

## CZECH REPUBLIC

Note: This document is an excerpt from the Staff Working Document attached to the Communication 'Towards a Single European Telecoms Market – 13<sup>th</sup> Progress Report (COM (2008)153)). The Communication and the Staff Working Document, as well as the corrigendum of 28<sup>th</sup> May 2008 can be found on Europa at the following url address: [http://ec.europa.eu/information\\_society/policy/ecomm/library/communications\\_reports/annualreports/13th/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecomm/library/communications_reports/annualreports/13th/index_en.htm)

### INTRODUCTION

Extensive platform competition is the main characteristic of the Czech broadband market. The incumbent, however, holds a strong position on the DSL section and has introduced a bundled offer of fixed voice, mobile and ADSL service to strengthen its market position. With intensive competition on the mobile market, there are signs of increasing fixed-to-mobile substitution. The fixed market has consolidated to four effective market players.

In 2007, the second round of market reviews was initiated but the results were not notified by the end of the reporting period. The regulator continued to address the level of competition by fine-tuning the remedies imposed on the markets throughout the previous year. The digital switchover has been successfully completed in one region of the Czech Republic.

### REGULATORY ENVIRONMENT

#### Main regulatory developments

The Ministry of Informatics was dissolved in June 2007. The electronic communications and postal services remits were transferred to the Ministry of Industry and Trade, while issues related to e-Government services were assumed by the Ministry of Interior.

The Ministry of Informatics, and thereafter the Ministry of Industry and Trade, continued to work towards better transposition of the EU regulatory framework. An amendment to the Radio and Broadcasting Act, adopted in December 2007, sets the national rules for better transition from analogue to digital broadcasting. Further amendment of the Act on Electronic Communications of 2005 is under preparation with a view to the transposition of the Data Retention Directive. A decree on emergency calls issued in September 2007 lays down details for the implementation of caller location information for emergency numbers. The latest ordinance on numbering plans, effective from July 2007, takes account of the Commission's Decision on 116 harmonised numbers.

The Czech regulator ČTÚ completed its analysis of all markets as defined in the Recommendation in 2006. ČTÚ initiated the second round of market reviews in 2007. The Commission had not received any notification regarding the second round by the end of the reporting period. The additional decisions on remedial measures taken in 2007 added detail to the remedies already imposed on particular markets.

## **Organisation of the NRA**

ČTÚ continues to perform its tasks independently, with sufficient regulatory powers granted by the legislation.

There have been no improvements with regard to the mechanism for appealing against the decisions made by ČTÚ. An administrative appeal in certain instances thus automatically suspends the decision's effects. The Commission is examining concerns that such a procedure may not be in line with the EU regulatory framework. Nevertheless, the decisions related to remedies do not give rise to automatic suspension. These can only be challenged in court, where they stand unless the court decides otherwise.

The regulator's approach continues to be intensive public consultation within the scope of the market review process, and to address particular concerns voiced by market players. ČTÚ has introduced an electronic data gathering system for some markets. A monthly report issued by the NRA channels information regularly to all stakeholders.

## **Decision making**

One retail market (fixed retail non-residential international call market) and four wholesale markets (fixed transit services, trunk segments of leased lines, mobile access, and international roaming) were assessed to be effectively competitive. Based on the comments from the Commission, ČTÚ imposed price regulation on the fixed origination market, and cost orientation, transparency and non-discrimination on the broadcasting transmission services market at the end of 2006. The full set of remedies including price regulation therefore applies to the wholesale fixed and mobile call termination markets, fixed wholesale call origination market, local loop unbundling market, wholesale termination segments of leased lines market and broadcasting transmission services market. The new remedies imposed in 2007 on the fixed and mobile termination markets fine-tune the remedies already set in place in 2006.

However, as regards the wholesale broadband access market, contrary to the comments made by the Commission, the remedies do not cover ATM and/or DSLAM access and price regulation. Naked DSL service is not present on the Czech market. Active monitoring and follow-up by the NRA is thus necessary to establish whether the scope of remedies is sufficient to address the issue of competition.

