

HUNGARY

INTRODUCTION

In 2008 the Hungarian electronic communications market was characterised by the strengthening of mobile broadband services, IPTV, bundled offers, mobile payments, and further growth in mobile penetration. Another notable development was the effective implementation of retail and wholesale naked ADSL services. Despite high mobile and growing Internet penetration rates, the relatively low level of broadband penetration still remains to be addressed while the number of fully unbundled local loops did not increase significantly in 2008.

Progress in the regulatory environment was mainly in the areas of consumer protection, the digital switchover and the tendering for the 4th UMTS licence, which was published in October. There were fewer developments regarding market analysis and amending legislation. Nevertheless, a new Reference Unbundling Offer (RUO) was adopted in September in order to improve the technical and financial conditions for this type of access. Symmetry of mobile termination rates was reinforced with a lowering of the glide paths as a result of the new market analysis. Fixed interconnection charges for operators with significant market power (SMP) fell by 20% on average as of 1 May 2008. While the incumbent plans to introduce a fibre-to-the-home (FTTH) network based upon GPON technology, the NCAH (National Communications Authority of Hungary) is only at an early stage of its reflection on this regulatory challenge. The convergence of electronic communications services raises regulatory challenges in Hungary ranging from the increasing need for efficient assessment of bundled offers by the competent authorities to the need for greater opening of the market.

REGULATORY ENVIRONMENT

Legal framework

As in the previous two years, the "Act on electronic communications"⁶⁴ was modified in 2008 without the modifications being notified to the Commission. On 15 March 2008, the legislative act transposing the Data Retention Directive⁶⁵ entered into force, followed on 1 September 2008 by the Act XLVII of 2008 on unfair commercial practices. The Act LXXXII of 2008 on amending certain Acts establishing the 2009 budget of the Republic of Hungary modified the Act on electronic communications in order to clarify the regulatory tasks between the two Ministries.

The two secondary legislation price-fixing instruments declared in ministerial decrees were finally removed in 2008 in accordance with what had already been announced in 2005. The adoption of the "Act on digital switchover" (Act LXXIV of 2007) raised certain concerns as to its conformity with the EU regulatory framework, in particular concerning must-carry obligations on mobile TV and the imposition of regulatory obligations on electronic

⁶⁴ Act C. of 2003.

⁶⁵ Act CLXXIV of 2007.

communications operators without SMP. The Commission's services are looking into these matters.

The Ministerial Decree 23/2007 (II.23) GKM, which introduces a push system for making caller location information available for 112 calls in Hungary, entered into force on 1 December 2008. However, the transition from a pull to a push system has not been accompanied by the necessary preparatory work to ensure effective implementation of the technical conditions. This risks undermining legal certainty and the effective application of the secondary legislation.

The Governmental Decree 229/2008 (IX.12.) provides that electronic communications operators must inform their customers in their general contractual terms and in advertisements about the quality of their services including, for example, download and upload speeds in kbit/s with a guarantee of 80% performance level. This also includes the proportion of on net SMS sent and received within 60 seconds. This Decree entered into force on 11 December 2008 and constitutes an encouraging tool for consumer protection.

The Data Retention Directive has been transposed by the Act CLXXIV of 2007 modifying the Act on electronic communications and the Governmental Decree 38/2008. (II.23.) modifying the Governmental Decree 180/2004. (V.26.).

Main regulatory developments

Despite the presence of a large number of alternative operators, the main incumbent, a fully vertically integrated operator, still has a strong market position in certain segments of the market (fixed, mobile and ADSL). The division of the fixed-line market geographically between three local telecommunications operators (LTO) still results in differences, for example in terms of wholesale pricing.

The NCAH carried out a tendering process for five 12-year licences for digital terrestrial television broadcasting frequencies, and for one 12-year licence for digital terrestrial radio broadcasting frequency. It also launched, on 22 October 2008, two 15-year mobile telecommunications services licence tenders and a third tender for further mobile infrastructure developments in order to boost competition in the mobile market.

In 2008, the NCAH demonstrated a strong commitment to consumer protection and made great efforts to facilitate the LLU procedure via the market analysis process, since effective LLU is considered to be one of the key elements of competition in the sector. Nevertheless there is not much concrete evidence of LLU take-up in the market.

