



Czech Telecommunication Office

January 2017

Telegraphically on communications

New chairman elected to lead BEREC

President of the Austrian regulatory authority (RTR) Johannes Gungl will be the BEREC Chair for 2018. In 2017 and 2019, Johannes Gungl will hold the position of BEREC Vice-Chair. Alejandra Iturriaga Gandini from the Spanish regulatory authority (CNMC) and Stephen Unger from the UK regulatory authority (OFCOM) were elected to hold the posts of Vice-Chairs with a mandate for 2017.

Ministry provided instructions on how to block illegal gambling

The Ministry of Finance published methodical instructions designed for ISPs on how to proceed in blocking illegal internet gambling. At the DNS level, providers must block domains specified on the list available at mfcr.cz/blacklist within 15 days from the date when the domain is included in the list. If a domain is removed from the list, it must be made accessible in the same period.

Czechs called less at the turn of the year

The number of connected calls decreased by about 17 per cent year on year. This is indicated by the information provided by mobile operators. The number of SMS messages sent also decreased, by almost a tenth.

On the contrary, the volume of data transferred, also using LTE, increased by more than a half. The number of MMS messages sent rose as well. The operators report an increase by up to a fifth in their number at the end of the year.

Decision-making practice: Barking dogs in a fenced plot of land do not relieve Czech Post of its obligation to deliver postal items

If Czech Post (Česká pošta) delivers a notice of non-delivery of postal items, it questions its statement that there were such obstacles at the place of delivery that the postal obligation could not be met. This is indicated by the effective decision of CTU, which imposed a fine of CZK 20,000 on Czech Post for failure to provide basic services every working day and to enable on these days at least one delivery to the address of every natural person or legal entity.

The enterprise adopted a temporary interruption of delivery of postal items in early March 2014, with a lapse of time after a postwoman was attacked by a dog outside a door, having her clothes torn. She resumed delivery two months later, when the house owner lodged a complaint with CTU.

Under Section 33 (2) of the Postal Services Act, a postal licence holder is not temporarily obliged to meet the postal obligation if prevented to do so by obstacles which were not induced by such a postal licence holder and the formation of which could not be prevented by the postal licence holder even when exercising proper care, especially technical problems not caused by the postal licence holder, the consequences of natural events, lack of necessary cooperation of other persons or the consequences of crisis situations. However, the postal licence holder is obliged to act in such a way to ensure that the performance of the duties is limited as little as possible and that the obstacles are removed as soon as possible.

This provision applies to emergency situations where it is not technically possible to meet the postal obligation. It is not even possible to inform the addressees concerned about non-delivery of postal items. Therefore, given the extraordinary nature and seriousness of the situation, the legislature did not stipulate for the postal licence holder the information obligation to inform the addressee about interruption of delivery of postal items.

Within local investigation, the authority found that the letter box was placed in front of the fence at a distance of 62 cm from the fence, about 110 cm high. The two dogs (German shepherd and Labrador retriever) showed no signs of aggression during the local investigation. The average withers height of the dogs living there was about 60 cm and the length of the body exceeded the withers height by not more than 20%. This means that even though the fence at the point of delivery was not high, it was not possible for the dog to lean over the fence so as to endanger the person near the letter box. Therefore, there was no danger of such intensity at the place that would be a reason for failure to deliver postal items.

Moreover, Czech Post acknowledged that it delivered postal items to the place at a time when the house was not fenced and when the aforementioned dogs moved in the unfenced land, i.e. when the postwoman came into direct contact with them.

Even if CTU accepted Czech Post's objection that the dogs were able to jump over the fence and endanger the person near the letter box, Czech Post could not know in advance that the postwoman would face danger every day and that the dogs would not be, for example, closed in the kennel or tied at the time of delivering postal items and that there would therefore be sufficient assistance by the addressee. Instead, Czech Post generally assumed that the place in question would pose danger for the postwoman in the future and, therefore, stopped delivering postal items. Such an approach is unacceptable.

