



Czech telecommunication office

January 2016

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## Telegraphically on communications

### Decision-making on disputes regarding outstanding invoices accelerated last year

The CTU is succeeding in gradually reducing the burden have arisen in the past from the previous, suspended transfer of the dispute agenda regarding outstanding invoices to the general courts. The Office decided on 162 thousand such disputes last year, which is three times more than the number of new proposals it received from operators last year. Each official dedicated to this business decides on an average of 61 cases a month.

### CTU continuing in frequency auctions this year

At the beginning of February, the CTU announced an auction for remaining frequencies in the 1800 MHz and 2600 MHz bands that were not auctioned off in previous tenders. The term for lodging applications is 22 March. The CTU will this year also announce a new auction for frequency allocations in the 3.6 to 3.8 GHz bands.

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## Decision-making practice: CTU punishes failure to provide information with a fine

**The fact that a party to proceedings does not regularly check its data inbox does not relieve it of responsibility for illegal conduct. Operator World of reptil s.r.o. committed such a breach by failing to provide the information required by the CTU according to Section 115 of the Electronic Communications Act within the set time limit.**

The CTU asked the virtual operator for information, data and materials in the matter of complying with Regulation (EU) No 531/2012 on roaming on public mobile communications networks. With respect to the fact that the operator failed to provide the required data within the set time limit, the CTU sent it a reminder, again asking for the provision of the required information within a time limit of five days. The party to proceedings did not log into its data inbox and the fiction of delivery therefore came into effect on the 10<sup>th</sup> day following the date on which the application was delivered to the data inbox.

The operator failed to respond to the reminder in any way and for this reason the Office decided in administrative proceedings to impose a fine of 6 thousand koruna. The business undertaking lodged an appeal against the decision in which it objected that it had not noticed the request for the provision of information because it had not received notification from the Office by e-mail. Moreover, the request had been unclearly included in a message together with other forms and it therefore did not realise that this was a separately-asked question.

The appeal body considered the formulated request for information to be understandable and unambiguous. If the party to proceedings is not trained in the area of telecommunications and does not understand specialised terms, this cannot relieve it of responsibility for an administrative infraction. If the party to proceedings decided to undertake business in the area of electronic communications, it is obliged to adhere to the legal regulations which govern and regulate this area. If the operator did not understand the request sent, it could have contacted the Office with a request for a more detailed explanation or to provide a longer time limit in which to provide information. If the party has a data inbox, this is delivered to it here. If it does not collect data reports, this circumstance acts against it.

Based on these facts, the Chairman of the Council of the CTU rejected the appeal and upheld the fine imposed.

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## Czech Telecommunication Office Activity Plan for 2016

**As in previous years, the CTU will primarily focus in 2016 on promoting competition on the electronic communications and postal services markets and on creating the conditions for technological innovation, providing effective support for the development of new generation networks and protecting the consumer. This ensues from the plan of principal tasks approved by the Council of the CTU at its meeting in January.**

The CTU wants to continue ensuring the required level of protection for consumers and users of services and to actively involve itself in the discussion and possible implementation of changes to the European Regulatory Framework for electronic communications. The Council considers it important to consolidate the CTU within the regime of the Act on State Service within the conditions at the CTU in 2016 so as to ensure the continuity of the due performance of all business and increase the level of openness to the public, whilst also creating the conditions for the provision of services within the spirit of modern state administration. With respect to the expected development of the electronic communications and postal services market, the CTU intends to focus primarily on the following tasks this year:

### Analyses of electronic communications markets

The CTU plans to concentrate on analyses of relevant markets which are already underway in relation to Recommendations for relevant markets and the voluntary separation of O2 having been undertaken and to complete the process of analysing Relevant Market No. 8 (access and origin of calling (origination) in public mobile telephone networks). Furthermore, administrative proceedings will be required and decisions on corrective action issued in relation to the publication of individual analyses. The conclusions drawn from the analyses carried out will form the basis of possible changes to Measures of a General Nature No. 1 from the perspective of modifying the scope of the relevant markets. The Office will also check fulfilment of the obligations imposed within the bounds of regulation.

