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Český telekomunikační úřad (CTU)

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CTU's Call for Comments

Analysis of Market 2/2014 – Wholesale Mobile Call Termination and Draft General Measure

Introduction

Verizon welcomes the opportunity to comment on CTU's analysis of Market 2/2014 – Wholesale Mobile Call Termination and Draft General Measure submitted to public consultation.¹

Verizon limits its comments to those parts in the public consultation documents where CTU addresses deregulation of traffic originating outside the EEA².

Verizon's observations

As already advised by Verizon in its letters sent to CTU 16 November 2015 and 22 February 2017, Verizon strongly believes that the **regulated cost-based termination rates of European Economic Area (EEA) providers in principle should equally apply to traffic originated in any country inside or outside the EEA**, in a non-discriminatory manner, for legal, economic, and consumer-impact reasons. This is even more relevant for traffic originating in countries that do not apply high(er) termination rates than in the EEA, such as the United States (US).

¹ <https://www.ctu.cz/vyzva-k-uplatneni-pripominek-k-navrhu-opatreni-obecne-povahy-analyzy-trhu-c-a2xx2020-x-trhu-c-2>

<https://www.ctu.cz/sites/default/files/obsah/ctu/vyzva-k-uplatneni-pripominek-k-navrhu-opatreni-obecne-povahy-analyzy-trhu-c-a/2/xx.2020-x-trhu-c-2-velkoobchodni-sluzby-ukonceni-hlasoveho-volani-v-jednotlivych-mobilnich-sitich/obrazky/art25koloverzeprovkprozverejneni.pdf>

² "Terminace provozu ze zemí mimo EHP", page 45-47, lines 1289-1345, and "Regulace cen podle § 56 a 57 Zákona", page 56-57, lines 1720-1748

Verizon strongly regrets that so far CTU has allowed Czech operators to set a price for the termination of calls originating outside the EEA that is higher than the regulated price without any further restrictions. As a consequence we have seen price increases for all traffic from countries outside the EEA. These price increases even occurred for traffic from countries where termination rates were equal or lower than in Czech Republic, such as the US. This practice has also affected Verizon US traffic terminating in Czech Republic for many years now, despite the fact that US termination prices are amongst the lowest in the world.

Verizon strongly regrets that CTU wants to maintain the status quo with respect to termination of calls originated outside the EEA.

Verizon believes that any abolition of price regulation for calls originating outside the EEA must be exclusively limited to traffic from countries that apply high termination rates. The purpose cannot be to punish countries and operators who, independently or through national regulations, already apply termination prices that do not exceed or are even lower than the Czech regulated prices, for example, the US prices.

It is not only unfair to harm traffic from countries outside the EEA which apply comparable or lower prices for call termination than regulated prices in the EEA, this could also lead to an upward price spiral or a race to the top, which will ultimately also negatively affect Czech callers through increased costs for calls to countries outside the EEA .

Verizon recommends CTU to adopt a reciprocity restriction

For this reason we strongly recommend CTU to follow the example set by national regulatory authorities in several EU countries, such as Austria, France, Germany, Ireland, Italy, the Netherlands, Spain and soon also Romania, who have imposed a so called reciprocity restriction when they adopted decisions that allow for the deregulation of the call termination price for traffic originating outside the EEA. The reciprocity restriction means that the freedom to set the price for call termination for traffic originating outside EEA is limited in the sense that the call termination price cannot be set higher than the corresponding termination rate that applies in the country from which the call originates.

Verizon recommends CTU to take into account the commitments of the Czech Republic under GATS.

As Verizon argued in its position paper attached to its letter to CTU dated 22 February 2017, the abolishment of price regulation for traffic from countries outside the EEA would violate EU and the Czech Republic's commitments under the General Agreement on Trade in Services (GATS) and more specifically the section on interconnection within Protocol 4, to which both EU and the member states are bound. As stated in Article 216 (2) TFEU: *"Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States"*. The Protocol 4 of GATS is considered an EU legislative act and is still in force.

Paragraph 2.2 (a) Section 2 Interconnect of Protocol 4 to GATS states: *"Such interconnection shall be ensured under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favorable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates"*.

This means that mobile operators in the Czech Republic have the obligation not to exceed the regulated mobile termination price set by CTU, as regards termination of calls originating from i) Czech Republic, ii) all other countries inside the EEA, and iii) countries outside the EEA which have accepted Protocol 4 to GATS, part of the Marrakesh Agreement regarding the establishment of the World Trade Organization (WTO) without making reservations to the dedicated section on interconnection.

Mobile operators can only exceed the regulated price in those cases where the call originates from countries outside the EEA that are not a party to the Protocol 4 to the GATS or have made reservations to the dedicated section on interconnection; but the price for terminating such calls to the Czech operators' networks should never be able to exceed the termination price in the country which originates the call, in line with the above mentioned reciprocity restriction that would also apply.

Conclusion

In summary, Verizon ideally wants regulated call termination prices to apply regardless of the country of origin of the traffic. However, should CTU in its final decision maintain its willingness to **abolish the price regulation for calls originating outside the EEA**, Verizon strongly believes that this **should be limited to traffic from non-EEA countries that apply higher prices** for call termination than the regulated prices applicable within the Czech Republic.

Verizon therefore calls on CTU to impose an obligation on Czech operators, which does not allow the price for call termination to Czech destinations to be set higher than the corresponding price for terminating calls in the specific country outside the EEA. Such a **reciprocity obligation** is a **reasonable and proportionate** intervention in the Czech operator's activities which is justified with regard to the purposes and other interests that CTU has to exercise within the framework of the regulation.

Verizon does not request any confidentiality regarding the content of the present response to the consultation.



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