



Czech telecommunication office

June 2016

Telegraphically on communications

O2 blocks data transmission after reaching data limit

In June 2016 O2 announced a change in the terms and conditions of data transmission after the data limit has been reached. All data transmission will be automatically blocked after the data limit for data bundle is exceeded, whereas transmission could until now continue at reduced speed. This change comes into effect on 15 July. O2 is offering customers the chance to renew their data limit with a one-off additional purchase of data, setting up a different data bundle or, for those subscribers who have already activated the option of automatic data limit renewal, the possibility of automatic renewal a maximum of three times. The change will affect tariff both customers and customers having a prepaid card. In this regard, CTU is verifying whether the operator has in this case complied with all legal requirements for unilateral contract amendment and whether it has proceeded in line with the legislation in relation to all its subscribers. It generally stands that a customer who is informed by the operator of a planned unilateral contract amendment invariably has the right to disagree with such amendment and to terminate contractual relations without any sanctions on the effective date of the amendment.

CTU auctioned off the remaining frequencies in the 1800 MHz and 2600 MHz bands

The auction part of the tender for awarding rights for the use of radio frequencies in the 1800 MHz and 2600 MHz bands has been brought to a conclusion. Altogether, the three existing operators – O2, T-Mobile and Vodafone – will pay 2.643 billion crowns into the state budget for the frequencies. Specific ranges of the radio frequencies will be identified in July and block allocations of radio frequencies will be granted by the end of 2016.

Decision-making practice: CTU punishes malicious emergency calls

CTU imposed a penalty of 20 thousand crowns on a woman from Líbeznice in Central Bohemia for repeated abuse of the emergency call line. The decision is final and conclusive. In the space of one evening, the caller contacted the 158 line a total of thirty times. None of the calls made were related to emergencies and the caller spoke to police officers in an offensive, vulgar and often incomprehensible way.

In investigating the offence during an ordered verbal hearing, the woman did not ask for the audio recordings of the telephone calls with the emergency line operator to be played back as she said that she knew what she had said. She was aware that she was calling the emergency line, that the line is

used to report emergency incidents and that with her calls she abused the line for a purpose other than the one for which it was created.

CTU therefore arrived at the conclusion that the offence had been committed wilfully, which it considered an aggravating circumstance when determining the size of the punishment. A penalty of up to 200 thousand crowns may be imposed for the offence of making malicious calls to an emergency line, as is laid down in the provisions of Section 119(1)(e) of the Act on Electronic Communications.

In light of the fact that the woman had been sanctioned several times in the past for a similar offence and that she committed the offence wilfully, even after being repeatedly informed of the unlawfulness of her action, CTU decided in appeal proceedings to uphold the penalty amounting to one-tenth of its possible maximum so that, when taking all relevant facts into consideration, it would satisfy the preventative purpose of a sanction, meaning that it would deter the woman from committing the unlawful action in question again.

Similarly, CTU punished a man from Prague 5 for abuse of the 158 emergency calls line after the man reported in five separate calls that, for example, he would subject his wife to domestic violence and repeatedly called for a patrol to come. He subsequently asked for police to come since his wife was apparently preventing him from leaving his apartment. The patrol that he had called in discovered that the woman was OK and that her partner was on his way to the local station, where he planned to report that she had been mistreating their son.

The man refused to take a general breathalyser test for alcohol and said when providing his explanation that he had come in “just for fun” and that he had no intention of reporting anything.

In an appeal against the order through which CTU imposed on him a penalty of four thousand crowns for malicious calls, the man added an offensive drawing to his signature. In the appeal lodged, he objected that although the decision refers to his “wife”, he did not have a wife on the day in question.

The Chairman of the CTU Council upheld the decision after discussion at the remonstrance committee because it is irrelevant in considering the unlawfulness of action that the word “wife” and not “ex-wife” was used in the document. CTU remarked on the offences committed during administrative proceedings that they are unambiguously grossly offensive in accordance with the provisions of Section 62 of the Rules of Administrative Proceedings, and not only because of the symbol appended to the signature. It was only as a result of the benevolence of the administrative bodies of both instances that a procedural fine of up to 50 thousand crowns was not imposed on him.

