



Czech Telecommunication Office

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Telegraphically on Communications

New European Rules for Digital Economy

The European Commission unveiled an ambitious plan of revision of the telecommunication network. The new rules are supposed to promote investment in high-capacity networks and improve Europe's competitiveness in the digital world. CTU expects that the merger of all rules for electronic communications into a single regulation will result in better clarity of the legislation and elimination of redundant and obsolete provisions. The European Commission estimates that in the next 10 years investments in superfast Internet will exceed EUR 500 billion.

CTU promotes transparency by providing access to the invoices paid

Within its open data policy, CTU made the data set [Invoices](#) publicly available. It contains almost 5 thousand records of all invoices paid by CTU in 2015. The data set can be used, inter alia, by the [Supervisor](#) application of the Ministry of Finance which also makes it possible to visualize individual expense groups of public authorities up to the level of an accountancy document.

Decision-Making Practice: Legitimacy of a contractual fine will be assessed by CTU also upon a customer's request

CTU – as an administrative authority – shall decide, upon the request of anybody who proves that it is necessary for the exercise of his/her rights, within the limits of its scope of powers and responsibilities and jurisdiction, whether a certain legal relationship was established and when it occurred, whether it continues or has expired, and when it occurred. It is not a proceeding concerning a dispute.

CTU was deciding on a request of a client of operator T-Mobile who sought a decision on *“legitimacy of issuance of contractual fines under his subscriber contract”*. Specifically, he requested that the decision state that the requesting party is not obliged to pay the contractual fines issued. In doing so, he used as an argument the ruling of the Constitutional Court dated 11 November 2013, file No. I. ÚS 3512/11, which deduced within consumer contracts that provisions establishing a contractual fine may not be included in the so-called terms and conditions but only in the consumer contract itself. He referred to the administrative proceedings initiated by the operator which was discontinued in the part related to the request for payment of the contractual fines in total amount of CZK 15,192 due to withdrawal of the request. In spite of that, the operator still required that the requesting party pay the contractual fines with interest, and commissioned a collection agency to collect this amount.

In the proceeding, T-Mobile defended itself with the claim that withdrawal of a request does not mean that these amounts of the contractual fines were cancelled on the customer's account or paid. The operator is merely no longer asking CTU to issue a decision regarding this part.

CTU assessed the request as a request for determination of a legal relationship pursuant to Section 142 of the Administrative Procedure Code. Its purpose is to strengthen in particular the substantive-law position of the parties and thus prevent future disputes, or to provide protection and allow further development of the legal relations between the parties to the proceedings.

The requesting party has clearly proven that request is necessary in order to exercise its rights, and there is an urgent legal interest in issuing a declaratory decision because without the determination of the legal relationship the requesting party's legal position would be uncertain. The requesting party has proven that the contractual fine is being recovered by the collection agency commissioned by the provider.

With respect to the fact that it is a consumer contract where the ruling of the Constitutional Court rules out validity of the provision on contractual fine other than in the body of the contract, CTU complied with the client's request and decided that the provider's right to charge the above-mentioned contractual fines did not arise.

Legislative Changes

On 19 September, Government Regulation No. 296/2016 Coll. amending the Government Regulation No. 361/2014 Coll. on determination of the delivery of goods or provision of a service for the purpose of the reverse charge system, as amended, was published in Part 114 of the Collection of Laws.

This Government Regulation amends Section 2 of Government Regulation No. 361/2014 Coll. such that reverse charge shall newly apply also to the provision of the electronic communications service by means of access to electronic communications networks, interconnection of electronic communications networks, or based on the purchase and sale of these services.

The Government Regulation enters into effect on 1 October 2016.

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On 19 September, Act No. 297/2016 Coll., on trust services for electronic transactions, was published in Part 115 of the Collection of Laws.

This act ensures adaptation of the laws of the Czech Republic to the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (eIDAS Regulation). This EU Regulation lays down guidelines for providing trust services, establishes legal framework for electronic signatures, electronic seals, electronic timestamps, electronic documents, services of electronic registered delivery, and certification services for authentication of websites, and conditions under which Member States recognize devices for electronic identification of individuals and legal entities which are part of the notified system of electronic identification of another Member State.