## **MARKET AND REGULATORY DEVELOPMENTS**

The total turnover of the telecommunications sector was €4.4 billion as of 31 December 2006. The revenue from the fixed market was €1.7 billion, whereas the revenue from the mobile market reached €2.5 billion. The total value of tangible investments was €451.2 million, of which €233.4 million came from mobile operators, €118 million from fixed alternative operators, and €100.2 million from the incumbent operator.

The broadband market is characterised by intense platform competition. The incumbent's overall position on this market is 33.9% of total fixed broadband retail lines. The incumbent, however, holds a strong position on the DSL market. Other main platforms of broadband competition remain WLL and cable.

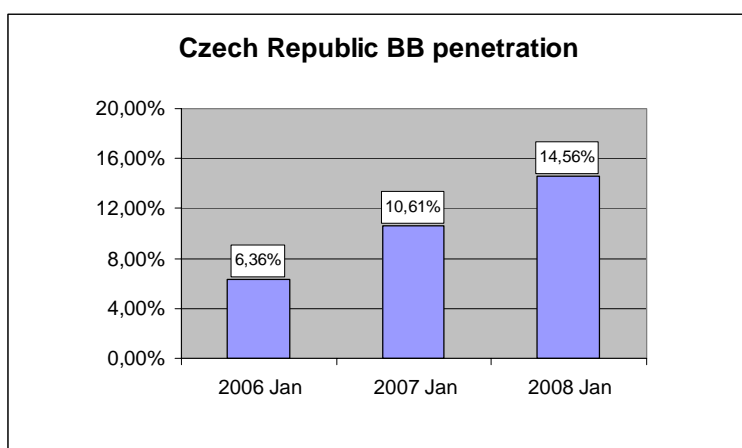
With regard to technologies used, the market players tend to combine their data offers to achieve greater coverage and a wider range of services. The incumbent thus offers an integrated broadband service combining its ADSL and CDMA 450 services. It has also merged its HSDPA and GPRS services into an interchangeable service. Similarly, one mobile operator offers an exchangeable service via UMTS TDD with EDGE and GPRS, achieving up to 60% coverage. The same mobile operator has started a pilot resale of ADSL service in cooperation with fixed market players. The third mobile player is still to launch its 3G services commercially. Overall, 3G coverage remains restricted mostly to the two largest cities, and investment in infrastructure has not progressed. All three mobile operators offer GRPS and EDGE services.

Following a consolidation of the fixed market in 2006, the number of effective competitors on this market has fallen to four. The fixed incumbent provides both fixed and mobile services. The market share of the alternative fixed operators by retail revenue has increased slightly to 35.6%. The number of fixed lines continues to decline. VOIP services are starting to gain in importance. The incumbent is following the trend of converging voice and data services, and has introduced an offer bundling its fixed, mobile and ADSL service (Duo Mobil) which other alternative operators find difficult to replicate. The incumbent also offers a selection of programmes on an IPTV basis. IPTV is also offered by one of the alternative providers.

A public broadband initiative by the Prague municipality to provide free Internet access via WIFI technology by building a new wireless network faced opposition from commercial market players. In view of these concerns and the advice of the Czech competition authority, the project was restricted to the provision of public services in the field of e-Government. The Commission's decision under the State aid rules did not object such a limited-scope project. However, the decision indicated that any further commercial use might raise concerns in this regard.

