



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

This edition includes contributions from the United Kingdom, Austria, Bulgaria, the Czech Republic, Germany, Hungary, Poland, Russia, Slovakia, Spain, Switzerland, Ukraine and China.

United Kingdom

COMMUNICATIONS

Ofcom consultation on new charge controls for local loop unbundling and wholesale line rental services

Ofcom have published a consultation aimed at modifying the proposals it made in March 2011 in relation to new charge controls for Local Loop Unbundling and Wholesale Line Rental services. The consultation considers whether there has been a material change in the relevant market since the SMP determination was made, and proposes that a direction is made under the leased line charge control.

The consultation closed on 23 December 2011. Ofcom expect to publish its conclusions by the end of February 2012.

For more information, please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/wlrc/summary/condoc.pdf>

Ofcom consults on competition and 2.6 GHz spectrum auction

Ofcom have published a consultation in respect of competition in the mobile market and plans for the auction of 800MHz and 2.6GHz spectrum.

The consultation closes on 22 March 2012 and Ofcom plan to publish a statement and details of the auction process, as well as draft auction regulations, in the summer. An estimated time-scale for the opening of the award process is Q4 2012.

For more information, please go to:

<http://stakeholders.ofcom.org.uk/binaries/consultations/944166/summary/combined-award-2.pdf>

BT responds to invitation to submit views on Communications Review for a Digital Age

In December 2011, the government published responses to an open letter (circulated earlier in 2011) inviting views on a Communications Review for a Digital Age. These responses include a position paper submitted by BT, which sets out BT's view as regards three core issues.

(1) Scope of review. In BT's view, the review should encompass all media and communications markets together, and should result in the definition of a coherent set of communications and media markets (including, in particular, content rights and content distribution markets).

(2) Purpose of sector regulation. According to BT, the overarching purpose of regulation in this sector should be to serve the dynamic needs of citizens/consumers and encourage investment through a clear, fair and predictable regime driving the innovation that flows from increased competition, enhanced by essential consumer protection measures.

(3) Separation of roles of government and regulator. BT endorses the principle that there should be a clear separation between the roles of the government and the independent regulator. BT believes that Ofcom are most likely the best authority for dealing with the complexities of interconnected regulations in the communications and media sectors, so long as it is given enabling powers and regulates only where intervention is necessary and beneficial.

For the full text of BT's response, please click here:

http://www.culture.gov.uk/images/consultation_responses/CR2011-BT.pdf

Ofcom announces approach to net neutrality

On 24 November 2011, Ofcom published a statement setting out their approach to net neutrality. The statement deals with a range of issues, including the steps that internet service providers should take in order to ensure customers are aware of how internet traffic is being managed on their networks, transparency of information and the role of market forces in addressing issues relating to blocking and discrimination. In addition, Ofcom consider the use of their powers to impose quality of service levels in the scenario of innovation being under threat from traffic management.

To view Ofcom's statement on net neutrality, please go to:

<http://stakeholders.ofcom.org.uk/binaries/consultations/net-neutrality/statement/statement.pdf>

MEDIA

Ofcom consultation on local TV licensing

On 19 December 2011, Ofcom published a consultation on the statutory framework for local television that has been proposed by the Government in the form of three Orders currently being reviewed by Parliament. These are the Local Digital Television Programme Services Order, the Wireless Telegraphy Act 2006 (Directions to OFCOM) Order and the Code of Practice for Electronic Programme Guides (Addition of a Programme Service) Order.

The aim of these Orders is to create a framework for licensing a new class of television services, as well as to direct Ofcom to reserve spectrum for these services and establish the status thereof in relation to Electronic Programme Guides. The Ofcom consultation is aimed at creating a licensing framework for the new licences foreseen in the Orders.

The closing date for the consultation is 19 March 2012.