This act entered into effect on the date when promulgated, i.e., on 19 September 2016.

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In connection with Act No. 297/2016 Coll., on 19 September the following acts were published in Part 115 of the Collection of Laws: Act No. 298/2016 Coll. which amends some acts in connection with the passing of the Act on trust services for electronic transactions, Act No. 106/1999 Coll., on free access to information, as amended, and Act No. 121/2000 Coll., on copyright, on rights related to the copyright, and on amendment of some acts (Copyright Act), as amended.

This act (part forty-three) includes an amendment of the Electronic Communications Act which harmonizes the wording of this act with the new legislation of Act No. 297/2016 Coll., namely concerning the part related to submission of applications in electronic form (see Section 25(4), Section 33(10) and Section 75(5) of the Electronic Communications Act).

This act entered into effect on the date when promulgated, except for Articles XVIII, XIX, XXVI, XXVII, and LXX which will enter into effect on 1 January 2017.

Universal Service

Public payphones

Decision [No. CTU-53 346/2016-610/VI. vyř.](#) concerning the change of the decision No. CTU-43 493/2014-610/X. vyř. dated 3 December 2014 on imposition of an obligation to provide within the universal service a sub-service – services of public payphones or other similar technical devices providing access to the publicly available telephone service entered into effect on 13 September. An integral part of the decision is an [annex](#) which lists the obligatory public payphones in the universal service for the year 2017.

Special prices

On 14 September a public consultation started of the [Plan](#) to impose within the universal service, in accordance with Sections 44 and 45 of the Electronic Communications Act, an obligation to allow persons with special social needs the choice of prices or price plans which differ from the price plans provided under normal commercial terms such that these persons have access to and can use the sub-services and the publicly available telephone service pursuant to Section 38(3) of the Electronic Communications Act (so-called special prices obligation). Suggestions to this plan can be submitted within one month of the date of publication thereof.

Inspections Performed by CTU in September...

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)	11								
2. Number of changes to certificates of notification of operating a business (Section 14 of the ZEK)	41								
3. The operation of communication activity without a certificate	0			4	4			3	118000
4. Adherence to the terms and conditions of general authorisations	39		21	27	29			29	605000
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)		39	21	27	29			29	605000
5. Inspection of radio frequencies	354		0	8	5			5	37000
a) the use of radio frequencies without authorisation		3		7	4			4	35000
b) adherence to the conditions of an individual licence for the use of radio frequencies		0	0	1	1			1	2000
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	351		0	0	0			0	0
6. Inspection of numbers for the purposes of number administration (number of inspection calls)	0		0	0	1			1	10000
a) the use of numbers without authorisation		0		0	1			1	10000
b) the use of numbers in conflict with authorisation		0	0	0	0			0	0
7. Subscriber disputes resolution	0			3890	6586	1456	4373		
a) of opposition to the processing of complaints concerned to the provided services		0		4	0	0	0		
b) of opposition to the processing of complaints concerned to the billing for services		0		21	17	8	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		3860	6568	1448	4370		
d) other		0		5	1	0	0		
8. Failure to provide information according to Section 115 of the ZEK				2	2			1	10000
9. Other	129		4	36	43			37	304500
TOTAL	522		25	3967	6670	1456	4373	76	1084500

*) 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.

...compliance with the conditions of general authorisation No. VO-R/12/09.2010-12 to use radio frequencies and operate equipment for broadband data transmission in bands 2.4 GHz to 66 GHz – CTU performed 35 inspections. Deficiencies were found in 21 cases; they were dealt with by a request to rectify the deficiencies found and subsequently will be dealt with within administrative proceedings. The most common defects were use of indoor frequencies outside of the building and deactivation of the DFS function resulting in interference with meteorological radars.

...use of radio frequencies without authorisation – CTU performed three inspections focusing in particular on entities whose authorisations have expired. Administrative proceedings are pending in seven cases (including from the previous month) due to discovery of use of frequency without authorisation.

