose of the Universal postal service is to safeguard service including minimum extent of services of determined quality which will be provided in all Member States for affordable price in favour of all users regardless of their geographical position. It was stipulated in Regulatory framework (started with the Green Paper) in 1992) as a reaction to former needs and communication environment. This environment has changed.

At the beginning of the nineties the average trend of annual volume of postal consignments in 12 EU Member States was plus 6,1 % - today annual volumes are falling in the same rate. Although the rate of decline in individual Member States differs considerably, it is necessary to deal with this trend together with changing communication behaviour. It should be noted that in countries outside the EU (for example New Zealand, Canada, USA and Australia) transformation of obligations of Universal service already took place (see below). Therefore ERGP Group (European Regulators Group for Postal Services) now considers what steps should Member States take to adopt their obligations. It also considers long-term sustainability of existing requirements of the Directive on Postal Services, including their potential changes which could increase efficiency of the Directive as solving problems of social inclusion throughout Europe. The result of this reflection is elaboration of this document, which is the starting point for public consultation and discussion with wider group of interested parties in the workshop.

Said workshop will also lead to the second step of workflow, the analysis and verification of sustainability of Universal postal service in the context (predicted) of decrease of the volume of consignments and also considering suitability of existing regulatory framework in the sphere of Universal service. Conclusions of public consultation, discussion within the framework of the workshop and analysis of expert work-

ing group of ERGP will be processed together in the ERGP Report on implementation of Universal service in the sector of postal services and analysis of impacts and other changes of extent and long-term sustainability of obligations to provide Universal service (USO), which will be published before the end of 2015.

Volume of postal consignments are decreasing almost in each European country. This is a significant shift after years of increase of volume of postal consignments. Said change relates, inter alia, to digitizing of economy. ERGP Group notices, for example, that the rate of decline of this volume registered in European countries during the last period of known data (2008-2012) differs from the decline from -4 % to -40 %, as shown in Figure no. 1. Considering this development it is necessary to find out

which postal service remain or become indispensable for user.

Falling volume of standard letter consignments requires rationalization of letter activities of providers of Universal service (PUS) within the framework of existing extent of obligations of Universal service. In this respect some countries decided or may decide in future to change extent of obligations to provide Universal service. This can be done by change of extent of Universal service (US) within the framework of flexibility ensured by the Directive on Postal services. Some countries already began to make changes which should be attentively monitored now. ERGP Group should consider if and how this development will fall on sustainability of Universal postal service and how these