For more information, please go to:

<http://stakeholders.ofcom.org.uk/binaries/consultations/localtv/summary/condoc.pdf>

SATELLITE

Extending spectrum transfer to the maritime and satellite earth station sectors

On 2 December 2011 Ofcom published their proposals to extend spectrum trading to the Maritime and Satellite Earth Station sectors. Spectrum trading enables a licensee to buy or sell all or part of their rights to use spectrum through a transfer of these rights under the Wireless Telegraphy (Spectrum Trading) Regulations 2004 (the '2004 Trading Regulations'). The extension of trading to these sectors is the next step in Ofcom's programme to roll out the ability to trade across Ofcom's licence products.

The deadline for the submission of comments in respect of Ofcom's proposals is 5pm on 10 February 2012. Ofcom expect to release a Statement on this consultation by March 2012.

For further information please see <http://stakeholders.ofcom.org.uk/consultations/transfer-maritime-satellite/>

Court of Appeal rules on winding-up of firms offering satellite warranties

On 29 November 2011, the Court of Appeal ruled for the dismissal of appeals lodged by Digital Satellite Warranty Cover Limited (**DSWC**) and Bernard Freeman and Michael Sullivan, trading as Satellite Services (**SS**), in respect of winding-up orders previously secured by the Financial Services Authority (**FSA**) against these companies.

DSWC and SS had provided "extended warranties" for satellite television equipment in return for an insurance premium. At first instance, this was deemed by the High Court to effectively be a contract of insurance, which – under the general prohibition in section 19 of the Financial Services and Markets Act 2000 - can only be carried out by entities authorised by the FSA. Such authorisation had not been sought by either DSWC or SS.

The Court therefore considered that DSWC and SS should be wound-up, in line with "public interest" petitions raised by the FSA. This position has been reconfirmed in the ruling of the Court of Appeal.

For the full text of the Court of Appeal's decision, please go to:
<http://www.bailii.org/ew/cases/EWCA/Civ/2011/1413.html>

Austria

COMMUNICATIONS

Austrian regulator publishes latest market surveillance report

On 22 November 2011, the Austrian regulator (**RTR**) published its latest market surveillance report providing market data about the fixed-link network, mobile services, leased-line and broadband sectors. According to the report, smart phone tariffs are becoming increasingly popular in Austria. By the second quarter of 2011, 33% of all households in Austria already had a combination tariff for mobile voice and data services, which they used mainly for smart phones. Within a year, smart phone penetration increased by 22%. In total, there were about 4.88 million broadband subscribers in Austria during the second quarter of 2011, with 43% of the subscriptions served by fixed-line networks and 57% through mobile network access.

RTR's market surveillance report is available at:
http://www.rtr.at/en/komp/TKMonitor_4_2011/TM4-2011.pdf (only available in German)

MEDIA

Publication of information on state funding for broadcasters

At the end of January 2011, the RTR published information as to annual state funding levels for commercial and non-commercial broadcasters. State funding in the amount of EUR12.5 million is available in 2012, together with special funding of EUR 2.5 million (available to non-commercial broadcasters). Further to an RTR press release dated 4 January 2012, EUR10.3 million (of the aforementioned EUR 12.5 million) has already been allocated to commercial broadcasters, with EUR 2.2 million going to non-commercial broadcasters during the first phase of the award procedure.

Further information is available at: <http://www.rtr.at/de/pr/PI04012012Medien>

Bulgaria

COMMUNICATIONS

Changes to the Electronic Communications Act

On 14 December 2011, the Bulgarian Parliament approved the newest round of amendments to the Electronic Communications Act. These envisage increased customer protection mechanisms such as the limitation of the duration of mobile phone contracts to 24 months and the option for consumers to enter into 12 month contracts.

The text of the approved draft can be found [here](#).

In an additional development, unsolicited text messages inviting subscribers to participate in TV games are expected to be banned via amendments to the Gambling Act.

Bulgarian government plans investment in improvement of broadband access network

The Bulgarian Ministry of Transport, Information Technology and Communications has updated the National Strategy for Broadband Access, with the aim of accelerating the development of the broadband access network. This document highlights the importance of the future development of e-government, e-learning and e-health with the aim of providing easy access to efficient and secure electronic services.