Organisation of the NRA

The regulatory tasks are divided between the NCAH and the Ministry of Transport, Telecommunication and Energy ("Ministry") and the Minister of Prime Minister's Office ("MeH"). The Ministry has seen serious manpower cuts during the last two years, its structure has been significantly reorganised several times and its powers have been reduced, and in 2008 the bulk of activities related to the electronic communications sector⁶⁶ were finally moved to the MeH. Since 2006 there have been four different Ministers, resulting in a lack of

⁶⁶ With the exception of the supervision of the NCAH or the functioning of the Universal Fund.

continuity in the political strategy for the sector. In particular, operators lack a clear strategic and long-term vision for the Hungarian electronic communications sector.

The NCAH has around 400 employees with an annual income of HUF 20 billion (about €80 million). It now plays a greater role in general policymaking and in spectrum policy and enjoys greater independence from the Ministry. This raises the question of whether general policymaking tasks should be financed from administrative charges levied on electronic communications network or service providers. In addition to its wide-ranging responsibilities, the NCAH received in 2007 further powers in the areas of broadcasting and digital switchover (registration of broadcasting services or market supervision). On 13 August 2008 a cooperation agreement was signed between the NCAH and the National Radio and Television Commission in order to create the framework for the cooperation required in law.

Some market players have indicated that, despite some undeniable merits, there is a lack of strategic and long-term vision in the Hungarian electronic communications sector on the part of both the NCAH and the Ministry, while the NCAH has a long-term regulatory strategy (2006-2010) and annual work plans based on that strategy.

Compared to previous years, fewer decisions by the NCAH Board are being challenged before the Court of Appeal. The level of pending appeals against these decisions may seriously reduce legal certainty and predictability in the market as regards network contracts since the Hungarian courts remain overburdened. A final decision from a court of second instance can take several years. Some market players are concerned that the appeal courts often take decisions on the basis of procedural issues rather than on the merits of the case. In April 2008 the Supreme Court upheld the NCAH's market decision relating to the wholesale market for mobile call termination and dismissed the claims of the two mobile network operators.

Decision-making

In 2008 the NCAH commenced the third round of market analyses and implemented the results of the previous rounds.

With the notification of draft measures concerning the wholesale market for mobile call termination, the NCAH has introduced symmetry between the three mobile network operators with declining glide paths until December 2010.

The NCAH decreased the fixed interconnection charges applied by operators with SMP by 20% on average in August 2008 with retroactive effect to 1 May 2008.

In general, the work of the NCAH in 2008 was considered to have focused on regulatory details, and operators underline the lack of an overall regulatory approach in the market. Concerns are still voiced as to the lack of mobile virtual network operators (MVNO) in Hungary⁶⁷.

Market players are concerned about the very short consultation deadline (20 days) defined by the law for comments on draft NCAH decisions. They also complain about the large number of, often burdensome and incoherent, data requests from the NCAH and other authorities and

⁶⁷ However, since December 2008 an ISP provides data transmission services on the 3G network of the second MNO which provides wholesale airtime to this ISP.

the lack of transparency of certain decisions. The NCAH and the Office of Economic Competition (the NAC) appear to have cooperated more closely during the year as demonstrated by the fact that the NAC takes part in the project management committee for the market analyses.

In general, electronic communications operators are concerned that the NCAH's decision-making in the course of dispute resolution is very slow and lacks effectiveness. In all six dispute resolution cases closed by the NCAH in 2008, its decisions were within the time limit set by the law (45 days which can be prolonged once up to 15 days). Three other dispute resolution cases are still pending. The decision in one of these pending cases will be delayed significantly as a result of consultation of another authority.

