



Czech telecommunication office

February 2016

Decision-making practice: A visitor without power of attorney does not allow you to enter into a contract with an operator

It all began with a flat owner ordering a fixed line from an operator. On the day when a technician brought him a self-installation pack, however, he was not at home and a person who was merely visiting the flat had to confirm receipt of the pack in his place. When a dispute arose later over payment, the operator demanded the outstanding amount not from the owner of the flat who ordered the service, but from the person who confirmed receipt of the pack. The CTU finally and conclusively ruled in favour of the respondent (the person who was only visiting the flat and who did not herself order a service).

The operator set up a fixed line and later gave notice of termination of telephone connection for failure to pay the bill for services. In the petition lodged with the CTU, it subsequently demanded the imposition of obligation to make a financial payment of CZK 13,772.59 on the respondent, who signed the record of receiving the equipment. It substantiated the petition with a copy of the Record of Transfer and Acceptance, copies of billing for the outstanding amount and a copy of a reminder to pay the outstanding amount.

The respondent responded by stating that she had not herself ordered anything from the claimant, neither had she entered into a contract with it. She was merely visiting the person having placed the order on the day on which the pack was delivered, she had never lived there and did not take services. The operator's technician, however, was probably in a hurry and did not want to wait for the customer to return, therefore asking the respondent to accept the pack without requesting she provide authorisation to do so (power of attorney). The respondent has not been in contact with the person having ordered the services for some time now.

It emerged from the material in the file that the services were ordered by a person other than the respondent (i.e. the customer), whereby the outstanding bills were sent to the name and address of the person having placed the order. The respondent features in communication between the operator and its customer only in terms of the signature on the Record of Transfer and Acceptance. The woman does not deny signing the record, but had no idea that this would establish contractual relations with O2. Although the Record of Transfer and Acceptance was to the operator a definitive expression of will by the customer on the opportunity to begin providing him with electronic communication services, it still considered the party to contractual relations to be the customer who ordered the service and not the respondent. All bills issued in his name and the instrument addressed to him on the termination of contractual relations testify to this. The claimant itself did not act consistently in relation to its

contractual partner (the customer) in that it is now demanding the payment of the outstanding amount from the respondent, who has never been a party to the contract with the claimant.

The respondent in the dispute on outstanding payment is not a passively legitimated person. This person could potentially have been the customer who evidently ordered the service provided. In this case, however, it was rather the implied conclusion of contractual relations, since formal requirements were not satisfied in the signing of the Record of Transfer and Acceptance (the requisite authorisation of a third/signing party to represent the customer).

Market analyses

(Former) market no. 1 – access to the public telephone network at a fixed location¹ and (former) market no. 2 – call origin (origination) in the public telephone network at a fixed location², (new) market no. 1 – wholesale services in terminating calls in individual public telephone networks provided at a fixed location and (new) market no. 2 – wholesale services in terminating calls in individual mobile networks

In February, the CTU dealt with comments which it received from the Office for the Protection of Competition regarding proposed analyses no. A/1S/XX.2015-Y, no. A/2S/XX.2015-Y, no. A/1/XX.YYYY-Z and no. A/2/XX.YYYY-Z and sent the documents at issue to the European Commission for notification on 17 February 2016 after approval by the Council.

Market no. 8 – access and origin of calls (origination) in public mobile telephone networks

The CTU received a statement on proposed analysis of relevant market no. A/8/XX.2015-Y from the European Commission on 19 February. In its statement, the European Commission states that it has no comments regarding the proposal sent based on the notified proposed analysis and supplementary information provided by the Office on 2 February 2016. The Office subsequently issued Measures of a General Nature, Analysis of Relevant Market No. 8 – access and origin of calls (origination) in public mobile telephone networks.

Based on a three criteria test, the CTU did not find any grounds for ex-ante regulation. At the same time, the Office stated that it is a dynamically developing area and for this reason it will continue to monitor both the situation on the retail market and the onward development of conditions for MVNO on the wholesale market.

Czech Post (Česká pošta) – payment of net costs for 2014

The Office published a decision on the amount of net costs from the provision of basic postal services for the year 2014 on 29 February 2016. Czech Post (Česká pošta), which as the holder of a postal licence provides postal services, lodged an application for the payment of net costs on 14 August 2015. In its application, Czech Post valued net costs at CZK 1,754,764,485. The Office verified the accuracy and completeness of the documents and materials submitted in administrative proceedings, verified the calculation of net costs and determined net costs as being CZK 657,223,705, which will be paid from the account for financing basic services. This decision is not final and conclusive.

¹Originally named relevant market no. 1 according to [OOP/1/02.2008-2](#), as amended by [OOP/1/04.2012-4](#).

²Originally named relevant market no. 2 according to [OOP/1/02.2008-2](#), as amended by [OOP/1/04.2012-4](#).