### Support for the development of electronic communication networks and services

The CTU is ready to cooperate with the Ministry of Industry and Trade on the implementation of a programme to support projects which focus on building new generation access networks and conditions for the administration and financing of this, in particular the preparation of a map to identify areas eligible for the provision of grants. At the same time, the CTU will cooperate on completing the transposition of Directive No 2014/61/EU in finalising the preparation of a new law and possible implementing regulations. The CTU is ready to look for solutions to the issue of eliminating malicious

calls to emergency lines, identifying and localising the caller to such emergency lines and proposing that the conclusions drawn be projected in legal regulations. One of the tasks in front of the Office this year is to update the Rules for Data Operation Management in relation to Regulation of the European Parliament and of the Council No 2015/22/EC, which lays down, inter alia, measures to concern open Internet access.

### Management of the radio spectrum

The CTU will continue its cooperation on preparing the conditions to ensure the development of terrestrial digital TV broadcasting, including the process of migration to DVB-T2 standard. It will ensure the required steps are taken in this area to undertake the international coordination of frequencies for the transitional and final FBB-T2 broadcasting network. The CTU will also continue its cooperation with the Ministry of Culture in preparing the Concept of Digitalising the Broadcasting of Czech Radio. If this is completed, it will then prepare the conditions of a tender for frequencies. The Office plans two frequency auctions this year: in the 1800 MHz and 2600 MHz bands and a subsequent auction of frequencies in the 3.6 to 3.8 GHz band.

Another task before the Office is to transpose the conclusions of the World Radiocommunication Conference WRC-15 into the conditions for using the radio spectrum in the Czech Republic.

### Regulation of the postal services market and ensuring accessibility of basic postal services

The CTU will continue to monitor development on the market, including the manner of providing and ensuring basic services and their universal availability throughout the Czech Republic according to basic qualitative requirements. It will also compile a comprehensive report on discharge of the obligations imposed on the holder of a postal licence in 2015. This it will do in the first half of 2016. Furthermore, it will focus on conducting a review of the level of quality and the manner of providing basic services and their universal availability, the aim being to prepare a tender for the postal licence holder after 2017.

### Universal service in electronic communication and basic (postal) services

The task of the CTU in 2016 is to maintain the accessibility of individual services within a universal service at the current extent. As far as one constituent universal service is concerned (public telephones), the Office will amend an existing decision on the obligation to provide public telephones in 2017, will conduct a review of the constituent obligation

to provide special prices, and possibly prepare the announcement of a tender for a provider of this constituent service, shall decide on the verification of net costs for the year 2015 and on the level of loss on the provision of special prices for this period and shall ensure the payment of the verified level of net costs and loss for 2015 from the national revenue.

Similarly, a decision will be taken this year on net costs for 2015 in relation to postal services and we expect to gather data and to take decisions on determining shares for the calculation of contributions to the account for financing services for 2013 and 2014.

### Inspection work

Inspection work at the CTU will mainly focus on the following in 2016:

- Dealing with warranty claims on defects to provided services and claims regarding the billing of prices for provided services at selected providers of electronic communication services.
- Transferring telephone numbers for selected providers of electronic communication services.
- Changing services between branded-reseller and mobile network operator.
- The migration of subscribers to the Zero tariff at O2 Czech Republic a.s. (to other, no-obligation tariffs - Basic, Machine and [:kúl:]),
- Publishing information about subscribers in public directories and providing information about telephone numbers for selected providers of electronic communication services.
- Entering into subscriber contracts for remote means of communication and discharge of obligations according to Section 63(9) of the Electronic Communications Act at selected providers of electronic communication services.

