



Quarterly update summarising regulatory and legal developments from the last three months in the communications, media and satellite sectors in Europe and the rest of the World

This edition includes contributions from the United Kingdom, Belgium, Bulgaria, the Czech Republic, France, Germany, Hungary, Italy, the Netherlands, Poland, Romania, Russia, Serbia, Spain and Ukraine.

United Kingdom

COMMUNICATIONS

Postal services now regulated by Ofcom

On 1 October, the responsibility for the regulation of the UK's postal services moved over from the existing regulator, Postcomm, to Ofcom. Ofcom is now responsible for safeguarding UK's Universal Service Obligations in relation to postal services, such as Royal Mail's obligation to offer a six day a week, one price goes anywhere, postal service throughout the UK. This change of responsibility was part of the implementation of the new regulatory framework for postal services in which the existing licensing regime was replaced with a general authorisation regime.

Further information is available at <http://stakeholders.ofcom.org.uk/post/>.

Smart Metering Project and Smart Grids Forum Meeting

The Office of the Gas and Electricity Markets (Ofgem) launched a project to scope a strategy for developing smarter markets from the platform of smart metering. The Ofgem states that in connection with a smart meter rollout it will have to be considered where regulatory frameworks are integral to change and how consumer interests are to be safeguarded. The launch event was held on 28 September 2011. On 5 October 2011 the minutes of the second meeting of the Smart Grids Forum of the new Department of Energy and Climate Change (DECC)/Ofgem Smart Grids, which took place on 20 July 2011, were published. The members of the Forum repeated that smart meter and smart grid activities should remain closely linked.

A full project presentation is available at <http://www.ofgem.gov.uk/Markets/sm/strategy/Documents1/First%20Briefing%20Event%20-%20Presentation.pdf>

Further information is available at <http://www.ofgem.gov.uk/Networks/SGF/Documents1/Minutes%20SGF%202nd%20meeting.pdf>

DECC Consultation on DCC Regulatory and Commercial Framework

The Department of Energy and Climate Change (DECC) has issued a consultation on the detailed policy design of the regulatory and commercial framework for the Data and Communications Company (DCC), the principal role of which will be to communicate with smart meters at all domestic gas and electricity consumer premises.

The consultation, which is open until 24 November 2011, seeks stakeholders' views on the Government's detailed policy proposals in respect of the regulatory and commercial framework to support the establishment and licensing of the DCC. The proposals include: the establishment of the role of DCC (a new licensable activity) in the gas and electricity legislative framework; DCC licence conditions; DCC performance incentives; DCC cost recovery and charges; Wide Area Network requirements for the provision of DCC core services; the adoption of foundation stage communication contracts; and the licence application process.

Further information is available at:

http://www.decc.gov.uk/en/content/cms/consultations/cons_smip/cons_smip.aspx

BT's Undertakings

Ofcom has published a consultation seeking views on BT's request for an extension to an existing, but time limited, exemption from its undertakings. In September 2005, BT and Ofcom agreed to a set of undertakings pursuant to section 154 of the Enterprise Act 2002. The undertakings included mechanisms to allow BT and Ofcom to agree exemptions from them. BT's request relates to the connection of the Digital Subscriber Line Access Multiplexer (DSLAM), which provides broadband services, directly to a main distribution frame rather than via an intermediate handover distribution frame.

BT has requested to make permanent part of an exemption which relates to LLU Associated Services. This allows BT to expand legacy DSLAMs without the need to use Equivalence of Input (EOI) processes until 31 December 2011. BT has requested that the exemption be made permanent to allow it to continue with these arrangements until such time as its Next Generation Network is deployed.

Ofcom are proposing to agree to BT's request and make the existing exemption permanent.

Further information can be found at: <http://stakeholders.ofcom.org.uk/consultations/dslams/>

Waiver of BT's price notification requirements for wholesale line rental and metallic path facilities rental prices

Ofcom seek comments from interested parties on their proposal to waive the price notification requirement in relation to wholesale line rental (WLR) and metallic path facility (MPF) rental prices, which will allow BT (Openreach) to introduce its Copper Incentive Scheme offer in advance of the normal 90 days' written notice period. It will therefore become effective if and when Ofcom confirm their proposal.

Further information can be found at: <http://stakeholders.ofcom.org.uk/consultations/bt-waiver-wholesale/>

Geographic telephone numbers

Ofcom administers this national numbering resource, including geographic numbers, fixed-line numbers that begin with the digits 01 and 02, and seeks to ensure that sufficient numbers are available to allocate to communications providers.

In November 2010, Ofcom proposed some changes to the way they manage the allocation of geographic numbers, and launched a public consultation.

Ofcom have just published information as to how they will make available new geographic telephone numbers in some areas of the UK in the coming years. In the same document they are also consulting on measures to enhance the effective and efficient use of geographic telephone

numbers that were proposed in November, which included a pilot charging scheme for geographic numbers and measures to strengthen our administrative processes.

The consultation will end on 11 November 2011. More information can be found at <http://stakeholders.ofcom.org.uk/consultations/safeguarding-geographic-numbers/>.

BROADCASTING AND MEDIA

Ofcom issues guidance on the TV watershed

Ofcom has recently been involved in a number of high profile cases around the issue of what material is unsuitable for children or close to the limits of acceptability before the TV watershed of 9.00pm. As a result, in line with its fundamental statutory duty to ensure the protection of under-18s, Ofcom has published new guidance on television broadcasting before and soon after the watershed, and on music videos broadcast before the watershed.

This guidance should help broadcasters in deciding whether material is likely to breach the Broadcasting Code. However, activities aimed at ensuring compliance with the guidance are likely to still require considerable review, with regard to the specific elements of a programme or music video. Broadcasters can refer to a number of Ofcom decisions on the themes covered, which are quoted in the Guidance.

More information is available at:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/watershed-on-tv.pdf>

SATELLITE

Upper limit on liability for UK operators

The UK Space Agency plan to publish a three-month consultation at the end of October 2011 seeking comments on replacing the unlimited liability facing operators under Section 10 of the Outer Space Act (OSA) with a cap of Euros 60 million on the liability of operators. This amendment is likely to be made by way of legislative reform order and will be implemented around April 2012.