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

European Commission suspends proceedings against Bulgaria over fixed number portability

The European Commission proceedings instigated against Bulgaria in May 2009 in respect of Bulgaria's failure to introduce number portability for fixed-line phones. In a recent letter to the European Commission, the Bulgarian authorities claim that all requirements under the Universal Service Directive have been met.

CRC announces tender for new WiMAX operator

The Bulgarian Communications Regulation Commission has announced a tender for the use of individually assigned scarce resource - radio frequency spectrum for the provision of electronic communications through a network for broadband wireless access, using individually assigned scarce radio frequency spectrum resources (1 frequency block of 42 MHz in the 3.5 GHz range) for a period of 10 years.

The deadline for the submission of tender offers is 7 February 2012. More information can be found [here](#).

Czech Republic

COMMUNICATIONS

Amendment to existing Act on Electronic Communications comes into force

The most recent amendment to the existing Act on Electronic Communications (Act No. 127/2005 Coll.) has finally been approved by both chambers of the Czech Parliament. This amendment has now also been countersigned by the President of the Czech Republic and published (under number 468/2011 Coll.) in the Collection of Laws. The new amendment will enter into effect on 1 January 2012.

The Czech Republic is one of 16 Member States reproached by the European Commission for their failure to implement the new EU Telecoms rules under national legislation. As pointed out by the Commission, the failure to implement the Telecoms Package could lead to a referral being made to the Court of Justice of the European Union and also to potential financial penalties. In light of this fact, and the pressing deadline for implementation, the Amendment came into force a mere two days after its publication.

Germany

COMMUNICATIONS

Demand for GSM frequencies

On 22 November 2011, the Federal Network Agency (**Bundesnetzagentur**) issued a call for notification of post-2016 requirements of frequencies in the 900 MHz and 1800 MHz bands, with a view to determining whether there is a shortage of frequencies in these two bands and, if so, how serious the shortage is. The deadline for notifications was 16 January 2012.

The Bundesnetzagentur has also finished its examination of the distribution of frequencies. Having evaluated the responses submitted in respect of its consultation document, the Bundesnetzagentur still does not see any distortion of competition in the mobile market resulting from the distribution of frequencies. Consequently, the requirements for the redistribution of existing frequency usage rights by way of revocation and reassignment have not been met.

Further details are available at: http://www.bundesnetzagentur.de/SharedDocs/Downloads/Ehttp://stakeholders.ofcom.org.uk/consultations/transfer-maritime-satellite/N/BNetzA/PressSection/PressReleases/2011/111122DemandGSMFrequencies.pdf?__blob=publicationFile

Nationwide infrastructure atlas enters next stage

The nationwide infrastructure atlas created by the Bundesnetzagentur, which contains spatial data about infrastructure in Germany which may be shared for broadband network implementation, such as fibre optic lines, empty ducts, radio towers, masts and radio stations, recently entered into a second phase. Authorised users are now offered a broader range of information, for instance as to the exact geographic location of infrastructure. The Bundesnetzagentur has also increased security measures protecting data supplied by participating infrastructure owners. In putting in place the infrastructure atlas, the Bundesnetzagentur is implementing a key measure of the Federal Government's broadband strategy.

The purpose of the atlas is to facilitate the use of synergies in broadband expansion. Use of the atlas is restricted to regional authorities and companies involved in broadband expansion projects. The second stage has been enabled by infrastructure owners and users. It is also planned to eventually

provide online information access to authorised users.

Additional information concerning the usage of the infrastructure atlas is available at :
http://www.bundesnetzagentur.de/DE/Sachgebiete/Telekommunikation/Infrastrukturatlas/infrastrukturatlas_node.html

MEDIA

German Collecting Society claims higher copyright charges for external hard drives

The German Collecting Society (the **Collecting Society**) has published copyright charges for external hard drives and mobile phones in the German Federal Register, following failed negotiations with importers and manufacturers. The Collecting Society is planning, on the basis of German copyright law, to claim copyright charges of between EUR 5 and EUR 34 per device, depending upon the type of device (multimedia, network and external hard drives) and the storage capacity thereof. These charges will be collected with retroactive effect from 1 January 2008. It is expected that most importers and manufacturers will refuse to pay these charges, and that the issue will therefore be referred to the German courts for resolution.

