# **SLOVAKIA**

#### INTRODUCTION

The pace of broadband growth is accelerating with an average of 3.9 new fixed broadband lines per 100 inhabitants between January 2009 and January 2010. Competition in broadband based on infrastructure shows further progress, however, the DSL segment of the market remains in the hands of the incumbent. Fibre roll-out is one of the more advanced in the EU. The new mobile entrant gains in subscriber numbers. Parallel digital and analogue broadcasting commenced at the end of 2009.

The NRA continued with further market reviews but the progress was slow. The regulatory action in several key markets has not yet brought the expected effects - the markets of local loop unbundling and bitstream, and the fixed markets showed stagnation in development towards more competition. More effort is therefore needed to tackle the market deficiencies so that through competition, effective regulation helps to enhance user benefits. A national public broadband project aimed at providing broadband access in underdeveloped municipalities has been launched in 2009.

## REGULATORY ENVIRONMENT

# Main regulatory developments

The Slovak NRA, *Telekomunikačný úrad Slovenskej republiky* (Telecommunication Office of the Slovak Republic), TÚSR, has finalised the first round of market reviews with the notification of the wholesale market for the trunk segment of leased lines. The results of the second round of reviews have now been notified with respect to five markets in total<sup>242</sup>.

The Ministry of Transport and Telecommunications (thereafter the 'Ministry') prepared an amendment to the Electronic Communications Act, introducing *inter alia* the possibility of sanctions related to the new EU roaming rules, state financial support for digital broadcasting, and further details with regard to access to mobile subscribers' addresses provided for directory services.

New national policy on electronic communications, adopted in May 2009, evolves around three main priorities: digital switchover, development of broadband, and harmonisation of the national legislation with the new EU telecoms package. In December 2009, the Government adopted an amendment of the national frequency allocation table in order to reflect the changes of technology usage established by the amended GSM Directive.

# Organisation of the NRA

The NRA continues to face difficulties related to resources in budget and personnel. More financial resources should prove beneficial in acquiring external assistance for certain regulatory tasks, such as for example an establishment of cost accounting methodology models for price regulation. It has been noted in this context that the revenues generated from

Markets of the minimum set of leased lines (notified in 2009), fixed wholesale origination (2007), fixed wholesale transit (2009), mobile wholesale termination (2009) and fixed retail access (formerly two retail access markets, 2007).

fees for rights of use and administrative charges highly exceed the regulator's budget. However, the revenues cannot be maintained by the NRA and are channelled back to the State budget.

A new chairman of TÚSR took office in February 2009 after the previous chairman was dismissed by the Parliament at the end of 2008. The Commission has opened an infringement proceeding against Slovakia based on concerns that the national legislation setting the provisions for a dismissal of the NRA's management did not appear to respect the EU rules on regulatory independence. The Government proposed an amendment of the relevant legislation. The Commission was closely monitoring the developments in this respect.

# **Decision-making**

The progress of the second round of reviews has been slow: throughout the reporting period, the regulator notified the results of review for three markets (former markets for fixed transit services and minimum set of leased lines, and mobile termination market). The final regulatory decisions with respect to the two latter markets were yet to be taken. Notification of the review for the local loop unbundling (LLU) market was withdrawn.

Although TÚSR has initiated the process of three-criteria tests with respect to other former markets excluded from the current Recommendation<sup>243</sup> already in 2008, the results are yet to be notified. More effort is therefore required to complete the market reviews in the second round. As the last reviews for the former retail access markets as well as the wholesale origination market were not followed by a formal regulatory decision on significant market power (SMP) and related obligations<sup>244</sup>, even though the markets were assessed non-competitive, the Commission recalls the need to review these markets again as soon as possible and follow the procedures as laid down in the regulatory framework.

The NRA spent considerable efforts on the mobile termination market. Commercial negotiations on the mobile termination rates (MTR) had been failing until the end of 2009; the NRA thus set the MTR levels through a preliminary measure. Such a regulatory decision surely strengthened the legal certainty in the market, however, the Commission notes the high level of asymmetry applied, as well as the fact that such rates were set above the EU average.