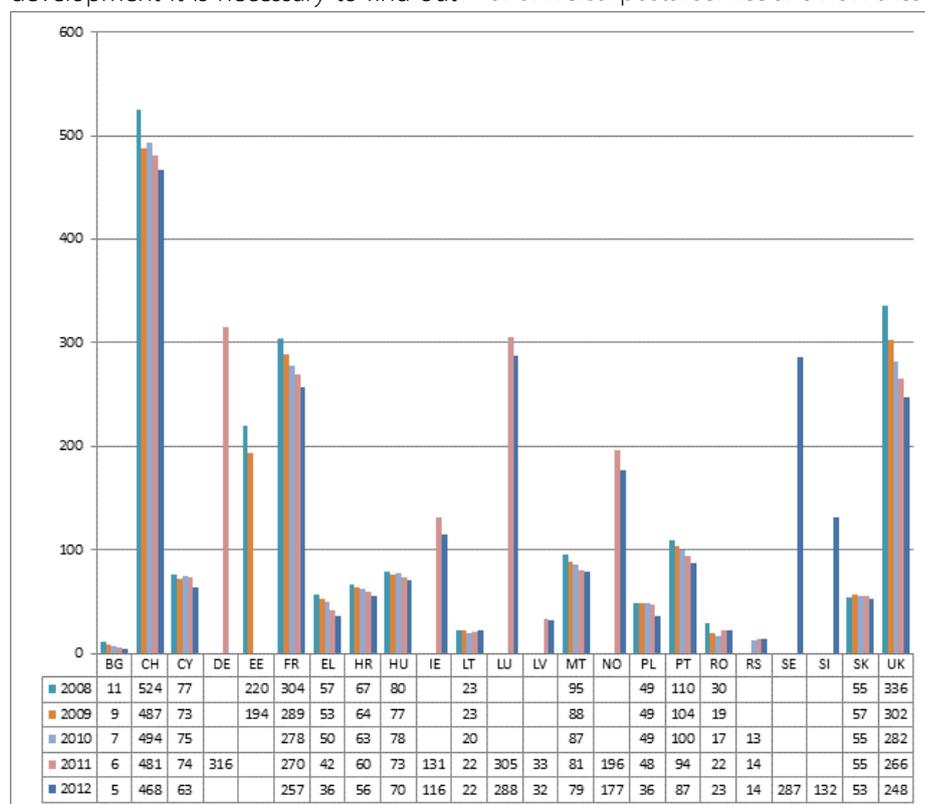


Figure no. 1: Domestic consignments per capita (without express consignments)
On the basis of data provided by „Report of the ERGP on indicators in the postal market“ from May 2014 (available online at the address: http://ec.europa.eu/internal_market/ergp/docs/documentation/2014/ergp-13-33-rev.1-ergp-report-on-market-indicators_en.pdf).

newly emerging problems will have to be solved in future.

Struktural decline of volume of postal consignments is not the problem of European postal markets only but is evident also in majority of postal markets throughout the world (potential exception are some emerging markets). In some countries regulators, governments and providers of Universal service have taken steps leading to reform of Universal postal services in reaction to the drop of volume.

In 2014 Australian post stated that it will be forced to perform reform to resolve 30% decrease of volume of postal consignments during five years. It introduced slower class of services for corporate customers as a supplement of its priority service (D+1 within the framework of metropolitan regions of capitals or in the same city; D+2 between metropolitan regions of capitals and rural regions and between individual rural regions).

In December 2013 Canadian post announced the plan to shift, within five years, one third of addresses, to which it is still delivered to the door, to deliveries to community mailboxes. Canadian post maintains that these changes are inevitable to accommodate to lower volumes of postal consignments. According to their estimates the shift to community mailboxes will save 400 to 500 mil. Canadian dollars each year. Two third of addresses in Canada have already introduced deliveries to centralized place as, for instance, mailboxes in entrance hall of apartment building, post office or to community mailboxes or rural mailboxes.

New Zealand post negotiated new obligation for provision of Universal service (USO). Since July 2015 basic delivery service will be provided at least three days in a week in urban centers and at least five days in a week in PO boxes and in rural areas (considering dependence of non-postal services on rural delivery service). New Zealand post maintains that these changes are necessary considering decrease of volume of postal consignments from 1.1 bil. pieces in 2002 to 771 mil. pieces in 2013.

In the USA during last three years the US Postal Service - USPS registered loss at the level of 26 bil. USD, particularly as a consequence of decrease of volume. USPS proposed reduction of the

number of days of deliveries to five days a week and introduction of service of deliveries to community mailboxes. Congressional Budget Office estimates that these changes would save USPS 10.9 bil. USD, and/or 8,1 mld. USD during ten years. However, the American Congress did not approve any of these changes.

This discussion document contains assessment of the current situation concerning obligations to provide Universal service considering latest market and regulatory development. Also on the basis of factual information mentioned in the news of WIK-Consult in individual countries (WIK-Consult Country Reports) „Principal changes in the sector of postal services (2010-2013)“ were identified five main categories of problems and these categories were examined via specific questions : current situation of obligations of Universal service;

- changing extent of obligations to provide Universal service during the last 10 years;
- obligation of Universal service and subscribers of the market;
- net costs and disproportionate burden during the last 10 years;
- determination and mechanisms of funding of obligations of Universal service.

On the basis of investigation of events in European countries during the last years the ERGP Report will be focused on potential variants of further customization of requirements on Universal service, including consideration of potential changes of the Directive, considering changing communication behaviour, to ensure that legislators/regulators have sufficient flexibility for stipulation of sustainable extent of products of Universal service. Report will assess which postal services may continue to be indispensable for users in an increasingly digitized world and in situation when volume of postal consignments decreases. Simultaneously, potential risks of stipulated obligations of Universal service will be considered as obstacles of entry in the market for more effective operators and as limitation for existing postal operators providing services having subsequent

impact on costs of the sector of postal services and their users.