As an aggravating circumstance when assessing a fine, CTU took into account the fact that Czech Post's procedure was not transparent in relation to the complainant in the case in question, because Czech Post stated in the notice that "it is not obliged to make an attempt to deliver postal items if delivery is temporarily dangerous in the place for the postal carrier". Therefore, the complainant did not know why postal items were not delivered to her: for example, if she had any chance of defence and what the other options of delivering postal items were. In addition, the notice did not make it sufficiently clear that Czech Post had already interrupted delivery to the address in question. It was not clear whether or not the incoming postal items were stored at the post office.

Legislative changes

Amendment to the Civil Code

On 30 December 2016, Act No. 460/2016 Coll. was published in Chapter 185 of the Collection of Laws, amending Act No. 89/2012 Coll., Civil Code, and other related laws.

This Act responds to identified practical needs and newly regulates or amends especially those parts of the Civil Code that require quick legislative action, not offering the possibility of assessment based on practice or interpretation of the court without potential danger of or already existing irreversible consequences in the form of particularly significant negative impacts on the legal status of persons and both their property and non-property spheres. Given the above, Act No. 460/2016 Coll. amends, inter alia, the existing regulation in Section 509 of the Civil Code in order to eliminate the inconsistency of its current wording and to better reflect its original purpose: to determine the specific arrangements for line structures, i.e. structures that regularly affect multiple plots of land (roads, water supply systems, gas pipelines, power lines, etc.), and to unify the legal system of all these structures, which would thus be regarded as separate assets in the legal sense, specifically as immovable property which does not become part of individual plots of land that they pass through and which is not covered by the pre-emptive right enshrined in Section 3054 et seq. of the Civil Code.

This law comes into effect in the above part on the sixtieth day after its publication in the Collection of Laws, i.e. on 28 February 2017.

Universal service

Public payphones

On 1 December 2016, CTU issued a decision on net costs for 2015 amounting to CZK 37,550,921 and stipulated that net costs represented unbearable burden for the universal service provider, O2. These net costs were incurred in 2015 in connection with the provision of partial services of the universal service, namely public payphone service and sale of special telecommunications end-user equipment. CTU verified the calculation presented. The identified deficiencies were removed by O2 using a correction calculation. The decision came into force on 6 December 2016. The payment was made from the state budget by CTU on 8 December.

Special prices

The competitive tendering for entrepreneurs on which the obligation under the universal service will be imposed to enable persons with special social needs to choose prices or price schemes different from the price schemes provided under normal business conditions (special prices) was only entered by O2 Czech Republic. Having assessed the bid, the selection committee recommended the CTU Council to impose the aforementioned obligation on O2.

Checked by CTU in December ...

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)	8								
2. Number of changes to certificates of notification of operating a business (Section 14 of the ZEK)	16								
3. The operation of communication activity without a certificate	0			0	1			1	20000
4. Adherence to the terms and conditions of general authorisations	55		20	14	14			14	327000
a) in relation to providing public communication networks and associated facilities	0	0	0	0	0			0	0
b) in relation to providing electronic communication services	0	0	0	5	5			5	96000
c) in relation to the use of radio frequencies and the operation of devices (radio equipment)	55		20	9	9			9	231000
5. Inspection of radio frequencies	480		0	4	4			4	66000
a) the use of radio frequencies without authorisation	9			2	3			3	51000
b) adherence to the conditions of an individual licence for the use of radio frequencies	0	0	0	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	471		0	2	1			1	15000
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	0
7. Subscriber disputes resolution	0			2120	6856	1433	4890		
a) of opposition to the processing of complaints concerned to the provided services	0			2	3	1	0		
b) of opposition to the processing of complaints concerned to the billing for services	0			16	44	9	5		
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			2098	6800	1422	4884		
d) other	0			4	9	1	1		
8. Failure to provide information according to Section 115 of the ZEK				3	3			3	33000
9. Other	26		4	45	44			42	464700
TOTAL	585		24	2186	6922	1433	4890	64	910700

*) 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

Based on the incoming submissions of users of postal services, CTU verified the availability and identification of doorbells and letter boxes of addressees of postal items in three cases. In December, it also initiated 21 administrative proceedings on objections against the settlement of a complaint, in which CTU, based on a proposal, decides on whether or not the complaint about defects of the postal service was handled properly.