Hungary

COMMUNICATIONS

Amendments to the Electronic Signature Act

The terms of the Hungarian E-Signature Act have been changed, with effect from 1 April 2012, so that qualified certificates can also support automatic signing and e-seals. Furthermore, qualified electronic signatures, as well as those signatures that are based on qualified certificates but do not make use of secure signature creation devices, will be treated uniformly in all eGovernment procedures, allowing automatic signing and e-seals to be used.

Previously, most Hungarian eGovernment procedures allowing the use of e-signatures required qualified electronic signatures, i.e. an advanced electronic signature based on qualified certificates and created by using secure specialised devices. Qualified certificates could only be issued if a natural person was using the electronic signature in his own name and had the signature creation device under his direct control. They could not be used for either automatic signatures, or for signatures where the only signatory was a legal person.

Further information is available at:

http://jogszabalykereso.mhk.hu/cgi_bin/njt_doc.cgi?docid=142865.579215 (Hungarian only).

Further E-Government Changes

From 1 January 2012, the complete regulatory framework for e-Government procedures and initiatives will change. Under the new rules, it will no longer be obligatory for the central e-Government backbone system, the *Central Electronic Service Provider System*, to be used on an exclusive basis in relation to the provision of all kinds of eGovernment systems, regardless of the form of government in question. In addition, the general regulatory framework for the provision of electronic services has been incorporated in the Administrative Procedure Act. It is planned that, in time, all other procedural acts will point to this act as defining the specific rules for eGovernment service provision.

Executive decrees have yet to be put in place as regards the new regulatory framework.

Regulatory changes for premium rate aggregators under Electronic Communications Act

The Hungarian Media and Communications Authority (**HMCA**) has issued a new decree on the use of identifiers of electronic communications networks (1/2012. (I. 3.) NMHH rendelet). The most important changes affect the use of premium rate numbers (which are in Hungary mainly regulated under the umbrella of the electronic communications regime).

At present, premium rate numbers are issued by HMCA to e-communications network operators only. However, from 1 February 2012 it seems that these operators may give these numbers directly only to content service providers. Thus, HMCA has effectively prohibited the use of so called premium rate aggregators, thereby stopping activity that is currently estimated to be worth EUR 23 million.

Under the new decree, network operators have to set a default prohibition for all customers (subscribers) for all calls to premium rate numbers (90 and 91). In addition, short codes can no longer be used as premium rate numbers.

Further information is available at: <http://www.nmhh.hu/index.php?id=hir&cid=16486> (Hungarian only)

The 900 MHz frequency band auction is now in the bidding phase

The auction for frequencies within the 900 MHz frequency band launched by the Hungarian Media and Communications Authority in August 2011 has now reached the bidding phase. The aim of this process is to auction off a total of 10.8 MHz of frequency. The auction proceedings should be concluded by the end of January 2012.

For more information, please go to: <http://www.nmhh.hu/index.php?id=hir&cid=16489>

MEDIA

Constitutional Court annuls certain provisions of the Hungarian media law

On 19 December 2011, the Hungarian Constitutional Court passed a decision annulling certain provisions of the Act on the freedom of the press and the fundamental rules on media. In particular, the Court:

- excluded print and online media from the scope of the sanctioning powers of the media authority, in order to avoid a disproportionate restriction on the freedom of the press;
- deleted, with immediate effect, a passage limiting the confidentiality of journalists' sources for stories serving the public interest, as a result of which journalists may now only be forced to disclose their sources by courts or an investigation authority;
- terminated the media authority's right to oblige media service providers, publishers and programme distributors to provide any and all data that are indispensable for the authority to perform its duties without pending proceedings; and
- liquidated the position of the so-called "media commissioner", with effect from 31 May 2012, as according to the Court such an institution with sanctioning powers is an unjustified restriction on the freedom of expression.