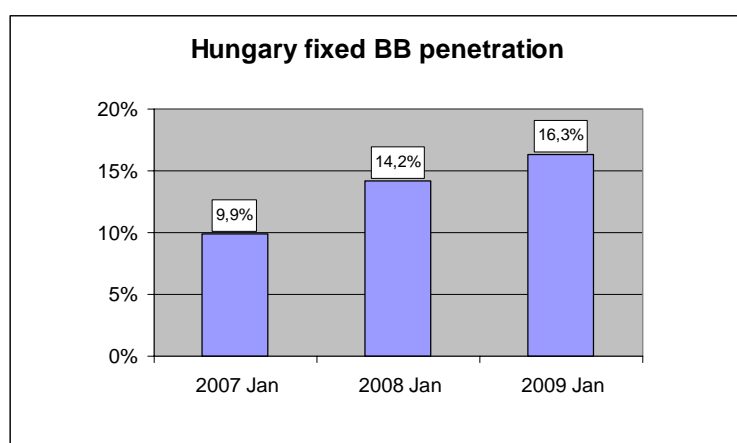
MARKET AND REGULATORY DEVELOPMENTS

The total turnover of the Hungarian telecommunications sector was around €5 billion as of 31 December 2007, with revenue from the fixed markets (including broadband and leased lines) amounting to €2.52 billion and revenue from the mobile markets totalling €2.5 billion. The total value of tangible investment in telecommunications networks during 2007 was €432.03 million, including €221.58 million by the incumbent in fixed telephony networks and an estimated €100 million by alternative operators. Mobile operators invested around €110 million in 2007. The investment over revenue ratio in the Hungarian electronic communications sector was 8.6% in 2007 compared to the EU average of 11.5%.

Market players take the view that following the increasing level of consolidation of the Hungarian electronic communications market and taking into account the take-up of triple play and mobile broadband services, the convergence of services remains the major regulatory challenge in Hungary given the growth of bundled offers.

Broadband

Market situation



Broadband penetration increased to 16.3% in January 2009 (14.19% in January 2008), but remains below the EU-27 average (22.9%). Out of 1 640 444 active retail broadband lines, 806 677 are xDSL retail lines (49%).

In Hungary, roughly half of the broadband lines are based on ADSL and half on cable technology or mobile broadband and fixed wireless technologies.

Both cable and ADSL operators offer triple play services, although IPTV does not seem to have been taken up significantly (0.15% of the population).

The fixed incumbent operator announced in June 2008 that it would invest €166 million in fibre and cable networks by 2013 with the aim of offering a fibre-to-the-home (FTTH) network to 780 000 households and upgrading lines to serve a further 380 000 households.

In Hungary mobile broadband services were used by 220 675 active users representing a 2.2% mobile broadband penetration rate as at July 2008.

In terms of the digital divide, in December 2007 the gap between rural and national coverage for DSL was 11% compared to 12% in December 2006. In 2007 DSL rural coverage was 80% (77% in 2006).

Regulatory issues

With regard to the wholesale broadband access market, the NCAH decided in September 2006 to set the wholesale prices on a "retail minus" basis for each operator found to have significant market power (SMP) on the given market in order to guarantee a minimum margin for retail service providers. As a result of this regulatory intervention, wholesale prices further decreased in May 2008. Prices fell by 40% for packages with 1 Mbps on average between the first half of 2005 and the second half of 2007 while the regional asymmetry is diminishing.

Following the intervention of the NCA, the three LTOs committed themselves in 2007 to introducing naked DSL services both at the retail and at the wholesale level. In accordance with this commitment, and following market analysis, the NCAH has imposed wholesale naked DSL on the said operators. The wholesale tariff for naked DSL services varies from HUF 1 214 (about €4.85) to HUF 1 942 (about €7.7). Operators effectively introduced naked DSL services both at the retail and at the wholesale level in 2008.

As regards the LLU market, the three LTOs were designated as having SMP and, accordingly, access and interconnection-related obligations were imposed on them. As a result of the regulatory intervention the one-off fees of the operators with SMP decreased while the monthly local loop charge also fell by 20% on average⁶⁸. The Hungarian monthly average of the total cost per fully unbundled local loop stands at €7.95⁶⁹ (€11 in October 2007), below the EU average (€10.88) and for shared access (€3.69) it is slightly below the EU average (€4.13).

By 2008⁷⁰, 11 597 local loops were fully unbundled (9 019 in January 2008) while 4 800 shared access were reported (4 163 in January 2008), with significant divergence from one LTO to another. In the light of the 204 280 bitstream access lines in 2008 and the low number of local loops, the Hungarian market does not have many operators relying on local loop unbundling. In this respect, it is worth noting that local loop unbundling started to show some signs of growth in Hungary only in 2006 and take-up remains quite low. The new RUO published in October 2008 aims to tackle the administrative barriers encountered by new entrants in the past. Effective implementation of remedies is needed in order to further enhance the provision of local loop unbundling and, in particular, to ensure that the levels of local loop unbundling and bitstream prices/conditions create the appropriate incentives for alternative operators to switch from the bitstream offer to the local loop unbundling offer.