In December and January, CTU issued two certificates of notification of business in postal services. Swift legal s.r.o. and GO! Express & Logistics, s.r.o. became new authorized entrepreneurs on 20 December 2016 and 9 January 2017, respectively. 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.

CTU in 2017

Promoting competition in electronic communications and postal services markets remains one of the main areas of CTU's focus for 2017. This is related to the creation of conditions for technological innovation, including effective support for the development of next generation networks. This is indicated by the plan of the main tasks approved by the CTU Council.

CTU remains ready to cooperate with the Ministry of Industry and Trade (MIT) in implementing the subsidy programme to support construction of new generation networks (NGA) and preparation of measures to remove obstacles to construction of electronic communications networks. Other fundamental measures will include the auction of frequencies in the 3.6 to 3.8 GHz band, setting the

rules for the future development of the fifth-generation networks, as well as support for the transition to terrestrial digital television broadcasting in the DVB-T2 standard.

In 2017, it is necessary to continue to maintain a high level of the protection of consumers and users of both electronic communications services and postal services. Therefore, it will be crucial in this market to properly prepare the process of granting a new postal licence in order to ensure the required availability of basic services, and to complete the process of notification by the European Commission regarding the procedure for payment of net costs of providing basic services.

Specifically, CTU will focus on the following tasks:

Analyses of electronic communications markets

Within the 4th round of analyses of relevant markets, CTU will focus on the completion of initiated analyses of all relevant markets No. 3a, 3b and 4, including a follow-up procedure to identify companies with significant market power and to impose remedies on them (REM and CEN).

The Office will also deal with inspection of fulfilment of the obligations imposed as part the regulation. With regard to prices, it will also be necessary to assess the developments in the market of mobile services (especially data services), including international comparison.

For purposes of the analysis of relevant markets, CTU is preparing a revision of data collection via electronic forms. It is already for the second time that the Office will also perform “geo-collection” with information on NGA networks.

Support for development of networks and electronic communications services

CTU will continue to cooperate with the MIT in implementing the programme to support projects aimed at building NGA access networks, terms and conditions of its management and financing, as well as in supervising the fulfilment of the stipulated conditions. CTU wants to participate in the MIT’s Subsidy Policy and Non-Subsidy Support work groups to identify barriers to the construction of NGA networks and to find appropriate remedial measures.

In collaboration with the MIT, CTU will also participate in preparation of the Technical Plan for terrestrial digital broadcasting in DVB-T2, ensuring the relevant frequency measures for DVB-T2 final broadcasting networks. In connection with this activity, as part of updating the Spectrum Management Strategy, it will also prepare a proposal for the further use of the 700 MHz band.

An important task of CTU in 2017 will be performance of new competencies under the bill on measures to reduce the costs of building electronic communications networks. In this framework, CTU will perform the function of Single Information Point (SIP) and decide disputes relating to access to technical infrastructure.

Regulation and inspection in postal services

CTU will continue to monitor market developments, including the method of delivery and provision of basic services and their general availability throughout the territory of the Czech Republic based on basic quality requirements. In the first half of 2017, it will also prepare a comprehensive report on meeting the obligations imposed on the postal licence holder in 2016. In mid-2017, following the completed review of the quality level and method of providing basic services, and following the findings of the public consultation of the intention to impose a new obligation to provide basic

services, CTU will announce and implement postal licence holder competitive tendering for the period 2018–2022.

Radio spectrum management

Besides the aforementioned cooperation in the process of transition of terrestrial digital broadcasting to the DVB-T2 standard, CTU will focus on implementation of European harmonized conditions of individual frequency bands in the Radio Spectrum Utilization Plan. The Office will also prepare and submit to the Government a situation report on performing the Spectrum Management Strategy and its update in order to create conditions for utilization of radio networks in meeting the objectives of the digital agenda. As part of this activity, CTU will cooperate with the Ministry of Defence and the Ministry of the Interior to formulate their needs in utilizing the frequency spectrum. In addition, it will prepare a draft comprehensive solution for accessing the 5.8 GHz band.