Space debris mitigation standard

At the beginning of November 2011 the British Standards Institute (BSI) will publish ISO 24113 on "Space Systems – Space Debris Mitigation Requirements" in the UK.

ISO standard 24113 defines primary space debris mitigation requirements applicable to all unmanned systems launched into near-Earth space. The requirements it sets out are aimed at the reduction in the growth of space debris by ensuring that spacecraft and launch vehicle orbital states are designed, operated and disposed of in a manner that prevents them from generating debris.

Compliance with ISO 24113 is likely to be assessed by the UK Space Agency prior to granting an OSA licence to operators.

Judgement in the ICO v Ofcom Appeal

On 11 October 2011, the Court of Appeal in England dismissed ICO's appeal against a judgment of the Administrative Court which refused an application for judicial review by ICO. The application was to quash a decision by the UK Office of Communications (Ofcom) to write to the International Telecommunication Union (ITU) to request the cancellation of the ICO assignments recorded in the ITU Master International Frequency Register for the ICO-P mobile satellite communications system.

The court held that Ofcom provided ICO with every opportunity to make the assignments fully operational. It concluded that Ofcom's decision to cancel ICO's filing was validly made in the context of Ofcom's UK and international (ITU) duties. There was no realistic prospect of the ICO assignment being used in any real sense and Ofcom had not acted disproportionately in seeking to cancel ICO's assignment.

ICO have 28 days in which to appeal to the Supreme Court.

For the full text of the decision, please go to:

<http://www.bailii.org/ew/cases/EWCA/Civ/2011/1121.html>

Austria

COMMUNICATIONS

European Court of Justice to Determine if TV Short Reporting in the EU Is Free

In 2006, the Austrian Constitutional Court ruled that exclusive rights holders are entitled to adequate remuneration taking into account their ownership of the TV signal and the right of the public in respect of access to information. The mandatory right to short reporting was deemed to be no different than privately agreed content licences.

However, under the latest European harmonization with the Audiovisual Media Services Directive 2010/13/EU (AVMSD), any broadcaster established in the EU has guaranteed access to exclusively transmitted events of high public interest for the purpose of transmitting short news reports. The case in question has therefore now been referred to the Court of Justice of the European Union for a preliminary ruling on whether the free use of the TV signal for short news reporting contradicts the European primary law— the European treaties and the Charter of fundamental rights of the EU.

If the relevant AVMSD provision is declared invalid, exclusive rights owners throughout the EU could ask for adequate remuneration for the used TV signals from their short-reporting competitors.

Bulgaria

COMMUNICATIONS

European Commission asks Bulgarian Telecommunications Regulator to take measures against the inflated price of mobile calls

The Bulgarian Communications Regulation Commission (CRC) is to undertake measures to reduce the price of mobile calls to at least EU average levels, in accordance with the Commission's Termination Rates Recommendation. According to the chairman of the CRC, this could be achieved by decreasing mobile termination rates, i.e. the charges that telecoms operators impose horizontally for the use of each others' networks. This may cause the price of inter-network mobile calls to drop by up to 25%.

The full text of the position of the European Commission in this regard can be found [here](#).

CRC grants temporary use of spectrum for testing of Long Term Evolution (LTE) technology

One of the leading Bulgarian mobile operators, MobilTel, has announced that it will begin testing its 4G network this autumn. In the meantime, CRC has initiated public consultations related to the implementation of LTE, next generation wireless broadband technology allowing for more efficient usage of the available radio-frequency spectrum, as well as the increased capacity and speed of wireless data networks (as compared to GSM and UMTS). Currently the CRC is assembling information as to whether telecoms operators would participate in tender procedures for the establishment of LTE networks, etc.

The full text of the document can be found [here](#).

CRC appoints date for fourth mobile operator licence tender

The CRC has announced a sealed bid tender for the issue of an authorization for the use of individually assigned scarce resource – a radio frequency spectrum for the provision of public electronic communications through the mobile terrestrial network – UMTS with national coverage, using individually assigned scarce resource from the radio frequency spectrum – 2 x 15 MHz in the 2 GHz range with 15 years term. The tender is scheduled for 7 December 2011.

More information can be found [here](#).

CRC to issue authorizations for the use of individually assigned scarce resource – radio frequency spectrum

The CRC plans to issue authorisations for the use of radio frequency spectrum in the range 1800 MHz for carrying out public electronic communications through a mobile terrestrial network with national coverage. More information can be found [here](#). Meanwhile, the National Plan for the Implementation of Digital Video Broadcasting - Terrestrial (DVB-T) has been updated by the National Radio Frequency Spectrum Council.

The full text of the document can be found [here](#).

Czech Republic

COMMUNICATIONS

EU Telecoms Package to be implemented via an amendment to the Czech Electronic Communications Act

The new EU Telecoms Package (5 Directives in total) adopted in 2009 will be transposed into the Czech legal system by way of an amendment to the existing Act No. 127/2005 Coll., on Electronic Communications. The new single amendment (Bill) shall encompass all key issues addressed by the revised Telecoms Package. The amended Act will also specifically address certain questions in relation to e-privacy and data protection, as well as consumer protection and certain competition issues (e.g. free frequencies granted by way of auctions, allowing new services providers to enter the market).

The implementation process is expected to be completed by the end of 2011 and the amendment is expected to come into force at the beginning of 2012.

Revision of Czech e-privacy regulations following ruling of the Constitutional Court

The current version of the Act on Electronic Communications and its implementing Decree No. 485/2005 Coll. have recently been amended following a decision of the Czech Constitutional Court which proclaimed a certain section of the Act, and the Decree as a whole, as unconstitutional in the context of the issue of e-privacy. Specifically, the Court ruled that the existing regime for collecting localisation and communication data (data retention) is excessive, disproportional and in breach of fundamental constitutional principles. A revised version of the Electronic Communications Act reflecting the Court's decision has now come into effect. The controversial provisions are omitted in their entirety, in the light of the Court's opinion that any such collecting of traffic and localisation data is undesirable.