When dealing with user complaints, the Office will check the measurement of selected parameters of the quality of data networks (fixed and mobile) according to the new methodologies for measurement. Inspection of the use of radio frequencies will mainly concentrate on adherence to the terms and conditions for the use of radio frequencies and operating equipment for broadband data transmission in the 2.4 GHz to 66 GHz bands according to VO-R/12/09.2010-12, using frequencies in the 9, 10 and 17 GHz bands and adherence to the terms and conditions of VOR/10/05.2014-3 and VO-R/14/12.2012-17. Inspection work during the second half of the year will also concentrate on fulfilment of developmental criteria imposed on allocation holders for LTE frequencies in the 800, 1800 and 2600 MHz bands, including measurements of data speed and strength of LTE signal in relation to the reports filed by operators on having met developmental criteria. The coverage of railway corridors and motorways (and highways) with a signal by mobile operators will also be measured. **As far as the automated system of monitoring the frequency spectrum (ASMKS) is concerned, the CTU will continue to implement a project involving the construction of a new building for OMRS Karlovice.** Technological equipment is expected to be installed in 2016 and the centre put into operation.

The CTU will provide technical support to the ASMKS system and continue the “Modernisation of the ASMKS aerial system” project.

## Consumer protection in the sphere of electronic communications and postal services

**The CTU sees the contractual terms and conditions of the provision of services as being an important mission in terms of protecting the consumer and will continue to evaluate the impacts of draft contracts and contractual terms and conditions created by the providers of electronic communication services and inform the public of these.** The Office intends to continue its awareness work in the form of a consumer semaphore, in which it shall now incorporate the subscriber contracts of virtual operators and their compliance with CTU recommendations.

It will conduct a questionnaire survey of consumer satisfaction with electronic communication services during the year and will continue its regular monitoring of business practices, concentrating on unfair business practices. **Increasing the level of knowledge among consumers and users of services: the CTU will update the price barometer for the year 2015 (the deadline depends on the availability of verified data concerning the revenues and operation of mobile operators) and will check price calculators.**

## Legislation

The Office will provide all coercion to the responsible ministries and the required documents and materials for the completion of preparations for an amendment to the Electronic Communications Act

in connection with the transfer of business to concern the resolution of disputes on financial payments (Section 129) to the courts, in the transposition of Directive 2014/61/EU of the European Parliament and the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks, in the implementation of Regulation of the European Parliament and of the Council 2015/22/EC laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union, and the transposition of DIRECTIVE 2014/53/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC. The CTU will finalise the preparation of and issue an amendment to Decree No. 464/2012 Sb. (the parameters of basic postal services), will continue its cooperation with the Ministry of Industry and Trade on developing a new decree on numbering plans and shall involve itself in the preparation of the draft of a decree on adopting a specimen inspection ID card in the sphere of electronic communications and postal services.

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## Gathering data: New forms

The CTU published category ART (ART152), OOP (K5-5, K514) and ZEK (PL15) forms for business undertakings in electronic communications and category POST (CP15 and OP15) forms for holders of a postal licence and operators of postal services on the Electronic Data Gathering portal ("ESD", <https://monitoringtrhu.ctu.cz>) at the beginning of January 2016. All forms for the transfer of data via ESD are now in web format and can therefore be completed using a web browser without the need to install additional software. Form PL15 had a delivery deadline of 31.1.2016, form ART152 15.3.2016 and forms K5-5, K514, CP15 and OP15 31.3.2016. An overview of all forms which the CTU will publish in 2016 is presented at the CTU website. The specimen forms published at the ESD portal in 2016 can be found at the CTU website. The ART152 form, which was created by merging original forms Pxxx, Mxxx, Bxxx and EKxx, led to the broadening of gathering geographical data to include input, or available connections points, now gathered for addressed places. The gathering of data broadened in this way primarily draws on the need to map out the existence of the infrastructure of the new generation network (NGA) and builds on the data required for analyses of relevant markets. The CTU will prepare a map of coverage by the infrastructure in question based on this data according to the requirements of the Ministry of Industry and Trade of the Czech Republic, this map becoming a fundamental resource for directing grants in support of the construction of new network infrastructure in suitable locations. CTU representatives attended workshops organised on 14.1.2016 and 21.1.2016 by ISP Alliance a.s., the association of regional operators, on the subject of the Geographical Gathering of Data, the European Regulatory Framework and public support of NGA, with lectures about NGA Mapping, The New Data Gathering System, changes in regulation and proposals of the European Regulatory Framework. Then, as part of discussions, CTU representatives answered a number of questions relating to the topics at issue.

