



Czech Telecommunication Office

October 2018

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## Telegraphically on Communications

### HD Programmes of Czech Television only in DVB-T2 starting from October

As of 30 September 2018, Czech Television discontinued the broadcasting of its HD programmes in the 1a multiplex. As a result, programmes in HD resolution have been available in the DVB-T2 terrestrial platform in the 11 transition network since 1 October.

### It will be possible to pick up a parcels at the post office without an identity card

Czech Post has offered the possibility to pick up parcels pursuant to a presentation of a six-digit code and without the necessity to prove your identity since October. As a result, the package may be picked up by any relative or friend to whom the recipient gives the code. The innovation is supposed to simplify and accelerate the collection of consignments.

### Part of the metro C line is covered by the LTE signal

The consortium of operators has covered part of the metro C line with LTE signal. Passengers travelling between Muzeum and Vyšehrad stations may use mobile services, both in the stations and the tunnels connecting the stations. Commercial operations in the entire pilot section between Muzeum and Rožtyly stations will be launched by the end of October, all metro stations are supposed to be covered by 2022.

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## Decision-making practice: T-Mobile enforced fines illegally

**An enforcement of non-existing contractual fines through collection agencies is considered to be an aggressive business practice. The Czech Telecommunication Office penalised T-Mobile for this administrative offence by an aggregate fine of CZK 500,000. The decision is final.**

The operator has filed proposals with the Czech Telecommunication Office for resolving a dispute on the payment of due amount for the provision of services and concurrently for the payment of contractual fine. After the Office started to reject T-Mobile's requests for the payment of contractual fines, the operator withdrew part of so far unresolved proposals that relates to contractual fines and started to enforce them (in 21 cases) subsequently in out-of-court proceedings.

Yet, T-Mobile must have known, given the judgment of the Constitutional Court, file no. ÚS 3512/11, that the contractual fines agreed in a different manner than in the body of the contract are absolutely void. Moreover, it used the reference to the quoted judgment to give reasons for its collective withdrawal of proposals. However, the operator subsequently forwarded these non-existing receivables for collection to four different debt-collection agencies. As a result, consumers started to receive various demands for payment which even included threats by seizures: "An immediate

payment of the due amount will prevent you from further costs and inconveniences. If you do not respond to this demand in any manner, the creditor will immediately initiate administrative proceedings with the Czech Telecommunication Office and immediately proceed to the SEIZURE proceedings after the issuance of the final and conclusive decision which will increase the relating costs by 20% on average, however, no less than by CZK 5,000 – 6,000.”

The Czech Telecommunication Office dealt with the issue whether it is possible to include this procedure (collection of non-existing contractual fines) within the scope of the Consumer Protection Act. In this context, it referred to the comments to the Consumer Protection Act which stipulates: “In these cases, consumers are influenced by bothering (frequently repeated or persistent), coercion (both psychical and physical) either in relation to the consumer himself/herself, or third parties, such as for example family members or close persons) or any inappropriate influencing defined in Section 2, par. 1, letter t), of the Consumer Protection Act (e.g. by deceit). All this results or may result (and therefore it is not necessary that influencing actually happens) in a situation when consumers have a limited freedom of choice and decide otherwise than they would decide without having to face these aggressive practices.”

T-Mobile used its stronger position and better knowledge of the law in a dishonest way. It chose the time of its behaviour in the period when the debt for the provided services of electronic communication was already paid. The behaviour involved an intensive bothering (repeated contacting of consumers with requests for payment of invalidly agreed contractual fines and their contacting via telephone) that might have bring the consumer to fear, and the company also requested the costs of debt collection.

The statement of the operator’s spokesperson later indicated that T-Mobile’s behaviour was intentional: “The Office started to reject the outstanding filings. We withdrew most of the outstanding filings and decided to continue to collect the debt through debt-collections agencies”.