Identification of problems

Current situation of obligations of Universal service

Assuming that the extent of obligations to provide Universal service in each country corresponds to description in WIK-Consult reports „Principal changes in the sector of postal services (2010-2013)“, some additional information were received from members of the ERGP group on service and elements which currently contain the obligation of Universal service.

All domestic regulatory bodies (NRA) which answered, (23) stated that all recommended individual consignments are part of obligations to provide Universal service, whereas collective recommended mail is included in obligations of Universal service (USO) in 13 countries (Belgium, Croatia, France, Greece, Hungary, Italy, Latvia, Malta, Norway, Portugal, Romania, Serbia and Sweden) plus Austria only when consignment is submitted to the post office (and not when it is filed in the sorting center).

Minimum number of postal offices¹ is not determined by the Act within the framework of obligations of Universal service (USO) in Ireland and Sweden. Last of above mentioned countries stated that in the Act on Postal services it is stated : „Density of contact places and access places must respect needs of users“.

Minimum number of postal access places (mail boxes) is not required in 4 countries (Bulgaria, France, Greece and Sweden). In Norway this element is not properly set within the framework of obligations of Universal service (USO) and only „sufficient number“ of collecting boxes is stated.

In Portugal criteria of density of post offices and access places must be determined considering distri-

¹ Directly stipulated obligations of Universal service (USO) or derived from the criteria of territorial division within the framework of obligations of Universal service (USO).

bution of the population on the territory of the country, distance between access places, urban or rural character of covered areas and development of transportation and demand. Process of determination is still under way and currently USP must maintain minimum values of density which it offered on 31st December 2013.

Almost all domestic regulatory bodies (NRA) which answered, replied that all services included in the extent of obligations of Universal service (USO) are exempt from VAT with the exception of Norway and Sweden.

Objectives of the quality of service (for example share of recommended consignments in time D+1 or D+3) are determined within the extent of obligations of Universal service (USO) by all domestic regulatory bodies (NRA) which answered (23).

Changing extent of obligations to provide Universal service during the last 10 years

Bulgaria, Malta and Netherlands stated that they plan to review the extent of obligations to provide Universal service in the near future². Proposals to change postal Act are under preparation in Netherlands, which will distinctly limit particularly compulsory number of postal facilities and collecting boxes.

In Norway the Government initiated the review of postal regulation considering implementation of the Third Directive on Postal services.

Nevertheless, in some countries pressure exists on changes of the extent of obligations of the Universal service (USO) from providers of Universal service and in one case (Great Britain) also from competitors.

In Croatia, Italy, Malta, in Romania, Sweden, Netherlands and in one another Member State providers of Universal service demand potential changes of the extent of obligations of the Universal service (USO). Among changes proposed belong:

² Malta intends to review current extent of obligation to provide Universal service within the framework of Postal Directive of the EU.

removal of specific services from the extent of obligations to provide Universal service (for example picture postcards, commercial response consignments, P. O. boxes, confirmation of filing in Malta); limitation of number of delivery days, post offices and collecting boxes (in Netherlands); removal of the service of delivery of collective mail (in one country); changes of targets of quality of service (limitation of number of post offices, frequency of delivery and removal of services with delivery date D+1 in Italy).

In Great Britain competitors have argued that the extent of obligations to provide Universal service should be at minimum level to cover needs of users in order to reduce potential of distortion of competition environment created by exceptions from VAT.

As regards already made changes of domestic obligations of the Universal service (USO), recent history shows that in some states changes of obligations of the Universal service (USO) were already made. These changes were focused particularly on removal of the service of collective consignments and the so-called direct mail, change of definition of coverage of the extent of obligations to provide Universal service and modification of weight categories which are included in obligations of Universal service (USO), what has led to limitation of the extent of items included in obligations of Universal service (USO), where heavier packages and consignments were removed.

On the basis of information provided by domestic regulatory bodies (NRA) latest changes of the extent of obligations to provide Universal service and all plans of these changes are summarized in Table no. 1.