BROADCASTING AND MEDIA

Ex-TV Nova director becomes the Director General of Czech Television

Petr Dvořák, the former head of top Czech commercial station Nova TV, has been named head of the state-owned Czech Television (ČT).

In two rounds of secret voting on 21 September, the board of public broadcaster Czech Television (ČT) elected Petr Dvořák as its new general director for a six-year term. Dvořák, formerly a top figure in billionaire Petr Kellner's PPF Group, was one of five candidates, the others being Roman Bradáč, Petr Dvořák, Hynek Chudárek, Jan Svoboda and Radomír Šimek.

SATELLITE

Amendments to the Electronic Communications Act

A further amendment to Czech Act No. 127/2005 Coll., on Electronic Communications is also being discussed by the Czech Parliament. Its aim is to allow Inmarsat Ventures Limited and Solaris Mobile Limited - operators selected by the European Commission to provide mobile satellite services across Europe - to enter the Czech market. The amendment should enter into force during the first quarter of 2012.

France

COMMUNICATIONS

Implementation of the E-privacy Directive

The E-privacy Directive (2002/58/EC) has been implemented into the French legal framework by Ordinance 2011-1012 of 24 August 2011. Under the new legislation, electronic communication service providers (ECSPs) are under an obligation to notify data security breaches. This provision applies to all companies that process personal data as part of electronic communication services provided through a public network. ISPs and Telecom Operators are, for example, specifically targeted.

ECSPs are under an obligation to inform the Data Protection Authority (Commission Nationale de l'Informatique et des Libertés – (CNIL)) immediately of any breaches of data security. Non-compliance with these provisions is punishable by up to five years of imprisonment and a €300,000 fine.

Other obligations include the need to obtain express consent for the use of cookies. According to the CNIL, in order to comply with relevant legal requirements, users' consent should be specific and have defined purposes.

The CNIL's position is that browser settings accepting any cookie without distinction as to their purposes shall not be regarded as express consent.

SPECTRUM

4G frequency allocation

Through a decision No. 2011-1080 of 22 September 2011, Autorité de Régulation de Communications Électroniques et des Postes (ARCEP) has selected applications from Bouygues Telecom, Free Mobile, Orange France and SFR as part of the allocation procedure for 2.6 GHz band frequencies, which are used in the deployment of ultra high-speed (4G) mobile networks whose maximum data rate must be at least 60 Mbps.

The allocation procedure for the 2.6 GHz band is the first stage in the award of 4G licences. The second stage will consist of the allocation procedure for the 800 MHz band, resulting from the digital dividend, for which the deadline for applications is 15 December 2011.

Of the four telecoms operators selected, three (Bouygues Telecom, Free Mobile and Orange France) made commitments to host MVNOs on their respective networks. Duplex frequency blocks of 15 MHz were allocated to Bouygues Telecom and SFR (for which these companies bid €228,011,012 and €150,000,000, respectively). In turn, duplex frequency blocks of 20 MHz were allocated to Free Mobile and Orange France (for which the companies bid €271,000,000 and €287,118,501, respectively).

Germany

COMMUNICATIONS

New NGA concept published

Following its meeting on 5 October 2011 the Next Generation Access Forum (NGA Forum), which consists of experts from the telecommunications sector and is headed by the President of the Bundesnetzagentur (BNetzA), published a detailed concept for how network operators and service providers can use newly-established fibre networks with other operators and be granted access to outside networks. Although the documents are not legally binding in a strict sense, they shall promote cooperation in the interests of the parties. The specifications for a broadband access product that the FGA Forum has now agreed on are for so-called Level-2 bitstream access. The specifications define the technical and operational interfaces, along with the key business processes necessary for interoperation. The specifications are neutral in terms of access architectures and technologies. They set out the basic structures, models, protocols, parameters etc for interoperation. They also aim to offer NGA operators and providers of end customer NGA products with descriptions of the processes needed for cooperation in wholesale products that are uniform and as simple as possible.

Further information is available at:

http://www.bundesnetzagentur.de/SharedDocs/Downloads/EN/BNetzA/PressSection/PressReleases/2011/111013NGAForumSpecification.pdf?__blob=publicationFile

Next level regarding usage of mobile spectrum achieved

On 14 September 2011 the BNetzA announced that three companies, Telekom Deutschland GmbH, Vodafone D2 GmbH and Telefonica Germany GmbH & Co. OHG, have met the coverage obligation in the 800 MHz band in North-Rhine Westphalia and Saarland and are now able to use the frequencies assigned to them in this band as they wish in the two federal states. Spectrum for wireless network access in the 800 MHz, 1.8 GHz, 2.0 GHz and 2.6 GHz was auctioned in early 2010. Assignments of the 800 MHz frequencies all involved progressive coverage and roll-out obligations. Prior to the auction, the federal states had identified towns and districts with little or no broadband coverage, which were grouped into four priority stages depending on their number of inhabitants. When using the 800 MHz spectrum in the states, a network operator is obligated to provide broadband connections progressively to the towns and cities, in line with the individual priority stages. Towns and districts with fewer than 5,000 inhabitants have top priority (priority stage 1) for mobile broadband provision. The next stages then include access for larger towns. The 800 MHz assignee must first provide at least 90 percent of the population in the towns and districts of the previous stage with broadband, before moving on to the next level.

Further information is available at

http://www.bundesnetzagentur.de/SharedDocs/Downloads/EN/BNetzA/PressSection/PressReleases/2011/110914BroadbandExpansionCoverage800MHz.pdf?__blob=publicationFile

BROADCASTING AND MEDIA

Federal Court of Justice: Prohibition on internet gambling is lawful

On 28 September 2011, the Federal Court of Justice decided that the prohibition of internet gambling which is stipulated in the German State Treaty on Gambling (Glücksspiel-Staatsvertrag) is lawful. Even though the State Treaty on Gambling is in force since 1 January 2011, several national and international companies continued advertising and offering internet gambling services to German players. The German public lottery companies as national monopolists raised actions against these providers. The Federal Court of Justice has now ruled in favour of the public lottery companies. In his decision the court states that although the prohibition of internet gambling restricts the Community rules on freedom to provide services such restrictions are inter alia justified on grounds of the protection of minors and addiction prevention.