Legislative changes

Act No. 186/2016 Coll. on Gambling was promulgated in Chapter 71 of the Collection of Laws on 15 June 2016.

The law in question regulates the issue of gambling, defines the types of gambling, the conditions of operation and measures to ensure responsible gambling and determines the competence of administrative bodies in terms of the operation of gambling. In light of the fact that gambling may also be operated remotely over the Internet, Section 82 and subs. of the law imposes on obliged undertakings the obligation to prevent access to websites specified in the list of websites with

unauthorised Internet games (see Section 84 of Act No. 186/2016 Coll.). The Ministry of Finance maintains the list of unauthorised Internet games and decides on entries to it.

The law imposes the obligation in question on undertakings which it defines as “providers of Internet connection within the territory of the Czech Republic”. They are obliged to comply with this within a time limit of 15 days of the date of publication of a website in the list of unauthorised Internet games. Failure to comply with the obligation is an administrative infraction according to Section 123(5) of the Act, for which a penalty of up to CZK 1,000,000 may be imposed (Section 123(11) of Act No. 186/2016 Coll.). The Ministry of Finance considers administrative infractions in the sphere of Internet games in the first instance according to Act No. 186/2016 Coll.

The part of the Act referred to above will become effective on 1 January 2017.

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Decree No. 203/2016 Coll., amending Decree No. 464/2012 Coll. on determining the specifications of particular universal services and basic qualitative requirements for their provision, was promulgated in Chapter 77 of the Collection of Laws on 29 June 2016.

The Decree responds to changes in the Acts of the Universal Postal Union agreed at the Universal Postal Union congress in Doha (2012) to concern the provision of postal services for the blind. This broadens the range of people that may be senders or addressees of postal consignments as part of services for the blind and broadens the range of items that may be contained in a postal consignment as part of the relevant postal service. The second area of change is regulation of the criteria of accessibility and density of post offices in relation to Government Regulation No. 178/2015 Coll. on determining the minimum number of branches for the provision of basic services, in which the minimum number of branches in the Czech Republic was determined at 3,200 with effect from 1 January 2016. In addition to this, Decree No. 203/2016 Coll. brings with it legislative and technical regulation in response to certain previous problems with interpretation and application.

This decree entered into effect on 1 July 2016.

Market analyses

Remedies

Market No. 1 of the 2007 Recommendation - Wholesale access to the public telephone network at a fixed location and Market No. 2 of the 2007 Recommendation – Wholesale call origination on the public telephone network provided at a fixed location

On 10 May 2016, CTU opened administrative proceedings against the O2 Czech Republic a.s. (former market no. 1) and the Česká telekomunikační infrastruktura a.s. (former market no. 2) regarding the withdrawal of the obligations. Subsequently CTU [opened public consultations](#) on two draft decisions, which were closed on 27 June 2016.

On 24 May 2016 CTU published on its discussion site a [call for comments](#) to a draft decision on withdrawal of designation of the O2 Czech Republic a.s. as an undertaking with significant market power in the former relevant Market No. 1 (SMP/1S/XX.2016-Y).

On 24 May 2016 CTU published on its discussion site a [call for comments](#) to a draft decision on withdrawal of designation of the Česká telekomunikační infrastruktura a.s. a.s. as an undertaking

with significant market power in the former relevant Market No. 2 ([SMP/2S/XX.2016-Y](#)). On 24 May 2016 CTU published on its discussion site a call for comments to a draft decision on price regulation for the Česká telekomunikační infrastruktura a.s concerning to the withdrawal of the obligation related to price regulation of undertaking with significant market power ([CEN/2S/XX.2016-Y](#)).

Within these public consultations, CTU did not receive any comments.

