



Czech Telecommunication Office

March 2017

Telegraphically on communications

Amendment to the Telecommunications Act goes to the Chamber of Deputies

At its meeting on Wednesday, 8 March, the Government endorsed a draft amendment to the Electronic Communications Act, aiming to strengthen consumer rights, to create conditions for customers' pressure on reduction in prices for mobile data, and to increase CTU's powers. According to Prime Minister Bohuslav Sobotka, the Deputies should start discussing the amendment at the first meeting in April.

Data retention statistics for 2016

Last year, the mobile operators submitted their operation and localization data to the competent authorities in a total of 472,522 cases. That is more than a double increase compared to 2015. This has been shown by the data collection from businesses sent, in accordance with the law, by the operators to CTU collectively. There was a slight decrease in the number of cases of providing data within a fixed network.

First DVB-T2 transition network launched

On 1 March, České Radiokomunikace launched simultaneous broadcasting in the DVB-T and DVB-T2 standards. In transition broadcasting network 12, České Radiokomunikace launched the Prague City 31 and Prague 31 transmitters (Cukrák station). In the DVB-T2 standard, a total of 11 commercial programmes are broadcast in SD low-resolution. The Nova group programmes are completely missing.

Currently, CTU has no information about the launch of operation of other planned transition networks.

Decision-making practice: Retuning of transmitters from the prohibited zones does not mitigate the penalty

The Czech Telecommunication Office dismissed the appeal submitted by Liberec's Air NET DT s.r.o. against the amount of the penalty of CZK 65,000 imposed for an administrative offence consisting in breach of the conditions of the general authorization. It was committed by the operator by operating a total of 8 channels using 8 frequencies in breach of the general authorization.

When monitoring the radio spectrum, in June and July 2015 CTU recorded the use of frequencies in the band of 5–6 GHz outside the building, i.e. contrary to the conditions of general authorization No. VO-R/12/09.2010-12. Furthermore, CTU detected the use of the frequencies of 5755 MHz by a channel for high-speed data transmission but, in accordance with general authorization No. VO-

R/10/05.2014-3, this frequency may only be used by short-range equipment. As part of the check carried out, this was also confirmed by the executive of the company in question. The operator responded to the invitation to remedy the identified deficiencies within the period of 14 days, returned their channels, and informed the Office of implementation of the corrective measures.

Subsequently, CTU issued an order in which the operator was imposed a penalty under Section 118 (22) (c) of the Electronic Communications Act in the amount of CZK 65,000. The order was cancelled on the basis of the objection by the company, and the proceedings continued. After assessment of all the evidence, a decision was made by which the company was fined the same amount as in the order, i.e. CZK 65,000. The company defended itself by an appeal in which it stated that it was aware of its fault, admitting and recognizing its guilt of committing the administrative offence. However, it stressed that after the fault was detected it cooperated with the administrative authority and immediately remedied the situation, which should be reflected in the amount of the penalty. Therefore, the company objected that the amount of the penalty was disproportionate, because it could have a significantly negative impact on the company's business, possibly even leading to its inability to meet the obligations in relation to its creditors.

After discussion in the appeal committee, the Chairman of the CTU Council rejected the appeal as unfounded, assessing the penalty imposed as fully adequate. One of the major points of the reasons of the decision made by the Chairman of the CTU Council was the fact that the operator should have established effective mechanisms to ensure that the equipment in question is operated in accordance with the specified conditions. The penalty assessed was very close to the lower limit of the statutory range and represents just 0.325% of CZK 20 million which can be imposed in this case.

Legislative changes

Disputes between entrepreneurs in electronic communications

In February, CTU initiated proceedings based on the petition of Kabelnet s.r.o. against SMART Comp, a.s. concerning a dispute about the respondent's obligation to supply the petitioner with wholesale service under the concluded contract.

The Office effectively ended the proceedings initiated based on the petition submitted by UPC Czech Republic against Fiber Network Services, spol. s.r.o. in the case of financial performance for electronic communications services. The petition was rejected in its entirety. The decision came into force on 31 January 2017.

Furthermore, CTU effectively terminated the proceedings initiated based on the petition by T-Mobile Czech Republic a.s. against City mobile s.r.o. in a dispute concerning the financial performance for electronic communications services. The petition was decided by an order which came into force on 24 January 2017.

Radiocommunications account

On 20 February, in Chapter 15 of the Collection of Laws, Government Regulation No. 42/2017 Coll. was published, amending Government Regulation No. 153/2005 Coll., on the determination of the method of providing funds to the radiocommunications account, the amount thereof, and the method of fund withdrawal.

The change in legislation brought by this Government Regulation represents the fulfilment of one of the measures related to the process of transition of terrestrial digital television broadcasting from the DVB-T standard to the DVB-T2 standard. The Government Regulation in question regulates the amount of the percentage of payment of collected fees for use of radio frequencies to the radiocommunications account to ensure the subsequent reimbursement of the costs of the transition. The existing 6% of the payment has thus been increased to 30%.

This Government Regulation came into force on 7 March 2017.

Charges for frequencies

On 20 February, in Chapter 15 of the Collection of Laws, Government Regulation No. 43/2017 Coll. was published, amending Government Regulation No. 154/2005 Coll., on the determination of the amount and method of calculation of the charges for using radio frequencies and numbers, as amended.

The change in legislation brought by this Government Regulation represents the fulfilment of another of the measures related to the process of transition of terrestrial digital television broadcasting from the DVB-T standard to the DVB-T2 standard. The Government Regulation in question regulates or, more precisely, supplements the amounts of the charges for the use of radio frequencies for terrestrial digital television broadcasting which will be valid for the propagation of digital broadcasting via “transition networks”.