During 2017, CTU will continue to communicate with the authorities concerned and with the representatives of the sector in preparation for the World Radiocommunication Conference (WRC-19).

Universal service in electronic communications and basic (postal) services

CTU's task is to maintain availability of various services of the universal service to the current extent. In 2017, a review of providing the Public Payphones partial service and Special End Devices partial service will be carried out, including competitive tendering for their new provider. The proceedings on imposing the obligation to provide special prices will also be completed, again based on a review completed in 2016.

Furthermore, the Office will make a decision on net costs and on the amount of loss from the provision of special prices for 2016 and provision of payment of the verified amount of net costs and loss from the state budget.

Within the framework of basic services under the Postal Act, further procedure will depend on the notification of the range of basic services and the mechanism of financing net costs by the European Commission. It is only then that a decision may be made on net costs for 2015 and 2016 and compensation paid for net costs for 2013 and 2014 under the mechanism set up in response to the conclusions of negotiations with the European Commission.

Inspection activity

CTU's inspection activity in 2017 will primarily cover the following:

- portability of mobile telephone numbers,
- publishing information about subscribers in public telephone directories and providing information on telephone numbers,
- conclusion of subscription contracts by means of distance communication and fulfilment of obligations in accordance with Section 63 (9) of the Electronic Communications Act,
- public payphones included in the universal service regime,
- verification of signal quality provided by mobile operators in selected locations,
- handling of complaints claiming for compensation of damage caused by the postal services operator.

CTU will continue to inspect compliance with the conditions of general authorizations issued, as well as individual authorizations to use radio frequencies. In particular, it will focus on the zones determined for shared use for the operation of equipment for high-speed data transmission in the 2.4 GHz to 66 GHz bands. Following the commitments adopted by block allocation holders at the auction of LTE frequencies in the 800, 1800 and 2600 MHz bands, fulfilment of development criteria will be checked, especially in areas where the Office receives complaints and suggestions from subscribers.

CTU will continue to pay increased attention to cases of identified interference to DVB-T and LTE networks (interference to digital terrestrial television), including protection of signal distribution of DVB-T2 transition networks. CTU will continue to regularly publish information about the developments of the situation in its monitoring reports.

Automated system of frequency spectrum monitoring (ASMKS)

In the first half of this year, routine operation of the new building of OMRS Karlovice, included under the automated system of frequency spectrum monitoring, will be started. Furthermore, the external contractor will prepare a Feasibility Study of the Modernization of the Automated System of Frequency Spectrum Monitoring and ensure that adequate technical support of the system is provided, including the prescribed servicing of the technical facilities of the entire system.

Consumer protection in electronic communications and postal services

CTU places considerable emphasis on its role in consumer protection and is ready to assess the impact of changes in operators' draft contracts and contractual terms and conditions, informing the public about them. In addition, it aims to strengthen the level of informing consumers about their rights and obligations when using services in electronics communications and postal services. Therefore, it will deepen its educational activities, for example by Telecommunications Academies. CTU will also focus on unfair trade practices, with the aim to eliminate them using its inspections.

Legislation

The Office will provide any assistance necessary to the executive ministries to complete the preparation of the amendment to the Electronic Communications Act in connection with the process of transition to the DVB-T2 digital terrestrial television broadcasting and associated release of the 700 MHz band, as well as the amendment to the Postal Services Act in connection with dealing with the current issue of public support in covering the net costs for the provision of basic services by the postal licence holder.

CTU intends to prepare and publish amendments to Decree No. 360/2010 Coll., which stipulates the draft model electronic form to decide the dispute on the obligation for financial performance and technical requirements of its use, Decree No. 465/2012 Coll., on the method of keeping records of costs and revenues of the postal licence holder (updating the amount of the reasonable profit), and Decree No. 466/2012 Coll., on the procedure of the Czech Telecommunication Office in calculating the net costs of meeting the obligation to provide basic services. Furthermore, the Office is ready to cooperate with the MIT to prepare a new decree on numbering plans.