The remedies in place with respect to key markets are yet to take the desired regulatory effects in triggering more effective competition and consumer benefit. In many instances, effective enforcement action and follow-up to implementation of remedies are absent. Various practices applied by the SMP player hinder the intended effects of regulation, met mostly by a lack of formal regulatory response (with regard to reference offers, for example). Therefore, a pro-active identification of key competition bottlenecks and timely regulatory action on the part of the regulator should prove beneficial for the further market development. The market

Commission Recommendation of 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, OJ L 344/65, 28.12.2007.

As regards the retail access markets, the SMP decisions and remedies based on the first round of review remained effective, however, no formal new decision on SMP and remedies was taken following the second round. With respect to the second review for the wholesale fixed origination market, a new decision of TUSR was taken only as regards new cost based price obligation, based on a price calculation model established by a separate decision of the NRA.

players would welcome more detailed remedies and transparency as regards the regulatory process.

## MARKET AND REGULATORY DEVELOPMENTS

Total turnover and investment figures of the Slovak telecommunications sector show a general increase in comparison with 2007. The total turnover stood at  $\[ \in \]$ 2.24 billion as of 31 December 2008 (increase of 20.8%); the revenues from the fixed market increased by 22.0%, whereas the mobile market revenues increased by 19.8%. The total value of tangible investments was  $\[ \in \]$ 4.05 million (increase of 4.5%); investments made by mobile operators increased by 1.7%, while tangible investments by alternative operators into fixed telephony decreased by 22.7%, and investment of the incumbent fixed operator increased by 23.8%. The total revenue represented 3.3% of the national GDP.

The trend towards fixed and mobile convergence is developing gradually. Two major market players (largest mobile operator and the fixed incumbent via its mobile subsidiary) can now offer complete converged fixed and mobile solutions for broadband, voice and TV services. Although bundles of quadruple services have not been introduced yet, the number of operators offering bundled services has increased, especially as regards offers of bundles linked with broadband. Cable operators, even the smaller local ones, strive to offer more bundles with their 'core' TV service. Several fixed alternative players provide internet protocol television service (IPTV) over its own fibre infrastructure.

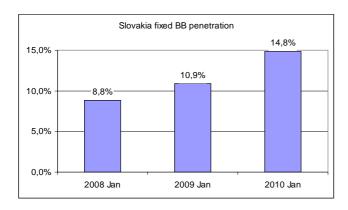
Progress has been noted with regard to development of the next generation infrastructure (NGN). The prevailing technology currently rolled out in Slovakia is fibre to the home (FTTH) in the point-to-multipoint topology. Two largest operators in this regard – the incumbent and the largest mobile operator each cover approximately 303 000 and 301 000 households (respectively)<sup>245</sup>. The third major fibre player (a fixed alternative operator) has reported to cover additional 70,000 households mostly in larger cities; other fixed alternative players deploy NGN networks on a more limited geographical scale, focusing mainly on the local residential market segment or 'greenfields' and selected business customers. The largest cable operator deploys hybrid fibre networks in twenty cities. Fibre roll-out is thus at an advanced level, but at this stage, fibre optic access networks cover mainly large and densely populated cities.

The market situation in 3G services has not changed substantially over the past year. Further roll-out of 3G infrastructure progressed on a minimal scale. At this stage, the new mobile entrant is not considering further development of Universal Mobile Telecommunications System (UMTS).

State of play as of December 2009. The coverage of individual networks overlaps in many geographical areas.