Auction of 1800 and 2600 MHz frequencies

The CTU published on its electronic notice board and in the Telecommunications Bulletin (Telekomunikační věstník) on 8 February 2016 full documentation regarding the tender for the allocation of rights to use radio frequencies to ensure public communication networks in the 1800 MHz and 2600 MHz bands. With this publication, the Office commenced the tender process. Documentation regarding the auction is published on the electronic notice board in Czech and English and in the Telecommunications Bulletin in Czech. The English version is only informative in character. The auction is governed by Czech law. Applications for the tender may be lodged with the CTU under the terms and conditions laid down in the call for proposals not later than by 22.3.2016.

Questions were asked regarding the terms and conditions of the tender and the CTU published answers to these questions on 29.2., supplementing these on 4.3.

Extended accreditation for price calculator

The Office completed the process of accrediting the new Tarifon price calculator in the course of February and extended the validity of accreditation by a further year. The Tarifon price calculator compares prices of mobile calls, calls from fixed lines and mobile and fixed Internet access. A list of price calculators currently having accreditation is published on the CTU website.

Telecommunication regulation in the EU

The CTU held a second workshop regarding a review of the regulatory framework for electronic communications on 1 February. The programme included an overview of the debate on-going at European institutions regarding the review of the regulatory framework in connection with the DSM strategy, which takes in

- public consultation by the European Commission regarding the review of the regulatory framework
- first debate at the Council of the EU
- response of BEREC to the questions posed by the European Commission
- report of the European Parliament regarding DSM

On 2 February the European Commission published a [proposal](#) for coordinated use of the 700 MHz frequency band for mobile services. The European Commission proposes that the 700 MHz band be allocated to wireless broadband access in all countries of the EU not later than by 30 June 2020 given that procedure must be coordinated in order to prevent interference and consideration must be made of the fact that 5G technology will begin coming into play in 2020. Member States must therefore adopt and publish their national plans for covering and freeing-up the band in question by 30 June 2017. They will also have to enter into agreements on cross-border coordination by the end of 2017. The Commission expects that this proposal will be adopted at accelerated speed by the European Parliament and Member States so that foreseeable and timely passage is ensured.

On 9 February, the INSAFE/INHOPE network organised Safer Internet Day in more than 100 countries with the support of the European Commission, the day dedicated to safer and more responsible use of on-line technology and mobile devices, particularly among children and young people. The coordinator of this significant date in the Czech Republic is the National Centre for Safer Internet.

11 February is European 112 Day. It is a day which focuses on increasing public awareness of the emergency call number in Europe. In August of this year it will have been 25 years since the 112 number was introduced as the emergency calls number. Nonetheless, surveys show that only half the population of the European Union (48 %) would spontaneously identify 112 as a number which allows them to call the police, fire rescue service or ambulance service anywhere in the EU without charge.

On 25 February an informative overview of the results of the Digital Economy and Society Index (DESI) was published. The full wording of the report on the new international index of results in the digital sphere will be available in the middle of March 2016. The index was established by the European Commission (DG CONNECT) to allow it to assess advancement in the development of digital economies and digital societies in Member States. DESI is a set of indicators which are united in the following areas: connectivity, human capital, the use of the Internet, the integration of digital technology and public digital services. The results of DESI 2016 are in most cases based on data from 2015. The Czech Republic came in 17th position.

On 25 and 26 February 2016 the plenary meeting of BEREC was held. Seven documents were approved for publication, among them the BEREC Report on OTT Services, the BEREC Report on Enabling the Internet of Things (IoT), the BEREC Report on the wholesale roaming market and the amended BEREC Guidelines on Roaming Regulation. The Guidelines were one important topic of discussion, BEREC currently preparing these based on the provisions of Article 5(3) of Regulation (EU) 2015/2120 (known as TSM). A draft of these Guidelines will be submitted for public consultation in the first week of June this year.

Information from working groups

The 84th plenary meeting of the Frequency Management Working Group (FMWG) was held in Cluj, Romania, between 2 and 5 February. The main points of discussion were updating the European frequency table (ERC Report No. 25), updating ERC/REC Recommendation 70-03 on harmonising short range devices and the issue of using PMSE (Program Making Special Event) in the 2.7 – 2.9 GHz band. The programme was prepared for a CEPT Civil/Military Meeting, to be held in Prague on 23 – 24 November of this year, and issues relating to the operation of unpiloted resources, to the cancellation of radiocommunication services from DECT 6.0 cordless telephone systems and to the broadening of the 80 GHz band for radiolocation service were discussed. The meeting also discussed the conclusions drawn from a meeting of project teams regarding secure high-speed communication (BB PPDR), monitoring the radio spectrum, satellite communication, private radio networks (PMR/PAMR) and wireless communication in the 5 GHz band (RLAN).

A plenary meeting of the ITU-R SG6 Study Group (broadcasting) was held in Geneva on 5 February, discussing and adopting a set of documents regarding harmonisation in the sphere of television, radio and general multimedia systems, including documents in sharing IMT systems and television broadcasting in the UHF frequency. The Group also adopted harmonisation documents on defining new HDR (High Dynamic Range) systems with large colour and brightness range in display systems, on standardising multi-channel sound and on new distribution formats of audio-visual content and discussed the matter of dynamic range compression in radio broadcasting in the VHF FM band.