Further information is available at <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=pm&Datum=2011&Sort=3&nr=57730&pos=0&anz=150>

Hungary

COMMUNICATIONS

New Decree on the Detailed Rules of Electronic Communications Subscriber Agreements

The National Media and Infocommunications Authority (NMHH) has issued a decree (No. 6/2011 (X. 6.)) on the Detailed Rules of Electronic Communications Subscriber Agreements. This contains specific provisions on the form and archiving of subscriber agreements; how the agreements shall be concluded (deadlines, cooling off periods etc.); mandatory issues to be regulated in subscriber agreements; customer complaint handling procedures; penalty payment obligations for service providers for delays in the correction of errors in the service; archiving and access rules for call centre recordings; the method of notification of subscribers; the calculation of fees; the operation of voicemails; the possibility to amend or terminate the subscriber agreements; the restriction or suspension of services; and the maintenance of a catalogue of subscribers.

The contracting parties may deviate from certain provisions of the decree in case of B2B services. In addition, SMEs shall have the right to request the application of those (more favourable) rules which are applicable for B2C subscriber agreements on the same services.

The decree will enter into force as of 1 November 2011.

Hotline for reporting harmful and illegal contents is launched by the National Media and Infocommunications Authority

The NMHH has launched the website www.internethotline.hu via which anyone may report suspected illegal activities found on the internet. An equivalent 24-hour telephone service will also be available soon. In the case of legal reports directly made to the NMHH, the NMHH will request the owner of the server storing illegal content to remove the objectionable file. The server owner (transmitting service provider) usually deletes such files pursuant to the agreement concluded by and between itself and the user uploading the content (such agreements usually stipulate that materials with illegal content may not be stored on the servers). The NMHH cooperates with the police in ensuring the earliest possible removal of illegal content, and has also applied for membership in the international organisation INHOPE (International Association of Internet Hotlines). The NMHH reports all suspected criminal acts or suspected preparation for such criminal acts to the police. If the

illegal content is stored on a server located abroad, the NMHH will request help from INHOPE in contacting the server owner.

Further information is available at: <http://www.nmhh.hu/index.php?id=hir&cid=15367>

New market analysis resolutions regarding obligations of service providers with significant market power for the next three years

At the end of August, the NMHH adopted three new market analysis resolutions setting out obligations for service providers with significant market power for the next three years. During this period, service providers are requested to cut their wholesale prices in the mobile voice market by 40%. Further to the recommendation of the European Commission, the NMHH will implement a new model in the future for determining call termination rates applied between service providers. According to the new model, service providers shall reduce the current HUF 11.86/minute mobile wholesale call termination rates to HUF 7.06/minute by 1 January 2013. The most important objective of the market analysis resolutions is to ensure that in the coming years subscribers can use both landline and mobile telephone services at the lowest prices possible.

Further information is available at: <http://www.nmhh.hu/index.php?id=hir&cid=15186>

ISPs to block access to illegal gambling websites

A new provision of the Gambling Act requires internet service providers to block access to unauthorized gambling websites upon the request of the Hungarian tax authority.

Establishment of the Mobile Wallet Association

Magyar Telekom, Telenor and Vodafone have joined with MasterCard, OTP Bank and loyalty programme operator SuperShop to establish the Hungarian Mobile Wallet Association with the aim of developing a technical and operational infrastructure for Near Field Communication (NFC) services in Hungary. The aim of the association is to design and articulate as a recommendation the prerequisite technological standards for mobile NFC services and to submit proposals towards the successful implementation of the service, to ensure that partners may freely join the service as well as to implement the necessary education related to the implementation of the innovative mobile NFC services.

Tesco and Vodafone set up JV to offer Tesco Mobile

The Hungarian units of the UK's Vodafone and Tesco on 21 September announced the establishment of a joint venture called Tesco Mobile. Tesco Mobile will be a mobile virtual network operator, paying to use Vodafone's network to offer mobile telephone and internet services to subscribers. The 50-50 JV is expected to launch services in the first half of 2012.

BROADCASTING AND MEDIA

Consultation on the 2012 fee statements of collective agencies

The consultation procedure for fee statements for 2012 in relation to royalties for "transmission to public" (including inter alia radio and television broadcasting, simulcasting and webcasting, retransmission to the public and on demand use) is ongoing. Fee statements are determined by the collective management organizations annually, but have to be approved by the Hungarian IP Office following consultation with the largest users and the Ministry of Cultural Affairs.

Public hearing on the list of events of major importance for society

The Media Council has published its proposed list of events of major importance for society and held a public hearing regarding the same. The draft list of 14 includes the summer and winter Olympic games, the Football World Cup series, the UEFA European Football Championship, all matches involving a Hungarian team in the UEFA Champions League and European League

competitions, all matches involving the Hungarian national football team in official competitions, the Formula 1 Hungarian Grand Prix, and several other basketball, water polo, handball, swimming, kayak and canoe competitions involving a Hungarian team, competitor or the national team. If exercising the exclusive broadcasting right would deprive at least 20% of the Hungarian audience from following any of the events of major importance for society via an audiovisual media service the broadcaster will be required to make a contract proposal to a free-to-air broadcaster, when approached by such a broadcaster, for the broadcasting of the said event live or deferred.

The Media Council determined the media service providers with significant power of influence

In its resolution the Media Council determined two television and two radio broadcasters as media service providers with significant power of influence based on their audience size. The Media Law already includes several obligations for the media service providers with significant power of influence, but the Media Council has the right to impose additional obligations in its resolution.

First approval of a merger between media service providers by the Media Council

The Media Council has issued its first positive decision regarding the approval of the acquisition of the media service providers of one Hungarian and six Romanian cable channels by the operator of the most viewed Hungarian television channel, RTL Klub. Since this provision is in force, this is the first time the Media Council positively resolved in a case. The Media Council reasoned that the merger will not impede viewer's right to access to diverse information. The merger is still to be approved by the competition authority.