### **Broadband**

#### Market situation



The fixed broadband market experienced a notable growth in 2009. The fixed broadband penetration rate increased by 3.9 percentage points from 10.9% of population in January 2009 to 14.8% in January 2010. The accelerated pace of broadband growth is represented by 213 292 new fixed retail broadband access lines over a period of 12 months, which, with an average of 3.9 new fixed broadband lines per 100 population, is

one of the leading in the EU. Despite such progress, however, in the context of the European ranking, Slovakia remains well below the EU fixed broadband penetration average of 24.8% and well behind the top performers. The mobile broadband penetration rate (for dedicated data service cards/modems/keys) is at the rate of 5.1% of population slightly below the EU average of 5.2%. The speed levels available in the market have increased. Compared to 2008, more retail fixed broadband lines provide higher speeds: 22.1% of the lines now deliver speeds of 10 Mbps and above.

The Slovak fixed broadband market shows healthy signs of infrastructure based competition between digital subscriber lines (DSL) platform (45.8% of total fixed retail lines); wireless local loops (WLL) (18.3%); ethernet, local area network (LAN) and other platforms (13.6%); FTTH (11.0%); and cable (10.6%) As for fibre connections, Slovakia is one of the better performing EU countries in terms of ratio for FTTx over the total amount of fixed broadband connections.

The overall market positions of incumbent and alternative players have started to show some dynamics: the incumbent's market share has decreased to 44.5% of total fixed retail broadband access lines.

By contrast, the state of play in the DSL segment of the fixed broadband market practically mirrors the situation in 2008. The incumbent maintains a very strong position with 92.1% of retail DSL lines; the share of the fixed alternative operators in the DSL segment is a minor 7.9% of total DSL lines. At the turn of the years 2009 and 2010, first lines were unbundled on the basis of the first LLU agreement signed in March 2009. The intended target LLU customers are from the business segment, as the residential part of the market is not considered able to provide a sufficient return on investment. The fixed alternative players use the incumbent's commercial wholesale product of internet protocol (IP) bitstream, focusing predominantly on the business sector. The largest fixed alternative players, mainly due to difficulties in competing via use of the incumbent's wholesale DSL products, are gradually moving away from the third party infrastructure to development of their own networks. Such network deployment is however slow and limited in scale. The wholesale DSL products remain of high importance, in order to allow new entrants to achieve a national coverage, or to enable a potential new market entry.

The largest mobile operator is the most notable provider for FTTH, offering broadband speeds up to 70Mbps and bundles with other products. It has so far focused mainly on residential customers. Broadband over cable is offered by an several of providers, however, geographical and technological constraints, in particular as regards smaller operators, represent the most important limitations for this platform. The largest cable operator introduced a retail broadband product offering the highest national speed level of 120 Mbps.

Slovakia has launched a national public broadband development programme under the auspices of the Government Office. The aim is to bring access to broadband infrastructure in 'white areas' (i.e. areas with no broadband access) and in the "grey areas (areas where only one broadband network operator is present) as identified by a feasibility study carried out for this purpose. The target speed to be delivered over these new networks is 1024 Kbps (download) and 512 Kbps (upload). The programme is established on a demand-driven basis, i.e. project requests are submitted by the relevant local municipalities. Financing is to be covered mostly from the EU funding. The first calls for proposal were planned for the last quarter of 2009, however, it appears that the process will progress in a slower pace than indicated in the initial timing. Several operators have already expressed their intention to participate in the process. Projects to develop regional infrastructure between the municipalities and the core network are planned to run in parallel. The Commission notes the need for a reinforced cooperation between the relevant national authorities in respect to these public broadband schemes.

# Regulatory issues

Despite the price drops in LLU introduced by the SMP undertaking in May 2009, the total average monthly cost is at the level of €10.19 per fully unbundled line and €4.95 per shared access still above the EU average. Pilot sites for collocation in Bratislava have been built in order to start the process of implementation of the first LLU agreement. Though it is a definite step forward, the agreement does not appear to have resolved the collocation concerns identified by operators as the main reasons for the lack of unbundling. The solution used is an external collocation in facilities nearby the unbundling points, however, reported high prices and lack of transparency for internal collocation remain to be an issue. The same applies for bitstream collocation. The process of LLU take-up appears to be affected also by technology limitations to deliver high-speed connection. A second review for the LLU market, notified to the Commission in June 2009, was withdrawn by the NRA a month later. The market definition excluded alternative technologies such as fibre, fixed wireless access and cable from its scope.

