



Czech Telecommunication Office

February 2017

Telegraphically on communications

Prime Minister promised to extend powers of CTU

Prime Minister Bohuslav Sobotka wants to push an amendment to the Electronic Communications Act, which should be submitted to the Government by the Minister of Industry and Trade, through the Chamber of Deputies in an accelerated mode. This is the result that emerged from the meeting with the Minister of Trade and Industry, Chairman of the CTU Council and Head of the Office for the Protection of Competition. Among other things, the bill should extend the powers of CTU in imposing sanctions.

Czech Republic leading an international project on open data

Development of open data in user measurement of broadband Internet is the aim of an international project co-financed by the European Commission within the Connecting Europe Facility programme. Users will gain a tool for easy verification of mobile Internet speed.

Vodafone to change its CEO

From 1 March, Jiří Báča will be Vodafone's new CEO in the Czech Republic. He will replace Balesh Sharma, who will remain Chairman of the company's Board of Directors. Báča became Vice President for Care and Sales in March 2013 and he is the first Czech to lead Vodafone in the Czech Republic. Previously, he had worked in the banking sector.

Decision-making practice: Checking the name and surname on postal orders is not enough

Czech Post (Česká pošta) violated its postal duty when it paid cash for a postal order only based on the coincidence of the addressee's name and surname.

In its effective decision, recently also confirmed by the judgment of the Municipal Court in Prague, CTU imposed a fine of CZK 7,000 on Czech Post for an administrative offence.

Using a postal order, an insurance company sent performance for an insured event to an addressee from České Budějovice in 2014. Czech Post, however, paid the amount to a person of the same name who was eight years older and resided in Teplice. CTU started dealing with the case based on the legitimate addressee's complaint.

Czech Post said that it delivered the postal order to the addressee's letter box at her place of residence in České Budějovice. The complainant, however, argued that she did not find the order in her letter box, adding that it is incomprehensible how the order could come into possession of

another person of the same name. Furthermore, Czech Post argued that it had paid the amount based on the submitted order to the person who produced an identity card with the name that was identical to the name of the addressee and confirmed receipt of the amount with her signature. Czech Post objected to the fine imposed, saying that the damage was actually incurred by the company, that the right of the addressee to payment of the remitted financial amount was not affected by payment to a wrong person, and that there was neither any damage to the addressee nor any loss of the remitted amount. Therefore, by paying the money to an unauthorized person, Czech Post actually deprived itself of its money, and the remitted financial amount has not yet been delivered.

The conclusion arising from Czech Post's allegations that it considers the payment of the remitted financial amount to the person identified only by her name and surname as correct even though it is obvious that there are many people with the same name and surname living in the Czech Republic was found extremely surprising by the Czech Telecommunication Office.

Moreover, the fact that Czech Post caused damage to itself cannot be accepted as a relevant argument. In the case in question, it is not a mistake of the debtor providing performance to a person other than the creditor. The construction of an administrative offence is based on failure to use a financial amount in a certain way, namely to pay it to a natural person who "proves to be the addressee".

Finally, it was also necessary to reject the defence that the addressee was not damaged when her right to payment of the remitted amount remained unaffected. The remitted financial amount cannot be collected using the postal order in question addressed to the complainant and paid to an unauthorized person as a result of maladministration by Czech Post. The authorized addressee logically does not even have the postal order in question, because it was used to collect cash by the unauthorized recipient.

What was also found aggravating by CTU was the circumstance that Czech Post, at least before the date of submitting an appeal (and probably not even after that), did not pay the addressee the financial amount remitted (nor did it return the amount to the sender).

Czech Post unsuccessfully defended itself against CTU's effective decision using an administrative action, which was subject to the decision of the Municipal Court in Prague in February. The Court noted that CTU very elaborately and exhaustively commented on the decisive facts alleged. Czech Post's arguments were dismissed as irrelevant.

Checked by the CTU in January...

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)	17								
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	1			0	0			0	0
4. Adherence to the terms and conditions of general authorisations	55		35	31	26			26	686000
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		1	0	0	0			0	0
c) in relation to the use of radio frequencies and the operation of devices (radio equipment)		54	35	31	26			26	686000
5. Inspection of radio frequencies	540		0	11	10			10	76000
a) the use of radio frequencies without authorisation		20		7	7			7	70000
b) adherence to the conditions of an individual licence for the use of radio frequencies		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	520		0	4	3			3	6000
6. Inspection of numbers for the purposes of number administration (number of inspection calls)	0		0	1	1			1	10000
a) the use of numbers without authorisation		0		1	1			1	10000
b) the use of numbers in conflict with authorisation		0	0	0	0			0	0
7. Subscriber disputes resolution	0			1459	8598	1387	6348		
a) of opposition to the processing of complaints concerned to the provided services		0		1	4	1	0		
b) of opposition to the processing of complaints concerned to the billing for services		0		25	15	7	1		
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		1432	8573	1378	6347		
d) other		0		1	6	1	0		
8. Failure to provide information according to Section 115 of the ZEK				0	0				0
9. Other	209		8	32	36			33	7222500
TOTAL	846		43	1534	8671	1387	6348	70	7994500

*) 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.

Overview of inspection activity in inspecting postal services in January 2017

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	0		0	0	0				0	0	0	
Compliance with the postal conditions according to § 6 of ZPS		0	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	
5. Decision about objections against settlement of the complaint according to § 6a of ZPS	0		66	27	30	4	21	5				63
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	0		0	3	1	1			1	1500		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	1500		2
TOTAL			0	69	28	31	4	21	5	1	1500	66

Customers worried about PředplaDENka and contract changes

In Q4 that CTU received a number of complaints in relation to the change in O2's contractual terms concerning data plans, implemented as of 15 July 2016. In particular, the complaints were submitted by the subscribers who disagreed with this change and terminated the contract before the effective date of the change. **However, the operator either did not accept their notice due to disagreement with the change to the contract or charged them payment related to early termination of the contract.** CTU recommended these subscribers that if they disagreed with the change they should expressly state that the reason for terminating the contract was the unilateral change to the contract as of 15 July 2016.

In cases where O2 additionally charged the subscribers a contractual penalty, CTU recommended them to complain about the bill and, in the event of non-compliance with the complaint by the operator, to submit to CTU a petition to initiate proceedings on an objection to complaint settlement.

In Q4 people also sent CTU complaints in connection with the O2 PŘEDPLADENKA plan. The prepaid card users who were included in the pilot operation are not charged for the services consumed, but they are charged a daily fee within which they can use the services in the specified range, possibly without any limits. CTU recommends the users who disagree with their inclusion in the pilot operation to contact O2 with a request for removal from the pilot operation, and potentially also use the possibility of the better price guarantee, **i.e. to request O2 to return them the difference between the plan price in the pilot operation and the original plan.** Having assessed its findings and the facts from the received submissions from the subscribers in this matter, CTU **initiated administrative proceedings for suspicion of committing an administrative offence consisting in violation of the prohibition of the use of aggressive practices under the Consumer Protection Act.**

There were also numerous complaints by subscribers in connection with the unilateral change to the plan in fixed lines. The complaints were primarily submitted by **ZTP (particularly severe disability) card holders, because after the new plans were introduced, the prices of their services were de facto increased.** In connection with the change to the fixed line plans, CTU also received complaints about the fact that information about a change to the fixed line plan was presented to the subscribers in an incomprehensible form (it was placed on the 2nd page of the bill). The subject of other complaints was problems with settlement of bill complaints after the fixed line plan was increased.