Guidance for age ratings issued

The Media Council issued its guidance to the media service providers for the principles of age rating classification. It also modified its guidance regarding product placement in order to distinguish different product placement types provided in exchange for payment or services.

SPECTRUM

Sale of the 900MHz spectrum – “the 4th mobile” tender

The NMHH intends to sell the frequency use rights that may be available in the 900 MHz frequency band in connection with GSM, UMTS, LTE and WiMAX system based radio and telecommunication services at an international auction with two rounds. Should a new market participant obtain a right within the 900 MHz frequency band, such will also acquire an option right to purchase further frequency blocks in the 1800 MHz and 2100 MHz frequency bands. By selling the 900 MHz frequency block, the NMHH allows the winning service providers of the auction to offer the most state-of-art mobile services in areas where the broadband coverage was not adequate until now. The aim of the NMHH is to utilise the frequency capacity efficiently, to encourage service providers to implement network developments, and to enhance service level through making competition in the mobile market more intense, and to protect the interests of subscribers.

Further information is available at: <http://www.nmhh.hu/index.php?id=hir&cid=15387>

Italy

COMMUNICATIONS

AGCOM publishes economic conditions concerning access point services

The Autorità per le Garanzie nelle Comunicazioni (AGCOM) has published economic conditions concerning access point services relating to the public telephone network in a fixed location in compliance with universal service obligations.

Under these conditions, Telecom Italia is granted the right to request that end users pay an additional amount of up to 30% of total costs for access point installation located purposely for the same user/client between its local distributor (or other Access Point nearby) and the client's address. Such additional contribution shall be due exclusively for access on a separate circuit requiring the construction of excavations and pilings from scratch, or where new client plants must be installed. Where there are simultaneously further requests for access to the public telephone network in a fixed area affecting the same network path, Telecom Italia may increase the cost percentage up to a maximum of 50%, dividing the quota to be paid equally amongst the various applicants requesting access.

There is however a number of situations in which the additional contribution cannot be requested. Until the 15° Population and Housing Census (which is aimed at collecting up-to-date information on the addresses and house numbers of customers residing in scattered houses or towns) that is currently being carried out by National Institute of Statistics (ISTAT) is concluded, Telecom Italia shall apply the additional contribution exclusively to those plants located beyond the town perimeter.

Further information is available at:

<http://www.agcom.it/default.aspx?DocID=6851&Search=385/11>

Commencement of the implementation of the Code of Electronic Communications, concerning the setting of quality objectives for companies with universal service obligations for the year 2012

AGCOM has published a notice concerning the implementation of the Code of Electronic Communications in relation to the establishment of quality objectives for companies with universal service obligations for the year 2012. Telecom Italia S.p.A., which is currently the main company supplying a Universal Service pursuant to Article 5 of Decree 254/04/CSP, has proposed objectives concerning service quality for 2012.

Further information is available at:

<http://www.agcom.it/default.aspx?DocID=7183&Search=254/04/CSP>

BROADCASTING AND MEDIA

Amendment to the Plan regarding frequency allocation for digital terrestrial television services

AGCOM has published a resolution amending Decree No. 423/11/CONS. This includes a Plan regarding frequency allocation for digital terrestrial television services in the Liguria, Tuscany, Umbria, Marche and Viterbo regions of Italy.

Further information is available at: <http://www.agcom.it/default.aspx?DocID=7170>

SATELLITE

17th Ka and Broadband Communications – Navigation and Earth Observation Conference

The 17th Ka and Broadband Communications – Navigation and Earth Observation Conference took place in Palermo on 3-5 October 2011.

This event involved representatives of the main national and international satellite communications sector operators. The purpose of the Ka and Broadband Communications, Navigation and Earth Observation Conference was to present the latest information on a variety of areas, including: satellite communications, broadband and Ka, navigation, environmental monitoring, weather forecasts, solar system exploration, video distribution, security, and the most recent applications concerning flight assistance and dual-use Earth observation systems. The Conference was sponsored by the agencies ASI, ESA and NASA, as well as by the Canadian Research Centre for Communications (CRC), the German Aerospace Centre (DLR) and the American National Institute

of Information and Communication Technology (NICT). Participants included numerous representatives of the satellite communications industry and service providers.

Further information is available at: <http://www.kaconf.org/index.php>

Netherlands

COMMUNICATIONS

Consultation on proposal for further measures ensuring continuity of telecoms services

Under the existing framework of legislation regulating communications networks and services (Directives 2009/140/EC, 2002/19/EC, Directive 2002/20/EC and Directive 2002/21/EC), providers of public communication networks are obliged to take measures guaranteeing the security and integrity of these networks and ensuring the continuity of services provided over these networks. A proposal has therefore now been drafted and submitted for consultation in respect of further measures to ensure the continuity of telecommunications services. The consultation is aimed at collecting reactions to the proposal and to ensure support for the proposed measures. The consultation will close on 14 November 2011.

Pure BULRIC levels unjustified for MTA and FTA

On 31 August 2011, the Dutch Court of Appeal (CBB) ruled that a decision of the Dutch telecommunications regulator (OPTA) on the regulation of mobile termination rates at so-called "Pure" BULRIC levels is unjustified. The Court determined that over the course of the current regulation period, the rates should instead be set at the level of Plus BULRIC.

The Pure BULRIC approach was considered to be incorrect in the case of both MTA and FTA. The Court decided to not to refer the case back to OPTA for a new decision with respect to MTA, but itself set the rates based on Plus BULRIC. With respect to FTA, it referred the case back to OPTA for a new decision, as it decided there may be uncertainty with respect to the cost elements involved, and in the interim provided for an interlocutory measure. The Netherlands is the first country in Europe where a court has decided on this issue.