The regulation in the bitstream market has been imposed since January 2009. Previously in 2008, the Supreme Court suspended the effect of the remedies and returned the matter back to the NRA for a new decision. A full scope of remedies, including price regulation based on a fully allocated historic cost (FAHC) model with retail minus principles has been imposed. The reference bitstream offer (RBO) includes wholesale bitstream products both on an IP and asynchronous transfer mode (ATM) level. The ATM bitstream as provided in the RBO is not considered a commercially viable and profitable product, thus it is not taken up. The IP bitstream of the RBO is simply a combination of two wholesale products commercially available in the market. As there are no differences between the regulated and commercial product, the alternative players continue using the latter as per contracts signed before RBO was made available. Alternative operators note limitations of this wholesale product in order to offer a differentiated service to their customers. Another main issue of concern is that

interconnection is allowed for only at one aggregation point for the whole national territory. In this context, the Commission notes the market demand for access at ethernet level, and invites the NRA to take this into consideration at the following review for the bitstream market.

In April 2009, the Commission opened an investigation against the fixed incumbent for suspected breaches of the EU competition law. The practices under investigation involve amongst others refusal to supply and margin squeeze with respect to LLU and other wholesale broadband services.

The overall impact of the regulation imposed with respect to broadband-related markets appears to be very limited. The reference offers, though available, do not seem to enhance transparency in a sufficient manner. There has been no further regulatory response with respect to the issue of prices and other practices, particularly as regards facilities collocation. In practice, regulation of the bitstream market did not lead to any alternative to the commercial wholesale IP product already in place when the market was assessed effectively non-competitive. The resulting effects were such that LLU was not put in practice (although preparations have been initiated by one player), and RBO did not bring forward noteworthy effects. The Commission therefore urges TÚSR to review these markets as soon as possible and address the competitive deficiencies through regulatory measures targeted at the identified bottlenecks. Dedicated enforcement of the remedies along with continuing monitoring for potential market constraints should play an integral part of the market review process.

#### **Mobile**

#### Market situation

Mobile penetration is relatively high at 100.0% of the population with three players competing in the market. Although the market situation has not altered substantially compared to the last reporting period, the new entrant is growing in subscriber numbers, reaching the market share of 9%. This player has reached 2G coverage of 96% of the population and continues to build its network while using the national roaming service. Its retail products introduced a different approach to tariff transparency by moving away from the traditional concepts of on net/off net and peak/off peak calls. The market shares of the other two players stood at 53% and 38%.

The gradual shift from pre-paid to post-paid services is becoming more pronounced with 64% of subscribers now opting for the latter. The average retail price per minute has increased slightly, and at the rate of  $\in$  0.13 corresponds to the EU average. The annual average revenue per mobile users has decreased to a small extent. The Slovak figure of  $\in$  252 is below the EU average of  $\in$  323. The market players appear to exert competitive pressures, and in fact, the retail prices have decreased in  $2009^{246}$ .

Mobile virtual network operators (MVNO) are not present; the new entrant cooperates with three simple resellers.

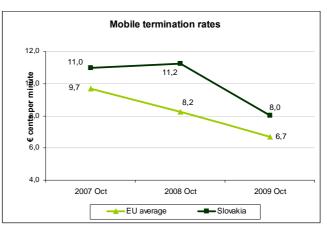
Source: Telligen Report on Telecoms Price Developments from 1998 to 2009, December 2009; post-paid usage baskets (low, medium and high) using 2006 version of the OECD basket.