On the basis of data received it is evident that liberalization has started changes within the extent of obligations of Universal service (USO) in 10 from 13 countries (Austria, Bulgaria, Croatia, Czech Republic, Latvia, Lithuania, Italy, Poland, Portugal and Romania). In some cases factors existed which lead to

adaptations of obligations of the Universal service (USO). In this respect 7 countries (France, Ireland, Italy, Latvia, Lithuania, Romania and Netherlands) considered changes in needs or preferences of consumers to be a strong reason to open this process. Also, the need to protect end users contributed to it, namely in Croatia, France and Latvia, and also the need to reduce potential net costs of obligations to provide Universal service in Croatia, Italy and Netherlands.

Regardless of factors determining the extent of the Universal service, broader or more specific definitions of obligations to provide Universal service is determined with the help of primary legislation in all analyzed countries so that regulatory bodies have sufficient flexibility for incorporation of changes on the market of postal services in detailed demands which are influenced by secondary legislation or license terms.

In this respect all essential changes in the sphere of Universal service considered in acts on postal services or decision of ministry (Greece) or in modifications of both acts (Poland). In majority of Member countries it is obvious that the ministry responsible for the sector of postal services transposes directive on postal services and determines rules for regulation of Universal service while domestic regulatory body is authorized to specify further regulation of the Universal service if necessary (with the exception of domestic regulatory bodies (NRA) of Austria and Serbia, which cannot change the extent of the Universal service). In majority of cases proposals to change the acts come from domestic regulatory bodies (NRA) on the basis of facts discovered in the market while some regulatory bodies participate also in the process of creation of national framework for postal service.

Country	Recent change of obligations	Potential change
Universal service	Potential change	none
Austria	Reduced limit of packages of 10kgs, newspapers included	none
Belgie	none	none
Bulgaria	Removing the money orders and the service of direct mail	Review planned
Croatia	Changes of the extent of existing services and weight limits	none
CR	Reduced weight of packages and insured consignments of 10kgs	none
Finland	change of the definition of coverage of the extent of obligations to provide Universal service	none
France	There is a new one-piece product in time D+2 – deletion of consignments of the second class for outgoing international consignments	none
Germany	none	none
Greece	none	none
Hungary	none	none
Ireland	Stipulated minimum of Universal postal services meeting the needs of users of postal services and simultaneously minimum of regulatory burden for providers of Universal service	none
Italy	6 to 5 of delivery days per week; deletion of the service of direct mail	none
Latvia	Reduction of weight of domestic packages to 10kgs	none
Lithuania	deletion of the service of collective consignments and direct mail	none
Malta	none	Review planned
Norway	Executed changes, however no details available	Review planned
Poland	deletion of the service of collective consignments	none
Portugal	Reduction of weight of packages to 10kgs ; deletion of service of direct mail	none
Romania	deletion of service of direct mail; included consignments for blind people;	none
Serbia	none	none
Sweden	none	none
Netherlands	Reduction to 6 to 5 delivery days per week (with the exception of death notice and medical consignments)	Review planned
Great Britain (UK)	deletion of the service of collective consignments	none

Obligations of Universal service (USO) and subscribers on the market

Regarding the extent of obligations of Universal service (USO) and subscribers in the market, all 23 countries considered whether the framework of obligations of the Universal service (USO) protects consumer (natural persons and small businesses and enterprises which are protected in 13 countries). In some cases, as for example in Portugal, users of postal services (sending and receiving mail) can enjoy offers from the extent of obligations of the Universal service (USO), because obligation of the Universal service (USO) aims to meet the needs of population. Some countries stated that the extent of obligations of the Universal service (USO) protects consolidators (10 countries), competition in infrastructure (of the type end-to-end) (six countries), firms which have to send collective consignments (five countries). In Great Britain all firms sending one-piece shipments are protected by the extent of obligations of the Universal service (USO).