This Government Regulation came into force on 7 March 2017.

Blocking illegal gambling

On 14 February 2017, the Constitutional Court ruled in its judgment Pl. ÚS 28/16 on the petition of a group of senators to annul the provisions of Section 82, Section 84 and Section 123 (5) of Act No. 186/2016 Coll., on gambling (blocking illegal gambling on the Internet). The contested provisions of the Gambling Act stipulate the conditions of blocking illegal Internet gambling, as well as the conditions for the establishment and maintenance of the List of Banned Internet Games. The Constitutional Court rejected the petition in question and, within the reasons of the judgment, it concluded that the contested provisions are not in conflict with the constitutional order.

The Constitutional Court stated that the purpose of the contested Act is to protect social interests, and that operators of illegal gambling conceptually cannot use protection of the contested constitutionally protected values, because it is an illegal activity that threatens many important interests of society. Moreover, it is often linked with serious criminal activities. Therefore, the construction of the Act imposing the obligation to effectively restrict access to websites with illegal gambling on ISPs rather than on games operators themselves was not found unconstitutional by the Constitutional Court.

Checked by the CTU in February...

Type of activity	Number of certificates or inspections		Number of calls to rectify shortcomings	Number of administrative proceedings commenced	Number of decisions awarded*)	Decided in the favour of		Penalties imposed	
	Total	Of which				the subscriber	the provider	Number	Size in CZK
1. Number of awarded certificates of notification of operating a business (Section 14 of the ZEK)	15								
2. Number of changes to certificates of notification of operating a business (Section 14 of the ZEK)	24								
3. The operation of communication activity without a certificate	2			0	0			0	0
4. Adherence to the terms and conditions of general authorisations	21		11	20	21			21	383000
a) in relation to providing public communication networks and associated facilities		0	0	0	0			0	0
b) in relation to providing electronic communication services		0	0	1	0			0	0
c) in relation to the use of radio frequencies and the operation of devices (radio equipment)		21	11	19	21			21	383000
5. Inspection of radio frequencies	301		1	12	12			11	123000
a) the use of radio frequencies without authorisation		18		7	6			6	84000
b) adherence to the conditions of an individual licence for the use of radio frequencies		1	1	0	0			0	0
c) identifying sources of interference to the operation of electronic communication equipment and networks, the provision of electronic communication services or the operation of radio-communication services	282		0	5	6			5	39000
6. Inspection of numbers for the purposes of number administration (number of inspection calls)	0		0	0	0			0	0
a) the use of numbers without authorisation		0		0	0			0	0
b) the use of numbers in conflict with authorisation		0	0	0	0			0	0
7. Subscriber disputes resolution	0			3017	6061	1100	508		
a) of opposition to the processing of complaints concerned to the provided services		0		2	0	0	0		
b) of opposition to the processing of complaints concerned to the billing for services		0		15	12	4	8		
ba) access to services with expressed price (data and voice)		0		0	0	0	0		
baa) access to data services with expressed price provided on Internet or other data networks		0		0	0	0	0		
c) on the payment of the price for services (monetary performance)		0		2999	6046	1096	497		
d) other		0		1	3	0	3		
8. Failure to provide information according to Section 115 of the ZEK				4	4			3	39000
9. Other	119		5	23	23			17	185500
TOTAL	441		17	3076	6121	1100	508	52	730500

*) The total number of decisions awarded includes cases in which administrative proceedings are concluded with a resolution, i.e. cases of the death of the subscriber, the cessation of existence of the company, the discontinuation of proceedings by law (bankruptcy), not having the remit to decide etc.

Postal services

In March, CTU issued one certificate on business notification in postal services. On 6 March, J + M logistika, s.r.o. became a new authorized entrepreneur. The current list of all registered operators providing postal services or ensuring foreign postal services is available in a searchable database on CTU's website.

Overview of inspection activity in inspecting postal services in February

Type of activity	Number of certificates or audits		Number of measures in the interest of proper provision of the services according to § 6, subsection 4 and § 37 of ZPS	Number of administrative proceedings from the previous month	Number of initiated administrative proceedings	Number of issued resolutions	Decided in favour of			Sanctions imposed		Number of the administrative proceedings carried forward to the next month
	total	of which					subscriber	provider	Other	number	amount in CZK	
1. Number of issued certificates on business notification	1											
2. Number of changes to certificates on business notification	0											
3. Execution of the postal service without certificate	0			0	0	0			0	0	0	
4. Compliance with the conditions of the Postal services act ("ZPS") and other regulations	2		2	0	0	0			0	0	0	
Compliance with the postal conditions according to § 6 of ZPS		2	2	0	0	0			0	0	0	
Compliance with the conditions for quality requirements according to Decree No. 464/2012		0	0	0	0	0			0	0	0	
5. Decision about objections against settlement of the complaint according to § 6a of ZPS	0			63	27	22	4	12	5			68
6. Settlement of the disputes according to § 37, subsection 3, paragraph a) of ZPS	0			0	0	0	0	0	0			0
7. Failure to provide information according to § 32 a) of ZPS				0	0	0				0	0	0
8. Other	2		0	3	1	1				1	2000	3
Administrative procedure in the matter of a tort according to § 37a subsection 2 paragraph f) of ZPS		0	0	1	0	0				0	0	1
Administrative procedure in the matter of a tort according to § 37a subsection 3 paragraph a) of ZPS		0	0	2	1	1				1	2000	2
TOTAL	5		2	66	28	23	4	12	5	1	2000	71