# Regulatory issues

The results of the second round of market review for the mobile termination market were notified in March 2009. The NRA proposed to designate all three operators with SMP and impose a full set of remedies, including price control based on an FAHC model which may be complemented by benchmarking. As regards the price obligation, the Commission noted that the proposed cost model, though transitional in nature, did not respect the need for forward looking approach based on costs of an effective player. The cost accounting methodology was adopted in November 2009 as proposed. Nevertheless, TÚSR has changed its approach in the final measure on SMP and remedies adopted in January 2010, where the level of maximum mobile termination rates (MTR) was set on the basis of benchmarking. 247

The Commission also expressed its concerns about the absence of price regulation following the first round of review. Given the inability of market players to negotiate commercially the MTR applicable for 2009 with respect to the new entrant, the Commission urged the NRA to impose a transitional price control obligation based on international benchmarking to be replaced as soon as possible by cost-oriented prices.

After continuing unsuccessful commercial negotiations on MTR and delays in pending dispute in this regard, the NRA determined the level of MTR in August 2009 in an urgent measure. The asymmetric rates were set at 7.92 €-cents (incumbent players) and 9.25 €-cents (new entrant), and in particular with respect to the latter, were well above the EU average of 6.70 €-cents. The Commission notes that despite TÚSR's declared commitment to phase out



asymmetries, a higher asymmetry was authorised by the interim measure than applied before. The interim measure ceased to be effective at the end of December 2009, when all three market players concluded commercial agreements on the level of MTR for the years of 2009 and 2010. In this way, the market players resolved the ambiguity of the MTR levels for the period between the interim measure and beginning of 2009.

# Roaming Regulation

All three mobile operators appear to have complied with the price caps on voice, SMS and data services as required by the Roaming Regulation. The eurotariff offered mostly mirrors the maximum amounts set by the Regulation. Besides the option of eurotariff, other special roaming packages and tariffs are available. The standard retail data roaming prices are in some instances charged well above the maximum wholesale price.

The maximum MTR were set at the level of € 0.0635 for the incumbent players and € 0.0768 for the new entrant as a transitional measure until methodology based on long running incremental costs (LRIC) is available. These price caps are effective from 1 February 2010 until the end of the year. The benchmarking method chosen was based on a simple arithmetic average of the MTR for those Member States applying LRIC.

#### **Fixed**

## Market situation

In general, there have been few developments and the market situation largely reflects that of the previous reporting period. With the fixed penetration rate of 19.6 %<sup>248</sup> and most of voice traffic carried over mobile networks, there are continuing signs of fixed-to-mobile substitution. The position of the incumbent remains unchallenged with a relatively stable market share of 94.6% by volume and 85.2% by revenue. Minor 5.6% of subscribers use an alternative provider for direct access to publicly available telephone services (PATS). There are ten fixed alternative players using proprietary infrastructure. The fixed alternative players are most competitive in providing international calls where their market share by revenue has increased to 20.5%.

Operators providing services via carrier selection (CS) using the incumbent's network note continuing gradual declines in the volume of CS traffic, hence their shift of focus towards more commercially viable services such as broadband and provision of voice over IP protocol (VoIP). The market share of VoIP operators based on the volume of traffic is still marginal at 3.6%. The fixed voice services are increasingly offered as a part of a bundle, mostly together broadband and/or TV.

# Regulatory issues

In November 2009, the regulator notified the second round of market review for the former retail market of the minimum set of leased lines concluding that the market failed to fulfil the three-criteria test. The Commission urged the NRA to review this market after it had been withdrawn from the national list of relevant markets susceptible to ex ante regulation without any prior analysis or notification to the Commission. On the national level, such situation has invoked legal uncertainty as to the effect of remedies imposed with respect to this market in 2007, at least until the Supreme Court cancelled the regulation in March 2009, following an appeal of the incumbent. The Commission recalls the need to review all the remaining former markets excluded from the current Recommendation and notify the results of the national analyses as soon as possible.

The price caps for the fixed call origination charges introduced in November 2008 have brought the relevant wholesale charges down. Nevertheless, the price reduction does not appear to have triggered the expected market response. The fixed alternative players note that the regulation in this respect has come too late in time to generate a more significant impact. Besides the issue of timing, new entrants emphasize that other unregulated 'implementation' costs charged by the SMP player in addition to the fixed origination rates have an effect on the final cost of service provision. As regards the fixed termination charges, the price caps based on LRIC model were suspended by the Supreme Court's decision on the appeal of the incumbent. The interconnection charges for terminating calls on the incumbent's network remained well above the EU average.