A cooperation agreement was signed in July 2008 under the aegis of the NCAH between more than twenty alternative operators and the three LTOs in order to simplify the switch from one

⁶⁸ The fall in the monthly fees is mainly due to the fact that the NCAH introduced LRIC in costing obligation instead of the former fully allocated costing methodology.

⁶⁹ Data from October 2008.

⁷⁰ Data from July 2008.

ISP to another. As of 15 July 2008 the switch will occur within 11 days provided that the end-user has no debt vis-à-vis the former service provider.

On the introduction of new generation networks, the NCAH organised a public consultation based on a strategic study and also held a public hearing on 31 October 2008.

Mobile markets

Market situation

In Hungary there are three MNOs - the mobile division of the main incumbent and two Hungarian subsidiaries of foreign MNOs, with market shares respectively of 42.82%, 34.05% and 23.13% in October 2008. While the MNOs' market shares have remained basically at the same level for several years (44.08%, 34.85% and 21.07% in September 2007 and 44.8%, 33.8% and 21.4% in 2006) the trend of increasing numbers of subscribers continued in 2008. Mobile penetration reached 117.18%⁷¹ (104.52%⁷² in 2007) with 11 771 million subscribers in 2008. There is an increasing number of post-paid subscriptions (39% as opposed to 37% in 2007). Between May 2004 and October 2008 a total of 227 417 mobile numbers were ported in Hungary, representing 1.93% of the total number of mobile subscribers.

The extension of the concession contracts (licences) relating to 2G frequencies (900 MHz) with the two major MNOs took place in November 2007. For the 7.5-year extension of the licences, the two MNOs agreed to pay 10 billion HUF each (€39.5 million) and to invest a net 20 billion HUF (€79 million) each on developing their mobile broadband infrastructure further in the next two years. The market leader MNO has signed an agreement with the European Investment Bank for a long-term loan to fund its mobile broadband investment plans covering its investment obligation. It was granted €205 million by the EIB. This loan matures in January 2015.

All MNOs have a UMTS licence. The fourth 3G licence had still not been granted in Hungary in 2008. Following a public hearing in July 2008 the NCAH launched two tenders for 15-year mobile frequency licences and a third frequency tender for further mobile infrastructure developments in order to boost mobile market competition, on 22 October 2008. One of the licences covers the 900/1800/2100 MHz frequency package for a one-off fee of HUF 100 million (€362 000) plus a minimum 0.75% of the annual net revenue of the new mobile service provider. The winner of this tender is required to provide mobile communications services to 35% of Hungary's population within three years.

The other licence concerns the 450 MHz frequency and the winner is required to cover 30% of Hungary's geographical area within three years. In addition, five individual blocks in the 26 GHz (microwave) frequency band to be used in mobile backbone infrastructure are also part of the tenders published in October 2008. The tendering process encountered a number of problems from the very beginning. The Commission services were denied access to the detailed tendering documentation. By virtue of the modification of two secondary legislative instruments regulating spectrum usage⁷³ which entered into force one day prior to the publication of the tender and without any public consultation, the spectrum covered by the

⁷¹ Data from October 2008.

⁷² Data from October 2007.

⁷³ Government Decree 346/2004 (XII. 22.) and 35/2004 (XII.28).

tenders was technically rearranged and opened, but at the same time operators with rights of use in the 3.5 GHz band were excluded from the bidding process.

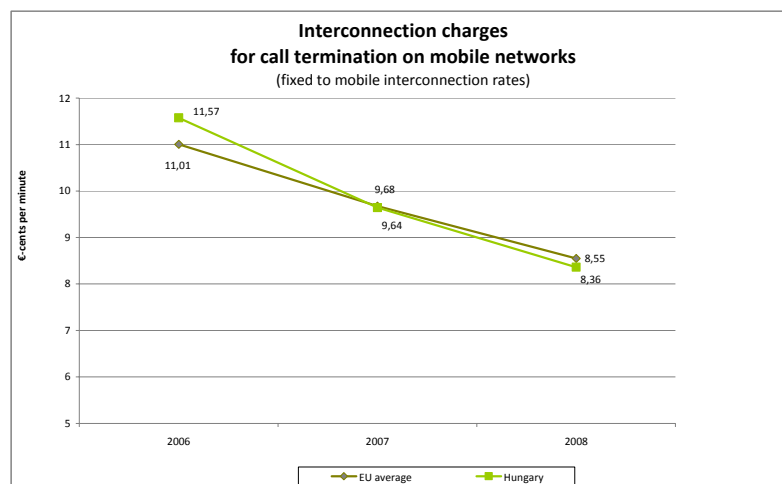
This exclusion was considered to be a mistake which affected the larger fixed-line operators with 3.5 GHz band licences who had been eager to enter the "classic" mobile telephony market for years. It was finally corrected shortly before the end of the deadline for submitting bids. In consequence, the time allowed to submit applications was prolonged. This case underlines the lack of cooperation between the Ministry and the NCAH. Despite the fact that the NCAH held a public hearing in July 2008, no proper public consultation took place on the draft measure of the tender. A relevant public consultation and better cooperation would be necessary for conducting this process in line with the EU regulatory framework for electronic communications and in particular the provisions of the Authorisation and Framework Directives.