## Broadband

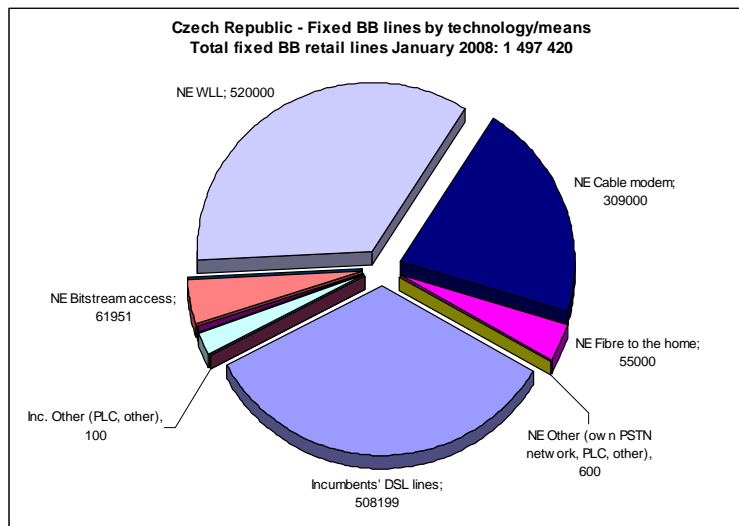
### *Market situation*



The broadband penetration rate increased from 10.61% in January 2007 to 14.56% in January 2008. However, since the penetration rate is below the EU average of 20.04%, there is still ample scope for more competition. The most significant growth was noted with regard to WLL and DSL lines. Any bitstream access is carried through a 'managed' wholesale bitstream access

offered by the incumbent and concluded via bilateral agreements which predated ČTÚ's bitstream remedy in December 2006.

Extensive platform competition is the main characteristic of the Czech broadband market. The new entrants' 66.1% market share by fixed retail access lines relies mainly on an infrastructure other than DSL to provide broadband access. WLL (34.7% of total fixed retail lines) and cable modem (20.6%) remain the main platforms for service provision by the alternative operators.



DSL, with its broadband market share of 40.9% by retail lines, is the single most important technology underpinning broadband services, followed closely by WLL. The incumbent holds the strongest position on the retail DSL market with 82.9%. Its share of this market appears to be stable, despite the growth in the number of unbundled lines. Wholesale DSL provision is bundled with line access provision.

### Regulatory issues

A full set of remedies (access, transparency, non-discrimination, accounting separation and price regulation) was imposed on the incumbent following the analysis of the LLU market in 2006. Price regulation was set by price caps based on the LRIAC model and the ABC method for both LLU and co-location. Following price drops in 2006, the number of LLU lines grew significantly in 2007. However, while the number of unbundled lines has more than doubled, the overall impact of LLU on the broadband market remains rather small. Prices both for fully unbundled local loop and shared access remained stable in 2007 and held up above the EU average. Market players do not indicate any further investment in LLU. Concerns have been raised as to co-location prices and the economic viability of LLU vis-à-vis the incumbent's retail prices. The NRA has indicated an investigation in this regard.

Wholesale broadband access regulation imposed in December 2006 includes an obligation to provide wholesale broadband access at IP level. The remedy does not include access at ATM and DSLAM level. Price regulation was not imposed, as the NRA perceived wholesale prices to be decreasing sufficiently due to the indirect influence of competitive pressures. The Commission invited ČTÚ to consider price regulation and granting bitstream access at ATM and/or DSLAM level.

Bitstream access based on the regulator's remedy is not implemented on the market. This is partially due to the incumbent upgrading its network to a higher speed level, making the transition to bitstream access difficult. The market players have raised concerns as to the procedure of moving their customers onto bitstream access, as well as to the economic viability of bitstream with regard to retail prices and promotion offers on the part of the incumbent. There is a growing market interest in the provision of naked DSL

in order to create an offer which can compete with the incumbent's Duo Mobil. Similarly, LLU is gaining importance in this respect.

ČTÚ has started to review wholesale broadband access market, the first market to do so in the second round of market analyses. It has indicated its willingness to take into account the concerns raised by the market players.

## **Mobile markets**

### *Market situation*

Mobile penetration rate is high, at 120%, and there are signs of fixed to mobile substitution. There are three GSM operators with market shares of approximately 41%/39%/20% competing in the mobile market. 3G services have been launched by two bigger operators. The third operator is expected to launch its 3G service in 2008. Negotiations are ongoing amongst the operators concerning 3G network sharing. A new entrant is offering services based on CDMA technology.