BROADCASTING AND MEDIA

Requirement to register VOD services

A new policy assisting in the determination of whether services should be considered commercial media services on demand (VOD), which are subject to the supervision of the Dutch Media Authority (Commissariaat voor de Media), is to enter into force on 1 November 2011. This is to set out principles for the determination of whether VOD services are regulated by the Dutch Media Act 2008, which not only applies to "traditional" broadcasting services (through cable, air or satellite), but also to similar services and on demand services distributed via other means (the Internet, mobile devices).

The policy is aimed at ensuring a level playing field for all platforms and ensuring appropriate levels of consumer protection. It will be applicable to services through which video content is offered, but will also apply in relation to: services primarily aimed at offering video content; services where the selection of video content is the responsibility of the service provider; and services considered to be of an "economic" nature, which are aimed at the general public or a part of the general public. Both existing and new services providers are required to register, and non-compliance may result in a fine for the service provider.

Poland

COMMUNICATIONS

UKE comments on ITU report "Measuring the Information Society 2011"

In the International Telecommunication Union's (ITU's) report entitled "Measuring the Information Society 2011", Poland ranks 51st with an index of 1.8 in terms of prices for telecommunications services.

The result was measured on the basis of three price sub-baskets: fixed telephony; mobile telephony; and fixed Internet access. The ICT Indicator is a value derived from the sum of the three sub-baskets (given in \$USD) presented as a percentage of monthly GDP per capita divided by three. Based on this indicator, countries are ranked from 1 to 165 (Poland ranks 51, as stated above). According to the Polish Office for Electronic Communications (UKE), Poland's distant place is mainly due to low GDP per capita rather than high call prices.

The UKE has ordered a similar analysis by Teligen, pursuant to which Poland ranks below the EU average for mobile telephony, fixed Internet above 4Mb/s and above 10Mb/s, slightly above the EU average for fixed-line telephony and on a level close to the EU average for fixed-line telephony.

Further information is available at:

http://www.uke.gov.pl/uke/index.jsp?place=Lead01&news_cat_id=470&news_id=7196&layout=3&page=text

UKE's statement on the quality indicators for telecommunications services

On 22 September 2011, the President of the UKE presented a catalogue of quality indicators for telecommunications services and information on how to publish information about these indicators. This statement is not binding, and is aimed at helping telecommunications service providers fulfill their obligations to publish up-to-date information concerning the quality of these services.

The catalogue should ensure the harmonisation and transparency of information on the quality of the services published by the service providers, thereby enabling consumers to compare the offers presented by varying telecommunications service providers.

For more information, please see:

http://www.uke.gov.pl/uke/index.jsp?place=Lead01&news_cat_id=470&news_id=7181&layout=3&page=text

Greater protection for users - amendments to the Telecommunications Act

On 10 October 2011, the Polish President signed the Act on the amendment to the Telecommunications Act (the Act), which was adopted by the Polish Parliament on 16 September 2011.

The Act mainly concerns premium rate services and ensures the increased protection of users and subscribers against fraud related to the use of such services. The Act:

- (a) extends information obligations towards premium rate users, in particular in relation to the presentation of information about the price, the number and the name of the entity providing these services;
- (b) with regard to subscribed premium rate services, obliges the provider of such service to enable the subscriber to withdraw from the service at any time; and
- (c) allows different ways of blocking free of charge outgoing calls to premium rate numbers as well as incoming calls from numbers dedicated to the premium rate

services and to define a price limit above which the provider will be obliged to block outgoing calls to premium rate numbers and incoming calls from such numbers. The provider will be obliged to offer at least three price limits to its subscribers amounting to PLN 35, PLN 100 and PLN 200.

The Act also allows radio equipment for temporary use without the need to obtain a radio licence in order to ensure periodic transfer of information for a period of up to 30 days and defines the principles and procedures of issuing decisions by the President of the UKE allowing the temporary use of radio equipment in order to ensure periodic transfer of information.

Most of the provisions of the Act of on the amendment to the Telecommunications Act will enter into force 30 days after the official publication of the Act. The Act will be published on these days.

Further information is available at:

http://www.uke.gov.pl/uke/index.jsp?place=Lead01&news_cat_id=168&news_id=7264&layout=3&page=text

BROADCASTING AND MEDIA

Changes to the Telecommunications Law resulting from the Act on the implementation of terrestrial digital TV

The recent amendments to the Telecommunications Law, introduced on the basis of the Act of 30 June 2011 on the implementation of terrestrial digital TV, entered into force on 10 August 2011. The new provisions concern the reservation of frequencies used for terrestrial digital TV and the obligations of multiplex operators.

Russia

COMMUNICATIONS

Severe restrictions introduced for foreign (or foreign-controlled) legal entities in respect of radio channel ownership

Starting from 10 November, 2011, foreign and foreign-controlled entities will not be allowed to become the founder of a radio channel or acquire over 50% of shares in a radio channel which broadcasts over more one half or more of the territorial subjects of Russia or over the territory on which one half or more of Russia's population resides.

Earlier, such restriction applied only to television channels, but has now been extended to include radio channels as well.

Licenses for radio- and television-broadcasting will not be issued or renewed to companies which do not meet the above restriction.

Russian Antimonopoly Service investigates sale of .rf domain websites (top-level domain with addresses in Cyrillic letters)

Two companies appointed for the sale and distribution of .rf domain names (ZAO "Regional Net Information Center" and ANO "Regional Net Information Center") have been investigated by the Federal Antimonopoly Services due to claims that both companies were in fact registering the domains in their own names. The FAS established that ZAO "RNIC" and ANO "RNIC" manipulated customers wishing to purchase domains already owned by ZAO "RNIC" and ANO "RNIC".

The FAS has placed an obligation on ZAO "RNIC" to return the profit earned from these activities (239 million roubles - approx.5.6 million Euro) to the state budget. The possibility of administrative penalties (fines) being imposed in relation to this violation is currently being considered.

Information on available radio frequencies will be available via the Internet

According to a declaration made by Roskomnadzor (Federal Communication, IT and Mass Media Service of Russia), information on available frequencies with a break-down by territory will be made available this autumn. Roskomnadzor and related authorities are finalizing the database for public use which will provide information on the frequency allocation among all civil communication network operators on the territory of Russia.