Mobile broadband take-up in 2007 constitutes an important development in the Hungarian electronic communications sector but official data on the market shares of the different MNOs are not available. Effective mobile TV service provision can only start once licences are granted for the operation of one digital radio (T-DAB) and five digital TV free-to-air broadcasting networks (DVB-T), given that bundled DVB-T multiplexes and DVB-H must be provided on one of the licences.

Regulatory issues

Following the designation of all MNOs in 2005 as operators with SMP in the wholesale mobile call termination market, on 4 October 2006 the NCAH required the MNOs to gradually decrease their MTRs following a specific glide path towards symmetry between the operators and in cost-oriented MTRs by 1 January 2009 (at HUF 16.84 (about €0.067)). The glide path is based on a bottom-up LRIC model. The reductions at wholesale level also brought down the retail average mobile price per minute (€0.18), which is slightly above the EU 27 average (€0.14).

Following the market analysis by the NCAH in 2008 the symmetrical glide path should be further reduced to HUF 14.13 (about €0.056) and HUF 11.86 (about €0.047) in January and December 2010 respectively.



Roaming Regulation

All three MNOs are reported to have introduced the "eurotariff" (at the ceiling price) both for receiving and making phone calls within the Community within the deadline provided for by the Roaming Regulation, and to have introduced transparency measures in line with the Roaming Regulation.

Fixed

Market situation

Following the consolidation process of the last two years, the number of LTOs decreased from five to three. In 2008, the second LTO was put on the market for sale.

The three LTOs still hold a strong market position in their respective territories. On the basis of revenues, in 2008⁷⁴ the LTOs had 82% market share for all types of fixed calls (85.72% in 2007) as well as 80% and 70% market shares respectively for calls to mobile and international calls. The LTOs' market share for international calls declined in 2008 (from 73.02% to 70%) following the trend in the last few years, while their market share for calls to mobile remained the same. Despite the regulatory obligations imposed under the first and second rounds of market reviews, competition in the retail calls market in Hungary has not developed significantly.

Fixed-line penetration stood at 31.34% in 2008⁷⁵ compared to 32.58% in September 2007, while mobile penetration increased to 117.2% in 2008⁷⁶ (103.3% in September 2007). Fixed voice traffic also continued to decrease in 2008.

Traditionally, new entrants in the fixed communications market are more active in the non-residential segment, providing voice telephony services through carrier selection and pre-selection. Today, new entrants and the three LTOs clearly intend to widen the scope of their services to include fixed, mobile and broadband to both residential and corporate clients. Between January 2004 and September 2008 altogether 307 822 fixed numbers were ported in Hungary.

Regulatory issues

The NCAH found in its previous market analyses that there was effective competition in the wholesale markets for transit (first and second rounds of market analyses) and trunk segments of leased lines (first round).

On 10 May 2006, the NCAH decided to reduce the charges of the five SMP operators for wholesale call origination and call termination. A reduction of the one-off fee relating to carrier selection and number portability fees was also imposed.

Following a NCAH decision of August 2008, as of 1 May 2008 the fixed interconnection charges for operators with SMP were reduced on average by 20% compared to the fees previously applicable. The main incumbent's wholesale price for making and terminating local calls during peak time is now HUF 1.38 (€0.0057), constituting a reduction of 23% for termination and 34% for origination. In the call termination market, NCAH imposed asymmetric remedies on LTO and on alternative operators, *inter alia* imposing price control and cost accounting obligations only to the LTOs but not to the alternative operators. The Commission took the view that since termination fees of alternative operators are higher than the incumbent's termination rates, and they show an increasing trend, the imposition of price control obligations might be appropriate for the alternative operators as well.