**There is no doubt that by partial withdrawal the operator sent out a signal to customers that it did not insist on the payment of contractual fines, as the result of the proceedings initiated at the Czech Telecommunication Office included only decisions on the obligation to pay the price for provided services. If, with more than one-year delay from the final and conclusive decision of the Office in most cases, T-Mobile proceeded to “out-of-court” collection of the contractual fine, it cannot be considered a fair practice.**

The operator defended itself in the proceedings by, among other things, statement that it was an excusable error of law which excludes intentional fault or fault from conscious negligence. However, the responsibility for this administrative offence is objective. The operator acts as a professional (with due care) and it should therefore be aware of the content of the legislation that is applied in relationships with customers. Any lack of knowledge in this respect is not beneficial.

The Czech Telecommunication Office assessed the behaviour of T-Mobile as two continued administrative offences involving the use of prohibited business practices perpetrated in concurrence for which it was appropriate to impose an aggregate fine.

## In September, the Czech Telecommunication Office Inspected...

...communication activities without necessary authorisation.

The Czech Telecommunication Office performed five inspections aiming to verify the adherence to conditions for communication activities by inspected entities. In one case, it identified an error and initiated administrative proceedings.

...compliance with conditions of general authorisation no. VO-R/12/09.2010-12 for the use of radio frequencies and operation of devices for broadband data transmission in 2.4 GHz to 66 GHz bands.

Out of 19 performed inspections, the Czech Telecommunication Office identified faults in 15 cases, primarily the use of indoor frequencies outside buildings. The Office asked for the removal of identified deficiencies and subsequently it will initiate administrative proceedings.

...use of radio frequencies without necessary authorisation.

The Czech Telecommunication Office performed 11 inspections focusing on the use of frequencies without authorisation. In six cases, it identified traffic on frequencies without individual authorisation; it deals with these cases in administrative proceedings.

...compliance with the conditions for individual authorisation for the use of frequencies.

The Czech Telecommunication Office performed one inspection of the compliance with the conditions of individual authorisation for the use of frequencies and identified no deficiencies.

...sources of interferences in operations of electronic communication devices and networks, provision of electronic communication services or provisions of radiocommunication services.

The Czech Telecommunication Office performed the total of 111 investigations, of which 90 cases of interference in the TV reception (including STA), 12 cases of interference in GSM and LTE public mobile communication networks, six cases of interference in radio and satellite reception and interferences in the SRD station, WiFi station and central receiver of the alarm receiving centre. In six cases base station in the 800 MHz band (as mentioned above) was identified as the source of interference in DVB-T and DVB-T2. Public mobile networks were interfered by GSM repeater (in two cases), by an active TV aerial, multiswitch and by a large advertising screen.

...testing operations of LTE base stations in the 800 MHz band.

As of 30 September 2018, the total of 429 base stations were in testing operations, and 16,049 stations in permanent operations. In September, the Czech Telecommunication Office received 75 reports of interferences and completed investigations of 90 cases of interferences in DVB-T; LTE base stations in the 800 MHz band were identified as sources of interferences in six cases. In 61 cases, there were failures of the receiving device of TV viewers, in 20 cases no interferences were identified, and two cases were caused by weak DVB-T signal.

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## Do operators inform in a correct way?

**Providers are obliged to inform consumers in a clear, comprehensive and easily available manner on the entity providing out-of-court resolution of consumer disputes that is competent for the particular type of the offered, provided or mediated service. If a provider runs a website, it is obliged to state this information also on this website. If a contract refers to business terms and conditions, the provider is obliged to list the information in the terms and conditions.**

In an event of a dispute between a consumer and a provider that they did not manage to settle directly (usually as part of dealing with a complaint), the provider is obliged to provide the consumer with the above information in a paper form or on another permanent data carrier.