Market No 1 of the 2014 Recommendation – Wholesale voice call termination on individual public telephone networks provided at fixed location

Based on results of the analysis of the new relevant Market No 1. ([No. 1 \(A / 1 / 04.2016-5\)](#)), it is necessary to designate, respectively to withdraw the designation of companies as an undertaking with significant market power. Respectively, in two cases there is need to withdraw the obligation related to price regulation and other obligations about access, non-discrimination, transparency and accounting separation of costs and revenues in the relevant market.

The CTU Council launched administrative proceedings regarding designation of 23 companies as an undertaking with significant market power: Air Telecom a.s., Axfone s.r.o., BT Limited, COPROSYS a.s., ČD-Telematika a.s., Česká telekomunikační infrastruktura a.s., České Radiokomunikace a.s., Český bezdrát s.r.o., Dial Telecom, a.s., ha-vel internet s.r.o., IPEX a.s., J.S.tel s.r.o., Nej cz s.r.o., NEW TELEKOM, spol. s r.o., PODA a.s., RIO Media a.s., sipcz.net s.r.o., SMART Comp. a.s., Spinoco Czech Republic, a.s., Telco Pro Services, a.s., T-Mobile, UPC a Vodafone. Designation of an undertaking with significant market power was withdrawn from companies: xPhoNet CZ s.r.o. a za200.cz obchod s.r.o.. In this matter on 3 June 2016, CTU published a [call for comments](#) to the mentioned draft decisions and not a single comment was received.

Furthermore, on 14 June 2016 based on analysis of the Market No 1, the CTU Council authorized the opening of administrative proceedings with the above mentioned 23 undertakings regarding imposition of obligations which are connected with price regulation for undertakings with significant market power, respectively withdrawal of these obligations. Undertakings were given notice about the opening of administrative proceedings and granted period of 14 days for submitting their comments.

During the month of June, CTU also opened administrative proceedings on imposition of obligations of access, non-discrimination and transparency with all 23 undertakings in the relevant market (in the case of Česká telekomunikační infrastruktura a.s. CTU suggested in addition the obligation on accounting separation).

At the same time, during the month of June, CTU opened administrative proceedings on withdrawal of obligations with undertakings: xPhoNet CZ s.r.o. a za200.cz obchod, s.r.o., as on the basis of the analysis result they are no longer considered undertakings with significant market power in the relevant market.

Market No 2 of the 2014 Recommendation – Wholesale voice call termination on individual mobile networks

On 24 May 2016 CTU published on its discussion site a [call for comments](#) to draft decisions on designation of undertakings: Air Telecom a.s., O2 Czech Republic a.s., T-Mobile Czech Republic a.s., Vodafone Czech Republic a.s. as undertakings with significant market power in the relevant Market No 2. Comments within public consultation to the mentioned drafts decisions could have been submitted until 21 June 2016 and not a single comment was received.

During the month of June, based on results of the analysis of the relevant Market No 2 (A/2/04.2016-6), the CTU Council launched administrative proceedings with the mentioned undertakings regarding imposition of obligations of access, non-discrimination and transparency (in the case of O2 Czech Republic a.s, T-Mobile Czech Republic a.s., Vodafone Czech Republic a.s. in addition, the obligation on accounting separation) and obligations related to price regulation for undertakings with significant market power in this market. Undertakings were given notice about the opening of administrative proceedings and granted period of 14 days for submitting their comments.

Radio spectrum management

On 14 June 2016 the CTU Council approved general authorisation No. VO-R/1/6.2016-8 for the operation the user's terminals of the radio networks of the electronic communications which replaces the former VO-R/1/04.2012-2. The reason for the new release is above all the newly enabled provision of these terminals in 3600-3800 MHz frequency band, for which CTU is currently opening a tender.

On 14 June 2016 the CTU Council approved general authorisation No. VO-R/3/6.2016-9 for the use of radio frequencies and the operation of PMR 446 equipment which replaces the former VO-R/3/07.2007-13. The reason for the new release is the broadening of the utilisation of both the frequency ranges (446,0–446,1 a 446,1–446,2 MHz) for both PMR 446 systems – with analogue and digital modulations, in line with the new ECC decision no. ECC/DEC/(15)05. Both the general authorisations came into effect on 1 July 2016.