## Market analyses

**(Former) market no. 1 – access to the public telephone network at a fixed location<sub>1</sub> and (former) market no. 2 – call origin (origination) in the public telephone network at a fixed location<sub>2</sub>, (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 January 2016, the Office received a statement and comments from the Office for the Protection of Competition with regard to 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](#). After dealing with the comments, the CTU will send the proposed analyses to the European Commission for notification.

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

The Office dealt with the comments received from the Office for the Protection of Competition regarding proposed analysis of relevant market no. [A/8/XX.2015-Y](#) and sent the proposal to the European Commission for notification on 21 January 2016.

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## **Checked by the CTU in January**

### **The CTU working for the consumer**

#### **In January 2016**

- The CTU commenced **4,469** cases of administrative proceedings to concern subscriber disputes between a person conducting communication activity on the one hand and a subscriber on the other, in the matter of financial payment and proposals for the commencement of proceedings regarding an objection to the settlement of a claim relating to the billing of a price or to the publicly-accessible electronic communication service provided, the CTU deciding on such matters according to Section 129 of the Act on Electronic Communications.
- The CTU issued **9,718** decisions in cases,
- **9,687** of these decisions concerning matters of financial payment (payment of the price of services).

In January 2016, the CTU recorded an increased number of complaints and inquiries from subscribers whom O2 informed of a change to its fixed line tariffs. O2 completely cancelled some tariffs and is gradually transferring subscribers to new tariffs, which although including the chance to make free calls to all networks also results in a significant increase in price, which has met with considerable negative reaction among consumers, particularly senior citizens, who are still more inclined to use fixed lines to make calls.

It is important to say in this regard that the Electronic Communications Act and the Civil Code allow providers of electronic communication services to unilaterally amend a contract if they comply with the obligations laid down by law, whereby such amendment may consist of compulsory transfer of a subscriber to another tariff or increasing the cost of a service. In the case of such unilateral amendment, the provider is obliged to publish information about such change at all of its branches and in a way which allows for remote access and to inform its subscribers of publication; this it must do at least one month before the amendment enters into effect. The provider is also obliged to allow a subscriber to terminate the contract without sanctions if the provider makes unilateral amendments to contractual terms and conditions which lead to significant worsening of the position of the subscriber. According to the Civil Code, a contracting party may amend commercial terms and conditions to a reasonable extent and in the case that this has been agreed between the parties, agreement is also in place on the manner of reporting the amendment to the other contracting party and if the other contracting party has the right to reject the amendment and terminate his obligation by notice, whereby the period of notice should be sufficient to be able to change the provider of services. A change of tariff and an increase in price can be considered a significant amendment to the



contract leading to the worsening of the position of the subscriber and for this reason subscribers should be allowed to terminate the contract without sanction for not agreeing to the amendment of contractual terms and conditions.

When considering complaints lodged by subscribers, the CTO will primarily check whether O2 has discharged its obligation to inform and informed subscribers (usually in the billing of price for services provided) of the amendment to the contract and of the option of terminating the contract in cases in which the amendment is a significant change which worsens the position of the subscriber. At this time, the CTU has no information to suggest that O2 was in breach of its obligations to inform or prevented consumers from terminating the contract in the event that they were unwilling to accept the change. The consumers affected now have the opportunity to accept what is only a proposed amendment to the contract or to terminate the contract without sanction because they do not agree with the proposed amendment to the contract.