The Czech Telecommunication Office performed an inspection of these information obligations in the total of 40 providers of publicly available electronic communication services. As part of the inspection, the Czech Telecommunication Office inspected a sample of 13,588 rejected complaints in the first half of 2018. In 15 entities, the inspection identified an error that will be dealt with in offence proceedings. Providers either did not state the required information in their contractual terms and conditions or on the website or did not provide consumers with instructions as part of the complaint rejection.

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## Legislative changes

### Transition to DVB-T2

On 14 September, Government Regulation No. 199/2018 Coll., on Technical Plan for the transition of terrestrial digital television broadcasting from DVB-T standard to DVB-T2 standard (Government Regulation on Technical Plan for the Transition to DVB-T2 Standard) was published in section 99 of the Collection of Laws.

This Government Regulation is part of the measures ensuring, in specific conditions of the Czech Republic, a timely, socially acceptable and effective implementation of the binding Decision (EU) 2017/899 of the European Parliament and of the Council of 17 May 2017 on the use of the 470-790 MHz frequency band in the Union, and its concept is based on the government material entitled Strategy of Development in the Terrestrial Digital Television Broadcasting that was approved by the Government Resolution no. 648 of 20 July 2016.

The Government Regulation was issued based on the authorisation according to article II, point 1, of Act No. 252/2017 Coll., which amends Act No. 127/2005 Coll., on Electronic Communications and on Amendment to Certain Related Acts (the Act on Electronic Communications), as amended, and Act No. 483/1991 Coll., on Czech Television, as amended, and stipulates basic principles of the process of transition of the terrestrial digital television broadcasting from DVB-T standard to spectrally more effective DVB-T2 standard with an objective of releasing the radio frequency of 700 MHz band in the deadline according to the EU decision on the use of the 470 – 790 MHz frequency band in the Union. As such, it primarily stipulates deadlines, conditions and manner of procedure in the process of development of electronic communication networks for terrestrial digital television broadcasting in DVB-T2 standard, including deadlines, conditions and manner of switching off the terrestrial digital television broadcasting in DVB-T standard so that, except for the cases when it is not possible due to natural or justified technical obstacles, upon the change of the broadcasting standard, caused by the release of the 700 MHz band, the territory covered by the signal of the terrestrial television broadcasting of programmes by operators of television broadcasting with the licence affected by the switched off broadcasting in DVB-T be not reduced. The technical plan of the transition additionally determined the minimum scope of coverage of the territory by the terrestrial digital television signal in DVB-T2 standard as of the day when the transition of the terrestrial digital television broadcasting from DVB-T standard to DVB-T2 standard is completed, and in accordance with legal authorisation determines the date of the process involving the release of radio frequencies of the 700 MHz band as of 30 June 2020 when the broadcasting in the DVB-T standard through large performance transmitters

and large part of low performance transmitters is discontinued. The broadcasting in DVB-T standard will be completely discontinued by no later than 1 February 2021.

This government regulation took effect on the fifteenth day following its announcement, i.e. on 29 September 2018.

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## Postal services

In September, the Czech Telecommunication Office issued one new certificate of notification of business in the provision of postal services. The new authorised postal services operator is Georgian Post (Czech) s.r.o.

In September, a nation-wide inspection of delivery of registered mail consignments was initiated and has not been completed yet. The Czech Telecommunication Office will inform on the course and results of the inspection.

### Forms for parcels delivery service providers

On 1 October, [implementing regulation](#) no. 2018/1263 took effect which specified the form for presentation of information from providers of package delivery services in accordance with [Regulation](#) (EU) 2018/644 of the European Parliament and of the Council. Its Annex includes two forms intended for one-off and repeated data collection.

Parcels delivery service providers will submit the required information, on a one-time basis, to the national regulatory authority of a member state in which they are based, in the form determined by the European Commission, and will inform the national regulatory authority of any changes in this information within 30 days. In addition, the regulation requires the parcels delivery service providers to submit the information on their activities by 30 June of each calendar year. For the first time, they will submit the information on their activities for 2018.