CTU commenced the review of the existence of the reasons for the limitations of rights of use of radio frequencies in the frequency range of 451,31–455,73 / 461,31–465,73 MHz. There is one block allocation granted in this range with validity until 2018.

Controls made by CTU in June

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)	10								
2. Number of changes to certificates of notification of operating a business (Section 14 of the ZEK)	37								
3. The operation of communication activity without a certificate	6			2	2			2	6000
4. Adherence to the terms and conditions of general authorisations	61		21	20	19			19	530000
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	0	0			0	0
c) in relation to the use of radio frequencies and the operation of devices (radio equipment)		61	21	20	19			19	530000
5. Inspection of radio frequencies	385		3	8	8			8	83000
a) the use of radio frequencies without authorisation to do so		5		6	6			6	66000
b) adherence to the conditions of an individual licence for the use of radio frequencies		4	3	1	1			1	16000
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	376		0	1	1			1	1000
6. Inspection of numbers for the purposes of number administration (number of inspection calls)	2		0	0	0			0	0
a) the use of numbers without authorisation to do so		0		0	0			0	0
b) the use of numbers in conflict with authorisation for their use		2	0	0	0			0	0
7. Subscriber disputes resolution	0			8352	11713	2090	8132		
a) on objections to the settlement of claims to concern services provided		0		0	1	0	0		
b) on objections to the settlement of claims to concern the billing of prices for services		0		19	15	5	3		
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		8331	11693	2083	8129		
d) other		0		2	4	2	0		
8. Failure to provide information according to Section 115 of the ZEK				2	1			1	19000
9. Other	32		4	21	15			15	60000
TOTAL	482		28	8405	11758	2090	8132	45	698000

*) 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.

CTU working for the consumer

during June 2016

- **CTU commenced 8,352 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 claims relating to the billing of a price or to the publicly available electronic communication service provided, CTU deciding on such matters according to Section 129 of the Act on Electronic Communications.
- **CTU issued 11,713 decisions in cases,**
 - **11,693 of these decisions concerning matters of financial payment** (payment of the price of services).

Consumer semaphore

At the end of last year, CTU evaluated the draft contracts and contractual terms and conditions of four selected providers of electronic communication services and informed the public of the results, also providing a graphic depiction of the categories assessed in the form of a “consumer semaphore”.

CTU published the evaluation of the present draft contracts and contractual terms and conditions of the providers under evaluation at the previous stage (O2, T-Mobile, UPC and Vodafone) in June and then focused on the terms and conditions of a further six virtual operators. CTU invariably chose the two most significant providers from each network operator, specifically O2 Family, Relax mobil and Tesco Mobile ČR and the services provided under the brand names of OpenCall mobile, SAZKAmobil and GoMobil.

The fairness of the contractual provisions of the undertakings under analysis was evaluated. Individual providers were allocated colours – green, amber or red – according to the results of the evaluation, in that green indicates provisions which are considered to be consumer-friendly and that perhaps accommodate consumers’ needs even beyond the scope of the law. Red, on the other hand, means that a specific provision is directly at odds with the relevant legal regulations and could be considered problematic from the consumer perspective for different reasons (which are described in detail in the published evaluation) and which the Office considers important to warn consumers of in this way. Amber denotes a neutral evaluation and CTU allocated this evaluation in those cases in which contractual terms and conditions complied with the requirements laid down by the law, but where the regulation of terms and conditions could be more favourable from the consumer perspective in terms of the specificity and comprehensibility of contractual terms and conditions. In some cases there were shortcomings identified during the review of contractual terms and conditions which indicated possible suspicion of committing an administrative infraction. CTU is carrying out further investigations in this regard.

The providers were made familiar with the findings concluded by CTU before the publication of the results of the analysis of contractual terms and conditions and were given room to clarify any contentious points. Certain providers decided to amend their contractual documentation after having seen the results of the analysis which CTU conducted.

CTU believes that the evaluation of operators, reflecting the experiences of consumers, will help improve the quality of consumer contracts and the individual contractual provisions therein.