⁷⁴ Data from 1 January 2007.

⁷⁵ September 2008.

⁷⁶ Data from September 2007.

Following the reductions in interconnection fees, charges for call termination on the incumbents' fixed network (single transit) (€0.0076)⁷⁷ (€0.0095 in October 2007) are slightly above the EU average (€0.0086).

In order to tackle the interconnection problem between one cable operator and the second LTO⁷⁸, as reported in the two previous reports, the NCAH intended to impose an indirect interconnection obligation on the wholesale market for fixed call termination. The Commission took the view that this problem is not directly related to the termination market and the obligation for indirect interconnection was therefore not imposed by the NCAH. Since then, no request for dispute resolution has been filed with the NCAH on this issue.

Broadcasting

Market situation

In Hungary broadcasting transmission services are provided via several platforms: analogue terrestrial (12.3% of households over population), cable (34.61% of subscribers), satellite (7.01% of subscribers), microwave, IPTV (0.15% of subscribers) and DVB-T. The main incumbent announced on 24 November 2008 that it would launch a nationwide satellite TV service.

The national coverage of analogue terrestrial transmission is approximately 90% of the Hungarian territory. The major television and radio transmission company was privatised in 2005 and resold in 2007. The Hungarian cable TV market is still very fragmented with several hundred service providers, although the two biggest operators cover almost half of the total cable subscriptions. Satellite broadcasting subscriber services are provided by two operators.

With the entry into force of the Act on digital switchover, the complete analogue switch-off must take place by June 2011 following a gradual switch-off of the analogue transmitters. The tenders for five 12-year licences for digital terrestrial television broadcasting frequencies, and for one 12-year licence for digital terrestrial radio broadcasting frequency, were launched in March 2008. The major television and radio transmission company was designated in July 2008 as the winner of both tenders⁷⁹. Digital terrestrial broadcasting and radio services will be provided respectively on the basis of MPEG4 and DAB+ audio compression technologies. Mobile television services (DVB-H) should be launched in 2008 with a commitment of 16% coverage in 2008 and 20% for DVB-T.

Regulatory issues

Hungary notified the draft measures relating to the wholesale market for broadcasting transmission services to the European Commission in December 2007. The major television and radio transmission company was designated as operator with SMP and access, transparency, price control and non-discrimination obligations have been imposed on it. In connection with the notification the Commission noted that Act LXXIV of 2007 on

⁷⁷ Data from October 2008.

⁷⁸ Refusal to send calls originating on the SMP operator's network via a transit provider to a third party network for termination.

⁷⁹ Programme providers and operators with more than 300 000 subscribers in the TV broadcasting markets (de facto the two major cable operators) were excluded from this tender in order to avoid vertical integration in the market.

broadcasting transmission services and digital switchover on imposes special obligations on "Dominant broadcasting transmission services providers". The Commission took the view that under Article 8 (2)-(3) of the Access Directive obligations set out in Articles 9-13 of the Access Directive should not be imposed on operators that have not been designated as having SMP as a result of market analysis. The Commission's services are examining whether the obligations established by the said Act comply with the European regulatory framework.

Horizontal regulation

Spectrum management

The radio spectrum harmonisation Decisions of 2004 and 2005, as well as Decisions 2006/771/EC, 2006/804/EC, 2007/98/EC, 2007/131/EC and 2007/90/EC are reported to have been transposed in the National Frequency Plan while the implementation of Decision 2007/344/EC is under way.

The present Hungarian frequency management system contains different kinds of fees payable by MNOs. The frequency use authorisation is a licence fee that operators are required to pay in tenders or auctions. The level of this kind of fee varies, depending on the nature of the actual frequency band, and substantial differences can be observed. For bands used by MNOs the fee is higher than for other bands. The actual frequency fee structure consists of two elements. These are the so-called band usage fee and the TRX fee. The first part of the fee is fixed and the second part is payable for numbers of TRX units installed in the operators' networks.