### *Regulatory issues*

The mobile access market was found to be effectively competitive, and regulation is therefore not imposed. One simple reseller is offering the smallest GSM operator's products. Otherwise there are no MVNO present. Directory inquiry services are not offered by third parties. Premium rate services are negotiated via commercial contracts. Mobile operators, together with the fixed market players, have developed a code of conduct for value-added services that appears to bring positive results for the customers.

In the mobile termination market, all three operators were designated as having individually significant market power on their own networks. ČTÚ has thus imposed a full set of remedies, including access, transparency by a reference offer, accounting separation and price regulation by price caps. Mobile termination charges thus appear to be relatively low. The remedy imposed on this market in 2007 provides for more detailed specification of the remedies already in place, restricting the remedies only to subscriber numbers and excluding value-added services from the scope of the regulation. The regulation in place appears to address the competition issues identified in the market analysis.

### *Roaming*

All three GSM operators appear to have implemented the requirements set out in the Roaming Regulation to a satisfactory level. The possibility for the NRA to impose penalties remains to be reflected in national primary law.

## **Fixed market**

### *Market situation*

The fixed market underwent significant consolidation throughout 2006-2007, reducing the number of effective competitors to four. The alternative operators offer their services mostly via CS and CPS. These appear to be most successful in the business segment of the market, specifically with regard to international calls, where their market share by

retail revenue is 60%. Only 2.18% of all subscribers use a provider other than the incumbent for direct access. VOIP services have started gaining in importance, although their significance on the market is rather low at 1.1%. The overall incumbent's fixed telephony market share by retail revenue has decreased from 72% to 64.4%. The fixed penetration rate is rather low at 40%.

As a reaction to the incumbent's Duo Mobil offer, the other mobile operators have expressed interest in becoming established on the fixed market, in cooperation with the existing fixed players (via CPS and DSL resale or LLU to provide fixed voice services and DSL). In a market which shows signs of fixed-to-mobile substitution, this offer is difficult to replicate for the alternative fixed operators.

### *Regulatory issues*

Access markets are regulated by CS/CPS, accounting separation, and resale of access service. Fixed retail call markets are regulated by accounting separation. Simple resale of the monthly rental fee was imposed on the access markets in 2006. To date, however, the alternative operators have not used this facility. Instead, demand is growing with regard to the standard wholesale line rental, partially due to additional competitive pressure caused by the Duo Mobil offer. The incumbent published a WLR offer on a voluntary basis in December 2007.

The full range of remedies, including price regulation, applies to the markets for wholesale fixed call origination and termination, and wholesale terminating segments of leased lines with effect from 2006. However, the interconnection charges for call termination are well above the EU average.

## **Broadcasting**

### *Market situation*

Broadcasting is dominated by terrestrial transmission (60%), with an estimated share of 10% for digital terrestrial transmission and 50% for analogue terrestrial transmission. Cable follows with 24%, and satellite transmission with 14.6%. A mere 1.13% of households receive national TV programmes primarily via IPTV. The largest cable operator has merged with its biggest rival. One of the larger fixed alternative operators still holds a 100% market share of analogue terrestrial broadcasting.

As part of the process towards the national digital switchover, analogue broadcasting has been successfully switched off in the region of Domažlice. Another analogue switch-off project is currently running at Ústí nad Labem. *Regulatory issues*

While the market definition comprises analogue terrestrial broadcasting transmission only, following the comments from the Commission, the NRA imposed a full range of remedies including price regulation at the end of 2006.

An amendment to the Radio and Broadcasting Act aimed primarily at setting comprehensive legal provisions for the digital switchover was adopted in December 2007. ČTÚ has prepared a Technical Plan for the Switchover from Analogue to Digital Terrestrial TV Broadcasting. The NRA is to start a tendering procedure for the DVB-H

licence, possibly including frequencies, as demand has already been signalled by the market players.