Generally speaking all services included within the extent of obligations of Universal service (USO) are considered as service capable to prevent social exclusion of majority of population, particularly individual letters and parcels and also consignments for the blind people. Nevertheless, only in a small number of countries this character is clear for all services within the extent of obligations of the Universal service (USO). Italy illustrated that some services do not prevent social exclusion as a result of the existence of interchangeable services on the market of postal services (for example individual packages and recommended consignments, collective consignments and collective recommended consignments). France and Serbia reported collective consignments as service which does not prevent social exclusion but according to the answer of French regulator they are

Table no. 1: Recent changes of the extent of obligations to provide Universal service and review plans

included in the extent of obligations of the Universal service (USO) for historic and fiscal reasons.

Five countries maintain that on their markets postal services are currently offered as services outside the extent of obligations of the Universal service (USO), which are capable to prevent social exclusion of majority of populace.

In Norway, the target of the postal act is that postal services are offered throughout the country for affordable price and regulation exists regarding availability of basic postal services for handicapped users. In Croatia services of direct mail, delivery of stationery (including newspapers) and unaddressed consignments offered for the same price on the whole territory although it is not mandatory. In Belgium the Government also defined some specific postal services as services of General economic interest, for example, timely delivery of respected newspapers. In Finland general availability of services exists outside the extent of obligations of the Universal service (USO), which prevents social exclusion. In Italy services, provided on the basis of obligations to provide Universal service, are interchangeable for services of delivery, capable to prevent social exclusion, of individual packages and recommended letters, collective consignments and collective recommended consignments. Moreover, regulatory body in Great Britain stated that the

service outside the extent of obligations of the Universal service (USO) are not the subject to regulatory requirements preventing social exclusion (for example, providers of services of delivery of packages can charge a surcharge for delivery to rural areas and refuse delivery to some regions), however, many services do not differ, for example, there is no evidence of differentiation of collective consignments. In Germany currently no provider of postal services is subject to legal obligations (no provider of the Universal service was determined).

Almost all domestic regulatory bodies (NRA) which answered, stated that services included in the extent of obligations of Universal service (USO) were provided with a loss during the last 10 years as indicated in Table no. 2.

Three domestic regulatory bodies (Germany, Sweden and Great Britain) reported that services are not provided with a loss. Domestic regulatory body of Sweden stated that the provider of the Universal service is reimbursed free mail delivery of consignments for blind people (up to 7 kgs) and advanced services for old or handicapped citizens in rural regions. British regulator reported that only one service within the extent of obligations of Universal service (USO) is currently cost-regulated and is not offered with a loss while prices of remaining universal services are stipulated

by provider of the Universal service and domestic regulatory body does not examine individual profitability of all these services. Information about unprofitable services are unavailable in Austria and Netherlands and in Belgium and Malta are confidential.

Net costs and unreasonable burden during the last 10 years

Only three domestic regulatory bodies (NRA) reported that their providers of Universal service asked for reimbursement of net costs incurred from obligations to provide Universal service during the last ten years which were reimbursed. In Italy and Norway providers of the Universal service performed calculation of net costs with obligations to provide Universal service during the last ten years and the Ministry assessed it. In Italy domestic regulatory body is responsible for assessment of net costs of the Universal service since 2011. Domestic regulatory body of Bulgaria noted that net costs of obligation to provide Universal service were assessed after verification by domestic regulatory body and expressed in the opinion about solution of intangible benefits and consideration of unreasonable financial burden for the years 2011 a 2012. Intangible benefits ("Prestige of trademark as a result of provision and benefits of Universal postal service, ensuing from special commercial rights") have been taken into account and made considerable amount. Following criteria of unreasonable financial burden were taken into account : „share of net costs on total amount of revenues of provider of Universal service from provision; the value of balance of foreign financial accounts administrations; changes of share of determined operator on the market of providers of Universal service, changes of conditions of referential scenario; domestic regulatory body also employed recommendation of auditor". In Netherlands, as a result of withdrawal of request of provider of Universal service, was not necessary that domestic regulatory body

Service provided with loss	Country
Individual domestic letters (including recommended)	Bulgaria, Greece, Ireland, Italy, Poland, Portugal*
Individual packages	Bulgaria, Croatia, Hungary, Ireland, Italy, Poland, Portugal, one more country
Delivery of stationery	Greece, Italy, Latvia, Portugal
Consignments for blind people	Bulgaria, CR, Lithuania
Direct mail	Greece, Italy
International packages	Italy, one more country
International letters	Croatia, Ireland, Italy, one more country
Collective letters	Italy

Table no. 2: Postal services within the framework of the extent of obligations of the Universal service (USO) provided with loss.