In February 2009, TÚSR issued a new decision on remedies with respect to the wholesale transit market. The previous regulatory decision, based on the first round of market review, was cancelled by the Supreme Court in October 2008 and returned to the NRA for a new

The penetration rate based on data from TÚSR.

proceeding. Obligations for non-discrimination and transparency were imposed, however, the proposed remedies of accounting separation, access, and price control, originally notified to the Commission, were left out. The second round of review for this market was notified in August 2009. Based on the results of the three-criteria tests, regulation was withdrawn in November 2009

The results of the first round of market review for the wholesale market for trunk segments of leased lines were notified to the Commission in January 2009 (previously twice withdrawn). The analysis concludes an effective competition in the market.

In general, more progress is needed in terms of further market reviews. The remedies imposed in the fixed markets so far do not appear to address the competition deficiencies in an efficient way and the level of competition appears to be continuously stagnating. Increased regulatory attention is required as to effective enforcement of the regulation in place, in particular with respect to the reference offer provided, with a view of removing the identified bottlenecks where necessary. The market could benefit from a more timely market review and adoption of remedies.

## **Broadcasting**

#### Market situation

As of July 2009, the market situation in the TV broadcasting reflected the following picture: analogue terrestrial transmission provided services to 0.7 million of households (40.3% of total households), cable TV held a strong position as received by an estimated number 0.7 million of households (37.9%), satellite TV followed with 0.5 million of households (26.3%), and IPTV completed the picture with 0.1 million of households (5.3%).

Three major players are offering IPTV service. Their uptake has increased but this platform is yet to have a more significant impact on the market dynamics. The transition to digital broadcasting has almost been finalised with the larger cable operators. The smaller cable players face difficulties in upgrading their networks - their main concerns appear to relate to the need to build a digital head-end to provide sufficient connectivity to each municipality.

# Regulatory issues

In May 2009, the regulator re-launched the two tender proceedings for three digital terrestrial transmission (DTT) multiplexes. The winning undertaking was granted authorisation for the launch of one publicand two commercial multiplexes. The selection criteria of the new tenders were amended to some extent when compared to the previous proceeding (cancelled in December 2008). In particular, the call for tender introduced a requirement for contractual agreements between network provider and broadcasters, increased the requirement for financial guarantees, and did not specify a particular compression standard.

The DTT network provider started parallel transmission with declared coverage of 80% of population at the end of 2009. Parallel transmission was started with a transitional multiplex

which contained only channels above 60 (frequency band of 790 – 862 MHz).<sup>249</sup> The practical details for the procedure of the analogue switch-off are yet to be determined, although the general principles and guidelines are laid out in the enactment "Principles for the Transition to the Digital Broadcasting".

The Ministry has launched a national information campaign on the digital switchover. The campaign, based on principles of technological neutrality, is to continue until the completion of the process in 2012. Information on user benefits brought forward by digitalisation and on switchover technical details is provided at a dedicated website, through public spots on TV, and via paper press. The Government plans to support the transition by state aid vouchers for the purchase of end-use devices (set-top box, digital TV receiver, external PC module or satellite device).

The NRA was still to review the wholesale broadcasting market which has been excluded from the current Recommendation in order to determine whether it is necessary to continue with regulation in this market. A full scope of remedies, including cost-orientation based on FAHC model, currently apply.

# **Horizontal regulation**

## Spectrum management

In March 2009, TÚSR carried out its first public consultation on the issues related to digital dividend. Digital broadcasting and mobile broadband are foreseen to be viable candidates for the use of spectrum released by the analogue switch-off. The choice of technology for the receipt on mobile terminals is yet to be determined. As regards further digital broadcasting, eight national multiplexes are to be reserved for DTT (including one multiplex in frequency band 790 - 862 MHz). Creation of further local or regional multiplexes may also be possible. The general nature of the results of the public consultation seem only to kick-off the national debate with this agenda and do not yet bring forward concrete and detailed steps in terms of deliverables and planning. The Ministry prepares further public consultation on the issue of digital dividend in  $2010^{250}$ .