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## Spectrum management

Adopted Measures of a General Nature – part of the plan for the use of the radio spectrum no. PVP/20/1.2016-1 for the 960 – 1700 MHz frequency band – were issued by the Council of the CTU on 1 January. The main reasons for newly issuing part of the plan for the use of the radio spectrum are the implementation of COMMISSION IMPLEMENTING DECISION (EU) 2015/750 on the harmonisation of the 1 452-1 492 MHz frequency band, updating the allocation of radiocommunication services in accordance with the national frequency table and specifying the terms and conditions of using frequencies in individual services in accordance with the current edition of Radiocommunication Regulations and harmonising documents. This part of the plan for the use of the radio spectrum became effective on 1 February.

The Office published a proposed part of the plan for the use of the radio spectrum no. PV-P/15/XX.2016-Y for the 380 – 470 MHz frequency band (400 MHz band) on 2 February. The most significant modifications of this part of the plan include a proposal to introduce conditions leading to the technologically neutral use of frequencies in the 410 – 414.25 / 420 – 424.25 MHz and 451.3 – 455.74 / 461.3 – 465.74 MHz sections used by nationwide mobile networks intended for the provision of publicly-accessible electronic communication services. The aim is implemented in accordance with support for the development of high-speed communications defined by the state policy on electronic communications (Digital Czech Republic version 2.0, The path to a digital economy) and in accordance with the advised plan in the national strategy (Strategy of managing the radio spectrum adopted by the Government on 3 June 2015). The proposed modifications open up the way for innovation of technology and services in terms of the possibility of using LTE. Public consultation on the proposed plan for the use of the spectrum for the 400 MHz band ended on 2 March 2016.

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## Selection of TOPICS OF THE MONTH: Complaints made by subscribers and users of services in the 4<sup>th</sup> quarter of 2015

## Electronic communications

The CTU put on record a total of **741** complaints made by subscribers/users in the 4<sup>th</sup> quarter of 2015.

- Of these complaints, the Office dealt with **429** complaints (57.9 % of the total number) using the procedure laid down in the Electronic Communications Act.
- The CTU did not have the relevant competence to deal with **45** complaints and referred them to the competent body (6.1 % of the total number).
- The CTU found **267** complaints (36 % of the total number) to be unfounded. There was no violation of the law in these cases.

There was an increase of **96** complaints (i.e. 14.9 %) in the 4<sup>th</sup> quarter of 2015 in comparison with the total number of complaints in the 3<sup>rd</sup> quarter of 2015. Furthermore, there was a slight increase recorded in a comparison of the periods at issue in the number of complaints regarding the billing of electronic communication services and a relatively significant increase in complaints to concern subscriber contracts, which might have been caused by the amendments to contracts introduced by certain operators in the period under consideration, whether the change of tariffs for O2 TV services, the change of tariffs for fixed line calls from O2 or the cancellation of the discount for senior citizens by the same company. UPC also announced a change in tariffs for its subscribers in December. The actual change at UPC was to have taken place between 15 January 2016 and 1 February 2016.

There was an increase in the total number of complaints of 189 complaints (i.e. 34.2 %) in the 4<sup>th</sup> quarter of 2015 in a year-on-year comparison of 4<sup>th</sup> quarters.

## Postal services

The CTU recorded a total of **27** complaints regarding basic postal services according to the provisions of Section 3 of the Postal Services Act during the period under consideration, which is a similar number of complaints as in the preceding period.

The CTU received 56 complaints regarding postal services relating to the basic parameters of the provision of postal services, for example long waiting times, post office opening hours, the delivery of postal consignments, the handling of claims etc., which is a slight drop of 5 % on the previous quarter. The most significant share in the total number of these complaints involved the delivery of postal consignments, in 41 cases, meaning 73.2 % of the total number of complaints in this category.