## **Horizontal regulation**

### *Spectrum management*

The Czech authorities have signalled full implementation of the Radio Spectrum Harmonisation Decisions adopted by the Commission (Decisions 2004/545/EC, 2005/50/EC, 2005/513/EC, 2005/928/EC, 2006/771/EC, 2006/804/EC, 2007/98/EC, 2007/131/EC and 2007/90/EC). The legislation provides for the possibility of spectrum trading in granted allotments following the notification and subsequent agreement of the NRA. This possibility has not been used by the market players yet.

### *Rights of way and facility sharing*

The provisions regarding the granting of rights of way in the Electronic Communications Act use the concept of easement. The administrative procedures and disputes are handled by the local Construction Office as defined in the Construction Law of 2007.

## **THE CONSUMER INTEREST**

### **Universal service**

Provision of access at a fixed location was taken out of the scope of universal service. An amendment to the Electronic Communications Act taking effect on 1 January 2008 further reduces the scope to exclude provision of special prices for low income recipients.

In the most recent designations (2005-2006) ČTÚ has set the scope of universal service as the provision of directories, directory inquiry services, public payphones, additional services, disabled users' access to PATS and provision of special prices for disabled users and users with low income. The incumbent was the sole designated provider for all but the last element, for which other mobile operators have been designated alongside the incumbent. All the elements are to be provided for a period of three years with the exception of public payphones, designated for six years.

Universal service financing comes both from the state budget and the universal service fund. While the compensation mechanism has been activated, the effective contributions for 2001 onwards have been delayed by court proceedings and appeals by contributors. The NRA has indicated the likelihood of issuing the final decisions on the contributions for 2001 in the coming months. The decisions on contributions for 2004 were finalised at the end of 2007. It should be noted that the total net cost of each designated undertaking is to take account of all profits from any of the partial services provided by that undertaking.

### **Number portability**

Fixed number portability has been available since 2003, while mobile portability was introduced in January 2006. The number portability facility has so far been used more frequently by subscribers in the fixed market (more than three million fixed numbers

ported and more than 90 000 mobile numbers ported as of October 2007). The prices for both types of number portability are well above the EU average. They are not subject to regulation; the NRA takes a decision on prices only in the event of a dispute.

One out of three disputes regarding the pricing of mobile number portability was resolved by the NRA in 2007. The charges set in the decision are asymmetric, but the difference is not substantial.

### **Consumer complaints**

ČTÚ and its regional departments provide an out-of-court dispute resolution mechanism for customers. The issues at stake mostly concern alleged high prices charged and quality of service. The regulator takes a binding decision on prices, and the decisions can be appealed in court.

### **European emergency number 112**

112 calls are available free of charge from all publicly available telephone services, including payphones. Caller location information is available for all networks by the push method. For payphones, no payment in terms of coins or cards is necessary to call 112. It is possible to make calls to 112 even from mobile phones with sim cards that are out of credit, from phones without sim cards, or from places where there is no coverage, given that coverage is provided by at least one other mobile operator.

The Czech Republic has established a smart system to handle calls in foreign languages. At any time, emergency operators are able to see on their screen which languages are available in other PSAPs throughout the country. Calls can thus be handled in a total of six languages (Czech, English, German, French, Italian and Russian).

Citizens are informed about the existence and use of 112 via notices in payphones, phone books and on their bills. 112 is mentioned in the instructions for use of mobile phones, and is included in teaching programmes in primary and secondary schools. The Ministry of Interior launched a “Safe Travel” campaign in 2006 to circulate more information on 112 and its usage.

### **Must-carry**

The must-carry rules defined in the Radio and Broadcasting Act provide for all public channels to be included in the lowest retransmission offer of cable operators. The Council of Radio and Television Broadcasting decides on the inclusion of commercial channels. A transitional regime expiring in 2011 and comprising both public and commercial channels (minimum offer) currently applies. An amendment to the Act has recently been adopted, amending the must-carry rules likewise. The Commission services will examine the rules as amended.

### **Data protection**

The Ministry is currently preparing draft legislation aimed at completing the transposition of the Data Retention Directive. It is expected to take effect in 2008.