



Antitrust: Commission seeks feedback on commitments offered by T-Mobile CZ, CETIN, and O2 CZ concerning the Czech telecommunications market

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The European Commission invites comments on commitments offered by T-Mobile CZ, CETIN, O2 CZ, and their respective parent companies, Deutsche Telekom and PPF, to address competition concerns in relation to the network sharing agreements ('NSAs') between T-Mobile CZ, O2 CZ, and then Czech telecom infrastructure provider CETIN, as well as the Mobile Network Services Agreement ('MNSA') between O2 CZ and CETIN.

In [October 2016](#), the Commission opened a formal investigation into a network sharing agreement between O2 CZ and CETIN on the one hand and T-Mobile CZ on the other. In [August 2019](#), the Commission sent Statements of Objections to T-Mobile CZ, CETIN and O2 CZ and later on to their parent companies, outlining its preliminary competition concerns. In August 2021, the Commission adopted a preliminary assessment within the meaning of Article 9(1) of Regulation (EC) No 1/2003 after carefully analysing all the arguments and evidence gathered.

According to the Commission's preliminary assessment, the NSAs and the MNSA may restrict competition in violation of Article 101(1) of the Treaty on the Functioning of the EU ("TFEU"), which prohibits anti-competitive agreements. In particular, the Commission's preliminary analysis has shown that in light of market circumstances in Czechia, the NSAs and the MNSA might reduce the ability and incentives of T-Mobile CZ, CETIN and O2 CZ to unilaterally invest in network infrastructure and therefore may negatively affect the ability and incentives of T-Mobile CZ and O2 CZ to compete on the retail and wholesale markets for mobile telecommunications services in Czechia.

The proposed commitments

T-Mobile CZ, CETIN and O2 CZ and their respective parent companies offered the following commitments to address the Commission's competition concerns:

- to modernise the mobile network, through the deployment of multi-standard Radio Access Network ("RAN") equipment in certain radio frequency layers;
- to set and review the financial conditions for unilateral network deployments, in order to ensure cost-based pricing of any investments or services provided by the operator responsible for the shared network in that part of the country on behalf of the other operator;
- to improve the NSAs contractual provisions to limit information exchange to the absolutely necessary for the operation of the shared network;
- In relation to the MNSA, to implement measures to ensure that CETIN effectively prevent information spill-over between T-Mobile CZ and O2 CZ.

The proposed commitments with regard to the NSAs would remain in force until 28 October 2033. The proposed commitments with regard to the MNSA would apply for a period of (i) the term of the MNSA or (ii) the term of the NSAs whichever of those terms ends earlier. An independent trustee would be appointed by the Commission in order to monitor the parties' compliance with the commitments.

The Commission invites all interested parties to submit their views on the proposed commitments within one month from their publication in the [Official Journal](#). Taking into account all comments received, the Commission will then take a final view as to whether the commitments sufficiently address competition concerns.

If this is the case, the Commission may adopt a decision making the proposed commitments legally binding on the parties under Article 9 of the EU's antitrust Regulation (Council Regulation (No) 1/2003).

Such a decision would not conclude that there is an infringement of EU antitrust rules but legally

binds the committing companies to respect the commitments they have offered.

If a company breaks such commitments, the Commission can impose a fine of up to 10% of the company's worldwide turnover, without having to prove an infringement of the EU antitrust rules.

Background

The NSAs concern the sharing of passive and active infrastructure for 2G, 3G and 4G mobile telecommunications technologies, while spectrum and the core network remain separate for each operator. The cooperation comprises the entire territory of Czechia, with the exception of Prague and Brno. Approximately three quarters of subscribers in Czechia use the common network infrastructure of T-Mobile CZ and CETIN. The cooperation is implemented by the two operators on the basis of a geographical split. The territory of Czechia is split roughly into two and each operator is responsible for deploying, operating and maintaining the shared network in one of the two areas and procures the mobile network infrastructure and related supplies. Hence, one of the operators provides network services not only to its own customers in its area, but also to the customers of the other operator. The MNSA was concluded to govern the modalities of the mobile network services provided to O2 CZ by CETIN, after the latter legally succeeded O2 CZ as a contractual party in the NSAs.

Procedural background

[Article 101](#) TFEU and Article 53 of the EEA Agreement prohibit anticompetitive agreements and concerted practices which may affect trade and prevent or restrict competition.

Article 9(1) of [Regulation EC \(No\) 1/2003](#) enables companies investigated by the Commission to offer commitments in order to meet the Commission's concerns and empowers the Commission to make such commitments binding on the companies. Article 27(4) of Regulation EC (No) 1/2003 requires that before adopting such decision the Commission shall provide interested third parties with an opportunity to comment on the offered commitments.

A summary of the proposed commitments will be published in the EU's Official Journal. The full text of the commitments will also be available on the Commission's [competition website](#) in the public [case register](#) under the case number [AT.40305](#).

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