This database will become part of the Federal Automated Informational-Analytic System (“FAIS”, <http://www.fais-rfs.ru/>) and is expected to make the frequency allocation more transparent. The intent has been welcomed by many network operators.

Serbia

COMMUNICATIONS

Rules on Parameters of Services’ Quality Finally Adopted

After months of public debate, the Serbian Agency for Electronic Communications (RATEL) has adopted Rules on the Parameters of Service Quality. These Rules stipulate in detail the quality parameters for publicly available voice and broadband services, media content distribution services, as well as for the provision of information to the consumers on the quality of service offered. Other areas that are now regulated include the minimum quality of specific service provision by public communication network operators and the quality parameters of electronic communication networks. The obligations imposed on operators with significant market power, as well as conditions under licences for the use of numbering, single licences for radio frequency usage and other obligations stipulated under the Law on Electronic Communications and regulations based thereon, are to now be subject to control. In addition, the Rules specify the powers of RATEL in the process of monitoring electronic communications activity in the Republic of Serbia.

For an English-language version of the Rules, please go to:

<http://www.ratel.rs/upload/documents/Regulativa/Pravilnici/Telekomunikacije/Rules%20on%20quality%20parameters.pdf>

Rules on the Scope and Content of the Minimum Set of Leased Lines Adopted

On 26 August 2011, RATEL adopted the Rules on the Scope and Content of the Minimum Set of Leased Lines. The aim of the new legislation is to enable partial or full lease of a minimum set of leased lines and to set out conditions for their usage, which operators with significant market power in the relevant leased lines market are required to offer to other operators.

For an English-language version of the Rules, please go to:

http://www.ratel.rs/upload/documents/Regulativa/Pravilnici/Telekomunikacije/Rules_on_the_scope_and_content_of_the_minimum_set_of_leased_lines.pdf

BROADCASTING AND MEDIA

First permits for cable operators finally issued

On 29 September 2011, the Serbian Broadcasting Agency finally issued the first 12 permits for cable broadcast in Serbia to existing cable operators. This represents the implementation of the final stage of the regulation of the Serbian broadcasting sector under the currently applicable Broadcasting Act. To date, a total of 151 cable operators have filed applications for the grant of cable broadcasting permits. The sector has been under-regulated in the sense that operators were generally allowed to broadcast programmes without the respective permits being obtained, up until the moment when the licence issue process finally commences. The Agency has announced that the process of issuing these permits is to be completed by the end of 2011.

Spain

COMMUNICATIONS

Draft modification of the Telecommunications Act is cancelled

As a consequence of the general elections taking place on 20 November 2011, the current proposal in respect of a revised Spanish Telecommunications Act has been cancelled. It is possible that the new Government will put forward proposals for an entirely new Act.

CTM decisions on contribution to universal service funding and subscription fee freeze

On 29 September 2011, the Comisión del Mercado de las Telecomunicaciones (CMT) issued a decision stating that the telecommunications operators Telefónica, Movistar, Vodafone and France Telecom are under an obligation to contribute to the financing of the telecommunications universal service for 2008.

On the same date, the CMT also approved a freeze in Telefonica's subscription fees for fixed communications services, which are currently EUR 13.97 per month.

Public consultation on competition in the electronic communications market

The CMT has opened a public consultation on competition in the business segment of the electronic communications market and on the possible future agenda of the regulator.

Further information is available at:

http://www.cmt.es/cmt_ptl_ext/SelectOption.do?tipo=pdf&detalles=09002719800ac310&nav=ult_r_esoluciones.

SPECTRUM

Second spectrum block auction remains ongoing

Following the recent spectrum auction, which took place in July, during which some spectrum blocks were abandoned, a Ministerial Order was issued by the Ministry of Industry in respect of this process. This gave interested parties up to 24 October to present all relevant documentation. The participants of the auction will be identified on 4 November, with the auction set to begin no later than on 17 November 2011.

Ukraine

COMMUNICATION

Amendments to the Law of Ukraine on Telecommunications

Important changes were introduced by the Parliament to the Law of Ukraine on Telecommunications. As a result of these amendments, the lease and sub-lease of telecommunications circuits is no more a licensed kind of activity. In addition, changes have been made to market entry procedures and requirements. Entities wishing to start telecommunication activity now have to submit a formal application to the National Commission for the Communication Regulation of Ukraine (NCCR), rather than simply notify the authorities of their intent to enter the market. The NCCR, in turn, has to consider such an application and make a decision on the inclusion of the respective entity into the list of operators/providers within 10 business days from the day of the official registration of the application by the authority.

Adoption by the NCCR of Market Definition Regulation

In September 2011, the National Commission for the Communication Regulation of Ukraine (NCCR) adopted a Regulation on Analyses of the Markets for Traffic Termination and Definition of the Telecommunication Operators Having Significant Market Power (the Market Definition Regulation). When preparing this legislation, specific regard was given to the Commission Recommendations of 11 February 2003 and 17 December 2007 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC.

Under the Market Definition Regulation, the NCCR will conduct the market analyses at least once every two years. The regulation also defines three traffic termination markets, specifically: (i) traffic termination on fix-line networks; (ii) traffic termination on mobile networks; and (iii) traffic transit on fix-line and mobile networks. Market players whose gross income share on certain traffic termination market exceeds 25% within one year are to be classified as operators having significant market power. Where this is the case, such operators will have to comply with certain additional regulatory requirements set out in the Market Definition Regulation.

Adoption of Regulation on Provision of National Roaming Services

The Regulation on the Provision of National Roaming Services has also now been adopted by the NCCR. This sets out general principles for the provision of roaming services, and also imposes certain additional obligations on telecommunications operators. For instance, operators will have to report to the NCCR where an agreement with a national roaming partner is concluded or terminated. Such reports will have to be submitted within one month of the conclusion/termination of the relevant agreement.