Further authorisations were granted by the NRA for the provision of local fixed wireless access (FWA) networks (10 GHz spectrum band) in 22 municipalities and authorisations were issued for 37 FWA networks. The new networks are expected to improve the accessibility of broadband services in the given regions.

Spectrum trading is provided for in the legislation but has not been applied in practice yet. The NRA did not note any interest for such secondary trading in 2009. The NRA is planning to update the relevant parts of the Utilisation Plan of Frequency Spectrum, in view of the amendments to the national frequency allocation table brought forward with the aim of transposing the amended GSM Directive.

The transitional multiplex entails both public and commercial channels. As of 1 July 2010 two additional multiplexes are to be initiated, thus creating a set of three multiplexes (one for public and two for commercial broadcasting).

This is linked to a new national strategy on digital dividend to be published by the Ministry in 2010.

# *Implementation of spectrum decisions*

The Slovak authorities have declared the implementation of the following radio spectrum harmonisation Decisions adopted by the Commission: Decisions 2005/513/EC, 2005/928/EC, 2006/771/EC, 2006/804/EC, 2007/131/EC, 2004/545/EC, 2005/50/EC, 2007/90/EC 2007/98/EC, 2008/294/EC, 2008/411/EC, 2008/477/EC, 2008/432/EC, 2008/671/EC and 2008/673/EC. The implementation of Decision 2007/344/EC on the harmonised availability of information regarding spectrum use which ensures accessibility of the radio interface specifications on the ERO Frequency Information System (EFIS) database is under way.

# **CONSUMER INTEREST**

# Tariff transparency and quality of service

Operators and service providers have the obligation to provide consumers and end-users with information on applicable tariffs, prices, and terms of service, including service quality. Such information has been provided solely by the individual operators and service providers. Neither public authorities nor the industry offer a more complex price/quality information tool that would enable customers to compare and contrast the relevant offers available in the market.

#### **Universal Service**

The incumbent continues to provide universal service for all designated elements, including special services for disabled users. The designated provider reports a decreasing interest in the use of public payphones, particularly in rural areas, and notes the need for a further reduction of the density criteria in this respect.

Following a request for universal service compensation, submitted by the incumbent operator to TÚSR for the first time in 2007, the regulator has finalised the net cost calculations for 2005 and 2006. However, the results are not yet publicly available due to a pending appeal of the designated undertaking. The NRA has been assisted with the calculations by an external consultant. No public consultation on the cost calculation methodology or draft net cost amount was foreseen by the NRA prior to taking the final decision. In this context, the Commission notes the importance of taking all tangible and intangible benefits into consideration at the net cost calculations, as well as the need to assess duly the unfair burden before any compensation mechanism is activated. Moreover, the Commission highlights the importance of transparency for the whole process related to universal service financing.

The potential contributors to the funding mechanism have expressed concerns as to the high amount of compensation requested by the universal service provider. Additionally, concerns have been expressed on the fact that the contributing operators have not been granted the status of the party to the administrative proceeding on the net cost calculation. The Commission is monitoring the situation with respect to the costing and financing process.

At present, Slovakia is not considering an inclusion of broadband into the scope of universal service.

# **Number portability**

New secondary legislation effectively reducing the total porting time for both the fixed and mobile numbers to five working days has been in place since September 2009. Such a shortening of time represents a considerable improvement in comparison with 2008, when it took on average 14 days to port a mobile number and 10 days to port a fixed number.