...sources of interference with the operation of electronic communication equipment and networks, provision of electronic communications services, or operation of radio communication services – CTU performed and completed 354 investigations, out of which 317 cases of interference with television signal, seven cases of interference with public mobile communication networks (GSM, UMTS, LTE), 12 cases of interference with radio and satellite signal, three cases of interference with a non-public PPS, two cases of interference with a RR link, and three cases of interference with an amateur signal reception. The source of interference with DVB-T found was 149 BTS LTE in band 800 MHz (see the next bullet), in public mobile networks three GSM repeaters, and in other services different sources of interference (e.g., Wi-Fi equipment, DECT handset, electric lights).

...trial operation of LTE base stations in band 800 MHz – as of 30 September 2016 there were 1,661 base stations in trial operation, and 9,918 stations in regular operation. In September CTU received 376 reports of interference with the signal of terrestrial digital television, BTS LTE in band 800 MHz was found to be the source of interference with DVB-T in 149 cases. Investigation of 317 cases of interference with DVB-T was completed; BTS LTE in band 800 MHz was the cause of interference in 39.6% of the reported cases of interference with TV signal. Defects of the receivers of the listeners

were found in 120 cases; in 63 no interference as found, and in 11 cases inadequate TV signal was found.

Cooperation between CTU and Czech Trade Inspection Authority – The inspection of vendors of telecommunication terminal and radio equipment within the cooperation between CTU and Czech Trade Inspection Authority revealed the sale of children’s radios working in bands 462 MHz to 467 MHz in Chomutov and Litoměřice regions. These radio devices cannot be operated in the Czech Republic without an individual authorisation to use radio frequencies. The inspection also revealed the sale of wireless doorbells working in bands 307 MHz to 319 MHz reserved for the Ministry of Defence in the Czech Republic. The defects found are processed by the Czech Trade Inspection Authority within its scope of powers and responsibilities.

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Postal services

In September CTU checked in nine cases whether providers of postal services publish information on the change of postal conditions at least 1 month before the effective date of such change at the provider’s office and in a manner allowing remote access, and also checked whether the postal conditions include all statutory requisites. In two cases the providers were asked to rectify the deficiencies; in the other cases no errors were found. In seven cases CTU checked the availability of postal stamps and information on mailboxes. No errors were found in these seven cases.

Additional two local investigations were conducted in connection with the verification of a complaint or within proceedings concerning an objection against the settlement of a complaint where the information found may serve as evidence in administrative proceedings.

CTU on the consumer’s side

In September 2016

- **The CTU commenced 3,890 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 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 6,586 decisions,**
- of which **6,586 were decisions concerning matters of financial payment** (payment of the price of services).

Radio Spectrum Management

General authorisations

On 27 September the CTU Council discussed for public consultation a [proposal of a change](#) of general authorisation No. [VO-R/7/01.2015-1](#) to use radio frequencies and operate civil radio stations in the band 27 MHz. The reason for the change of the general authorisation is, above all, to enable transmission of short warning information messages by transport infrastructure entities during short-term emergency situations in transport (maintenance, car accidents, etc.) for car drivers on roads, which is not currently possible under the existing general authorisation.

On the same day, CTU Council discussed for public consultation a [proposal of a change](#) of general authorisation No. [VO-R/10/05.2014-3](#) to use radio frequencies and operate short-range devices. The reason for the change of the general authorisation is mainly addition of the frequency range of < 9 kHz in accordance with the definition of radio waves according to the new Directive 2014/53/EU and frequency range of 1800–1804.8 MHz for wireless microphones, and also implementation of changes to the definitions of the equipment categories and formal changes in accordance with the current version of recommendation ERC/REC 70-03.

In addition, CTU Council discussed the proposal of the updated edition of the part of radio spectrum utilization plan No. [PV P/1/XX-2016-YY](#) for frequency band 146 – 174 MHz. The change consists of completion of the transition of use to harmonized conditions, and thus releasing frequencies 150.05 – 150.975 / 157.45 – 158.375 MHz used in railway transport. In addition, the date of use of frequencies by the fire rescue service of the Czech Republic in connection with the current reorganization of its communication systems.