Europe

COMMUNICATIONS

BEREC publishes guidelines on net neutrality and transparency

The Body of European Regulators of Electronic Communications (BEREC) has published draft guidelines on best practice and recommended approaches to be taken by national regulatory bodies and internet service providers (ISPs), as well as other relevant third parties, in order to ensure that end-users are informed about internet access quality and any traffic management techniques used by their network. Information is to be provided on a range of areas including service availability download and upload speeds, quality of service, and any limitations on usage.

Any comments on the Guidelines should be submitted to BEREC by 2 November 2011.

Further information is available at:

http://www.erg.eu.int/doc/berec/consultation_draft_guidelines.pdf

E-Communications household survey

The European Commission's Directorate General for the Information Society and Media regularly carries out opinion surveys to keep abreast of trends in electronic communications markets and to assess how EU households and citizens derive benefits from the increasingly competitive and innovative digital environment. This report includes the 27 Member States. The socio-demographic analysis focuses primarily on household composition, subjective urbanisation, single households and the ageing society. The main themes addressed in this report are the different types of telephone access available with the home, the availability of computers within the home, internet access and the quality of that Internet connection, television availability and the way in which the transmission is received, uptake of communications packages, the ease of switching Internet service providers and/or package providers, the affordability of mobile services and data privacy.

The full text is available at http://ec.europa.eu/public_opinion/archives/ebs/ebs_362_en.pdf

New Consumer Rights Directive passed by European Parliament

As part of efforts to improve cross-border trade, the new Consumer Rights Directive was passed by the European Parliament. The new Directive includes a number of changes, including a requirement for traders to provide more detailed information about their prices, goods and contact details, a requirement for traders to give online shoppers two weeks to change their mind about purchases, and a ban on credit card surcharges as well as pre-ticked boxes on e-commerce websites. Member States' ministers are expected to formally approve the Directive in September 2011, and the Directive will be published in the EU's official journal in the autumn.

[Click here](#) for more information and a summary of the main changes, and [here](#) for the European Parliament's page on the Directive.

Responses to E-Commerce Directive consultation published

Responses to the European Commission's 2010 consultation on the E-Commerce Directive have been published and will be considered in the Commission's deliberations ahead of its adoption of a communication on e-commerce, which was originally expected to occur in early 2011 but is now scheduled for September 2011.

[Click here](#) for information on the consultation.

Stricter rules for personal data breach notifications

To make sure that data breaches (e.g. stolen, lost or unauthorised access to data) are reported in a consistent manner across the EU, the revised ePrivacy Directive (2002/58/EC) allows the European Commission to propose technical implementing measures with regard to the notification procedures. For example, when a personal data breach occurs, the provider must report the breach to a specific national authority, usually the data protection authority or the communications regulator. Also, the provider has to inform the subscriber if there is a risk to the security of personal data or privacy. The Commission wishes to engage with all relevant stakeholders – such as telecoms operators, internet service providers, Member States, data protection authorities, national regulatory authorities and consumer organisations – in a public consultation process in order to gather practical input based on existing practice and experience.

[Click here](#) for more information.

BROADCASTING AND MEDIA

Kick off for Murphy

On 04 October 2011, the European Court of Justice (ECJ) ruled that the FA Premier League (FAPL) which markets the television broadcasting rights for Premier League cannot prohibit television viewers from using decoder cards bought and imported from foreign broadcasters. FAPL brought proceedings against two Greek companies which exported to and sold the Greek decoders in the UK. The FAPL also brought proceedings against the British publican Karen Murphy who purchased a Greek decoder card to show Greek broadcasts of live! FAPL football to her customers in order to avoid paying the higher UK subscription fees.

The ECJ found that “a system of licences for the broadcasting of football matches which grants broadcasters territorial exclusivity on a Member State basis and which prohibits television viewers from watching the broadcasts with a decoder card in other Member States is contrary to EU law” and that this “cannot be justified either in light of the objective of protecting intellectual property rights or by the objective of encouraging the public to attend football stadiums.”

The ECJ judgment (which cannot itself be appealed) will now be passed back down to the UK High Court for interpretation.

The ECJ decisions (file numbers C-403/08 and C-429/08) are available at <http://curia.europa.eu>.

The act of communication to the public - Airfield v. Agicoa

On 13 October 2011, the ECJ rendered its preliminary ruling in the satellite television case of *Airfield v Agicoa*. The court ruled that a satellite package provider (SPP) (in this case, Airfield) was required to obtain authorisation from copyright holders for its intervention in the direct and indirect transmission of television programmes. The exception is where copyright holders have agreed with the broadcasting organisation that protected works will be communicated to the public through the SPP, provided that the SPP does not allow the works to be accessed by a wider audience (a “new public”).

It will now be up to the Brussels court of appeal to apply these rules to the facts in the case of Airfield.

European Commission publishes report on online child safety and social networks

The European Commission has published a second report on progress made following the conclusion by 21 social networking service providers of an agreement aimed at improving child safety online. Reviews were conducted earlier this year in respect of a number of social networking platforms including Skyrock (blogging); Xbox Live (gaming); YouTube, Dailymotion, Flickr (photo / video sharing); Windows Live (which has some social networking functionalities) and Yahoo! Pulse (which allows for the creation of personal profiles with the possibility of uploading blog entries, photos and updates). It was found that only a very limited number of platforms had default settings making the personal data of those under the age of 18 visible only to their approved contacts. The results of the research, as well as this report and its predecessor, will be incorporated in a comprehensive initiative aimed at child protection in connection with the use of modern technologies, which should be rolled out before the end of the year.

For more information, please go to:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1124&format=HTML&aged=0&language=EN&guiLanguage=en>

International

ITU Role as Supervisory Authority of Registration System for Space Assets

The Secretary General of the ITU has published a report on the possible role of the ITU as Supervisory Authority for the proposed international registration system for space assets under the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Space Assets under preparation by UNIDROIT (The International Institute for the Unification of Private law).

The ITU Council is now to decide if, in principle, it is acceptable that the ITU performs the functions of Supervisory Authority. This decision will be subject to the entry into force of the Protocol and the final acceptance by Council, subject to confirmation by the Plenipotentiary Conference of the ITU.

UNIDROIT - Status

[To be provided by JW]

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