The total amount payable by MNOs depends on the number of TRXs installed. In consequence, the greater the network the more should be paid by the operator. Operators say that the fees payable in other Member States with similar systems are 50 times lower than the fees paid in Hungary. The Ministerial Decree 18/2008 (VIII.8) KHEM amending the Ministerial Decree 6/1997 (IV. 22.) KHVM, which entered into force on 1 July 2008, modified the above system. It affects the UMTS band only where the new decree reduces the fees payable according to the number of carriers operating in the UMTS band. It reduces this type of fee by 33%. The other fees in all frequency bands are unchanged. Operators stress that taking into consideration the rate of growth of 3G networks, the reduced unit fee does not seem to significantly reduce the constantly growing total amount to be paid by MNOs.

Administrative charges

The market surveillance fee cannot be higher than 0.35% of the previous year's annual net revenue derived from e-communications services. The exact rate is established by the Minister each year. This amount was fixed at 0.212% for 2008.

Rights of way and facility sharing

MNOs expressed their concerns regarding the increasing difficulties they have encountered, resulting from the Municipalities' refusal to install masts and antennas for 3G networks.

THE CONSUMER INTEREST

Universal service

In April 2004 each of the five LTOs (currently three LTOs) was designated by the Minister of Informatics and Communications (the current Minister of MeH) for four years as a universal service provider (USP) and since then they provide the four components of universal service in their respective geographic areas. Operators can benefit, in principle, from the Universal Electronic Communications Support Fund. For the years 2004, 2005, 2006 and 2007, the USPs' compensation requests were refused as net avoidable costs were not demonstrated.

By December 2008 no agreement had been reached about extension of the universal service contracts following the reorganisation of ministerial responsibilities. In consequence, the universal service provision is guaranteed by a legislative modification of 31 December 2008⁸⁰ for at least one more year with the same components and conditions as the previous four years. Negotiations are ongoing with the LTOs in order to extend or renew the expiring universal service contracts under the same conditions, without any modification regarding the scope of universal service. The whole designation process will be assessed in the light of the requirements of the Universal Service Directive.

Emergency services (112)

A Decree provides that as of 1 December 2008 a push system will apply with regard to 112 caller location information. However, no preparatory work has yet taken place, creating some uncertainty as to the effective implementation of the push system for caller location information by the legally required date.

Must-carry

Following the adoption of the Act on digital switchover, new rules relating to must-carry obligations apply since July 2007. "Dominant broadcasters", as defined by the Act, have to conclude a contract for forty television programmes with the programme provider and to broadcast these programmes to subscribers. In addition, must-carry obligations are imposed on mobile TV service providers without taking into account whether a "significant number of end-users of such networks use them as their principal means to receive radio and television broadcasts". The Commission services are examining the conformity of these provisions with the requirements of Article 31 of the Universal Service Directive.

Consumer complaints

Several consumer protection legislative and regulatory measures were taken in Hungary throughout 2008.

The Act XLVII of 2008 on unfair commercial practices has introduced new general rules on consumer protection. Operators stress the importance of the different authorities authorised to intervene in the electronic communications sector from a consumer protection perspective (NCAH, NCA and the Consumer Protection Authority) coordinating their action in order to ensure legal certainty in the market.

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Government Decree 352/2008 (XII. 31.).

The Governmental Decree 229/2008. (IX. 12.) puts in place quality service parameters of electronic communication service providers such as the downloading and uploading speed in kbit/s with a guarantee of 80% success in the case of ISPs and the proportion of sent and received on net SMS within 60 seconds in the case of mobile network operators. This Decree entered into force on 11 December 2008.

According to data published in September 2008 by the NCAH, the authority receives more consumer complaints with regard to ISPs than with regard to mobile network operators concerning the quality of services and the responsiveness of the service providers.

The NCAH took several decisions in 2008 on breaches of the rules relating to electronic communications in the field of consumer protection, resulting in the imposition of significant fines. It made public a decision in February 2008 fining the main cable operator HUF 40 million (about €160 000) for ceasing VoIP-based services without having informed its two thousand subscribers. The third mobile network operator in terms of market share was fined HUF 20 million (about €80 000) for failing to provide billing details to its pre-paid customers in accordance with the conditions laid down in the Act on electronic communications.

Following the publication in 2007 of the results of a survey of individual subscriber contracts concluded between almost one hundred service providers (fixed, mobile, internet and programme distribution) and approximately 15 million subscribers, the NCAH fined 21 electronic communications service providers an amount of HUF 30 million (about €120 000) in July 2008 for the omission of several obligatory elements in individual subscriber contracts.