Due to legislative changes introduced, most major operators renegotiated their wholesale contracts on number portability. Although the new secondary legislation did not cover the issue of applicable rates (negotiated commercially), many operators signalled the intention to introduce reductions in the wholesale prices. Through a commercial agreement concluded at the end of 2009, mobile operators thus dramatically decreased their wholesale prices to  $\in$  5 for 2010 and  $\in$  2.5 for 2011. The fixed incumbent also signalled an intention to introduce reductions for the wholesale price in future. As of October 2009, the prices applicable at the rate of  $\in$  33.2 for a mobile number and  $\in$  49.8 for a fixed number were in fact the highest wholesale charges applied in the EU.

The retail prices for porting mobile numbers differ with each operator:  $\in$  5.56 (excluding VAT) the largest player,  $\in$  10.9 (excluding VAT) second player, and no retail charge by the new entrant. The fixed incumbent charges a retail price of  $\in$  4 (excluding VAT). The take-up of the facility has not progressed to a great extent: the growth in fixed ported numbers is slow; the take-up in mobile numbers has increased more than five-fold in 2009 but in relation to the overall number of subscribers is yet to have a greater impact (3.3% over total mobile subscribers).

# **Consumer complaints**

Billing issues, tariffs, quality of service and contracts remain to represent the most predominant issues of concern presented by consumers in their complaints to the regulator. The NRA has not noted significant changes in the number of complaints and enquiries received by NRA.

# **European emergency number 112**

The Government has earmarked the single emergency number 112 a political priority. A new office of Plenipotentiary for Integrated Rescue System was established to facilitate the implementation of political objectives. A multinational round table on 112 was held in November 2009 as a public launch of the 112 reform. The expected outcome of the reform covers identification and implementation of new innovative and viable technological solutions for 112 functioning (including widened access for disabled users, eCall, and interoperability systems with neighbouring Member States for border areas), creation of a sustainable institutional infrastructure, and communication and information campaign. An online learning tool on 112 (eBook) is planned to be developed for schools, educating children and students in first aid and 112, including on the issue of 112 misuse.

Citizen awareness for 112 has increased. A majority of respondents in Slovakia (56%) reported having received information about 112 as the European emergency number in the past 12 months, compared to 48% one year earlier. Most of them (94%) had received the information via a media outlet, by watching television, listening to the radio, reading newspapers or surfing the Internet. This has resulted in a significant increase on the number of

respondents who now know 112 as the European emergency number from 46% in 2009 to 55% in 2010, which is one of the highest proportions in the EU<sup>251</sup>.

The national legislation on 112 has been amended, effective from September 2009. The new rules set in greater detail the requirements related to provision of caller location information, both for calls from fixed and mobile networks. The measure intends to streamline technological solutions in this area in order to improve cost-effectiveness of the system. The new rules align the quality of caller location information provided to the public rescue centres with that provided by operators commercially.

The high ratio of hoax calls remains to be an important issue of concern for the national authorities. In this respect, calls from mobiles without sim cards appear to raise most difficulties. By virtue of the amendment, the authorities are now able to track the last owners of such phones in an attempt to prevent further misuse.

# Harmonised numbers for harmonised services of social value (116)

There are no developments noted with respect to the EU harmonized numbers 116xxx. The numbers 116 000 and 116 111, reserved for missing children hotlines and child helplines, respectively, have been assigned to Orange Slovakia with UNICEF Slovakia as the content provider.

# **Must-carry**

Two additional exemptions to the must-carry regime were granted by the Broadcasting Council in 2009. The more significant one exempts the retransmission of radio channels. The largest cable operator considers a submission to the Constitutional Court to decide on a potential remuneration for must-carry services. In general, the system of must carry obligations in Slovakia appears to be functioning at a satisfactory level.

## **ePrivacy**

The Slovak telecoms regulator and the Trade Inspection have the authority to impose fines on spammers. Overall, not many actions and measures have been taken by public authorities and industry actors in the fight against online malpractices. Slovakia does not participate in international cooperation schemes in this regard. On the other hand, a development towards more targeted approach to internet safety can be observed<sup>252</sup>.

Subscriber identification is required for pre-paid cards.

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Eurobarometer Flash survey on the single European emergency number 112 (February 2010). Study on activities regarding spam, spyware and malware, time.lex, October 2009.