* Domestic individual letters sent to occasional individual clients..

assesses net costs of obligations to provide Universal service and unreasonable financial burden.

Mechanisms of determination and funding of providers of Universal service

The analysis data provided by countries which answered show that in all cases concerning determination of provider of Universal service direct appointment is used, while in two countries (Malta and Romania), alternative method (public auction) exists in case of failure of public tender³.

In Czech Republic and Poland direct appointment will be replaced by public auction after period of relevant appointment expires and in Belgium direct appointment will be replaced by open mechanism after period of relevant appointment expires. In Great Britain it can be done in tender procedure, however OFCOM cannot make it until October 2021 (and only with the consent of provider of the Universal service).

Domestic regulatory body in Austria must make the analysis each five years to prove that there are other operators capable to provide the obligation of the Universal service (USO): if so, domestic regulatory body must ensure public tender procedure.

In Portugal current provider of the Universal service was directly appointed (concession contract) until the end of 2020⁴. In Netherlands provider of the Universal service can be appointed on the basis of tender procedure prescribed by the Act (which can be considered a kind of public auction). Nevertheless, this procedure was never used and existing provider of Universal service was (legal exemption) appointed by Ministerial

³ In Malta this alternative method covers "public tender procedure", i.e. in addition to the direct appointment there exists alternative method which allows tender procedure for Universal service resting in procurement of these services in harmony with valid rules and regulations concerning public procurement.

⁴ After this date provision of the Universal service can be ensured by the following mechanisms (Act no.17/2012, Art. 17): a) by effective influence of the market on the basis of individual licence; b) delegation of one or more providers of postal services by provision of different elements of the Universal service or by coverage of different parts of territory. This delegation specified in point b) must be made according to valid rules and regulations in the area of public procurements.

decree and there was no opportunity to cancel this appointment.

V Germany different scenario exists – no specific provider of the Universal service was appointed. All providers, i.e. all postal operators provide Universal service without any legal obligations. Only if the market ceases to provide Universal service one or more providers of services must be appointed by domestic regulatory body on the basis of tender procedure in order to properly provide the required service.

With the exception of Malta, Germany, Netherlands and Great Britain providers of Universal service are appointed for a limited period of time (9 years on average).

Regarding funding mechanisms, there are several ways.

Obligation of Universal service (USO) may be funded from public/state budget in 12 countries (Belgium, Bulgaria, Croatia, Greece, Hungary, Italy, Latvia, Malta, Norway, Poland, Romania and Serbia).

In Belgium, Bulgaria and Sweden there is no compensation fund established by law.

In 13 countries (Austria⁵, Croatia, Finland, France, Germany, Greece, Ireland, Italy, Malta, Poland, Portugal, Romania and Great Britain) net costs of obligations of the Universal service (USO) may be funded by provider of Universal service and its competitors. In Serbia net costs may be funded by provider of the Universal service. In Hungary, in order to reduce unreasonable burden of provider of Universal service, State authority opens Compensation account for postal Universal service (hereinafter „account”), administered by Hungarian Ministry of Finance while contributions in this account are paid by providers of licenced postal service. If the account does not cover unreasonable burden net costs of obligations of the Universal service (USO) are funded from the State budget.

Malta, Romania and Great Britain net costs of obligations of the Universal service (USO) may be covered also by financial contributions of consumers.

In Netherlands the system is currently ensured by Art. 30 and 31 of the Postal Act, according to which compensation

⁵ In Austria, if net costs exceed 2% of total costs, domestic regulatory body must create compensation fund and provider of the Universal service and its competitors must contribute to it.

for the net costs, incurred by provider of the Universal service, according to determination from the part of domestic regulatory body, are distributed (according to turnover) among all providers of postal services, including provider of Universal service itself (but except for providers of postal services with a turnover of less than 2 mil. Euro).

In no country providers of Universal service nor their competitors demanded mechanism of the type „pay or play“.

Issues for discussion

Information quoted in this document are intended to open a debate about whether above described market and regulatory changes influence the extent of obligations of the Universal service (USO) in the near future and if so, how it can be solved.

This discussion is ensured via public consultation from September 2014 until November 2014, workshop/oral discussion with the participation of stakeholders in Bucharest on 19th November 2014.

ERGP Group identified several potential reasons concerning changes of the extent of obligations of the Universal service (USO), for example :

- changes of behaviour of consumers;
- decrease of volume of letters;
- sustainability of net costs for provision of the Universal service;
- the need to prevent social exclusion with the help of obligations of the Universal service (USO);
- obstacles of entry in the market.

The results of the responses, provided by domestic regulatory bodies (NRA) indicated that several countries modified the extent of obligations of the Universal service (USO) in last years.

Reasons for modification of the extent of obligations to provide Universal service were considerably different. In some cases it could be decisions that a certain service is not suitable for inclusion in obligations of the Universal service (USO), which was not related to the protection of citizens against social exclusion. Moreover, many categories of users, for example consolidators, providers of type end-to-end and corporate customers, may not benefit from mechanisms of Universal service also because liberalisation of the sector of postal services allowed to new operators to offer services provided

within the framework of mechanisms of Universal service though with different standards of quality. Other changes of obligations of the Universal service (USO) are less clearly related with the policy of prevention of social exclusion or issues of economic competition. Limitation of the extent of services, post offices, deadlines and quality of delivery rather relate to the effort to balance sustainability of provision of Universal service (by reduction of costs of obligations to provide Universal service as a reaction to decrease of volume) and needs of users. Another possibility exploring sustainability are incentives for more efficient provision of the Universal service.

Alternatively, it is possible that two typical regulatory measures regarding prices, as for example, affordable prices and VAT exemption, create barriers to entry to market and lead to distortion of the market⁶. Some services included within the extent of obligations of the Universal service (USO) can also be offered at a loss, which can mean an unfair financial burden for sector of postal services and for users. Price regulation should take into account situation of competition of relevant markets. Given the ongoing changes of the market of postal services it should be carefully evaluated whether all services within the extent of obligations of the Universal service (USO) are still relevant. It should then be ensured that any future

⁶ Domestic regulatory bodies (NRA) however, recognize that VAT exemption is the issues for the European Commission and for each national legislative framework in European countries.

definition of the Universal service and mechanism of funding is competitively neutral, i.e. not blocking development of the market.

There is a tendency to wider and less specific definition of the extent of Universal service to make sufficient flexibility for regulators. The Extent of the Universal service is different in individual countries (within the framework of limitations of the Directive on Postal services). On the basis of results described and considering changing communication behaviour and decrease of volume of letters and increase of e-commerce some problems should be further examined relating to adaptation of the extent of obligations to provide the Universal service within the framework of boundaries of the Directive on Postal services, for example :

- Does current extent of obligations to provide Universal service lead to excessive costs?
- Could regulation of tariffs (for example, affordable prices and VAT exemption) lead to distortion of competition on the postal market?
- How could common European minimum extent look like ?
- Which necessary elements should be guaranteed?
- What necessary elements should be regulated?
- How necessary it is to have uniform basis considering specific solutions for individual country?
- At which category of user should be targeted obligation of

the Universal service (USO)? Natural persons, people living in rural areas, handicapped citizens living in rural areas, small firms and/or/ home offices? Can the changes be identified in this respect for the future?

- Is there a reason for protection of economic competition with the help of obligations of the Universal service (USO) (i.e. protection ensuring that prices of provider of the Universal service are cost-oriented, and that they are non-discriminatory and transparent for customers and competitors)?
- Is it necessary to determine provider of the Universal service for provision of compulsory Universal service (USO)?
- What would be a reasonable period of appointment and which should the process of this appointment be considering changing market of postal services?
- Should the changes of the extent of obligations of the Universal service (USO) have impact on possibility to finance Universal service for example with the help of compensation fund (and if so, how and what would be the consequences)?

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