The Court also pointed out two omissions on the part of the legislator. Namely, under the existing regime there are no procedural guarantees for the protection of the sources of information in administrative proceedings. In addition, the duty of the media service to furnish data to the authorities is not regulated in a satisfactory way. This position must be remedied by 31 May 2012.

For more information, please go to: <http://nmhh.hu/index.php?id=hir&cid=16386>

New tax is imposed on adult entertainment industry

A new tax has been imposed on certain products and services of the adult entertainment industry, with effect from 1 January 2012. The resulting revenue will be used by the National Cultural Fund to support local production of motion pictures.

Further information is available at: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100156.TV (Hungarian only).

Merger clearance amendment package

The provisions of the Hungarian Act on the Prohibition of Unfair Market Practices and Unfair Competition regarding merger clearance application fees have been amended, with effect from 1 January 2012. Although the amount of the fee remains unchanged, changes have been introduced in relation to payment / repayment of the fee in certain cases. In addition, the revised merger clearance application form now follows more closely the structure and logic of the CO Forms applied in EU-level merger clearance cases. A shorter merger clearance form may also be filed if certain criteria are met.

For more information, please see: <http://optijus.hu/light/torvtar/torvszoveg.php?twhich=174877> (Hungarian only).

Poland

COMMUNICATIONS

Analysis of IP based traffic exchange prices in Poland and worldwide

On 12 December 2012, the Office for Electronic Communications issued a report comparing IP traffic exchange prices in Poland with those noted elsewhere in the world. This report states that the average prices for both transit and peering are decreasing in Poland as well as worldwide, and that the average prices of IP transit in Poland are among the lowest in Europe and the world.

For more information and the full report, please see:

http://www.uke.gov.pl/uke/index.jsp?place=Lead01&news_cat_id=168&news_id=7502&layout=3&page=text

Mobile operators fined by the Office for Competition and Consumer Protection

On 23 November 2011, the Polish antimonopoly regulator (the President of the Office for Competition and Consumer Protection) (OCCP) issued a decision stating that four Polish mobile telephony operators - Polkomtel, Polska Telefonia Cyfrowa, PTK Centertel and P4 - were parties to an anticompetitive arrangement. The operators were found to have agreed (illegal) common strategies *vis a vis* a provider of mobile television.

According to the OCCP, these practices had a negative impact on the development of new services on the Polish market. The President of the OCCP ordered that they be ceased and imposed fines of over PLN 113 000 000 on the operators in question.

For more information and the decision, please click on the following link:

http://www.uokik.gov.pl/aktualnosci.php?news_id=3085

Green light for broadband Internet in eastern Poland

On 14 November 2011, the Ministry of Regional Development announced that the European Commission has approved a project aimed at establishing the first Polish broadband network. This

project is the biggest EU-funded investment of its kind in Europe, and has a value in excess of PLN 1.4 billion. It will be carried out in five voivodships (provinces) of eastern Poland and will significantly contribute to the availability of Internet access in those provinces.

For more information, please go to:

http://www.mrr.gov.pl/aktualnosci/fundusze_europejskie_2007_2013/Strony/Konferencjaprasowa_InternetwPolsceWschodniejPolska_B_czy_e.aspx

Status of a new wholesale service to be offered by Telekomunikacja Polska S.A.

On 26 October 2011, the President of the Office for Electronic Communications announced her position in response to Telekomunikacja Polska's query concerning the status of BSA traffic aggregation services on a managed IP level.

According to the President's statement, the aggregation of BSA traffic on a managed IP level is to be treated as a service offered on the wholesale market for broadband access, and is therefore a regulated service.

For more information, please click on the following link:

https://www.uke.gov.pl/uke/index.jsp?place=Lead01&news_cat_id=473&news_id=7323&layout=3&page=text

MEDIA

Interpretation of the must-carry obligation

On 17 November 2011, the National Broadcasting Council published its interpretation of Article 43 of the Act on Broadcasting, which lists the channels (TVP1, TVP2, regional television channel of Telewizja Polska SA, Polsat, TVN, TV4 and TV PULS) that must be available in every package offered by a television operator

As an exception from this rule, it is not mandatory for these channels to be included in the more expensive (premium) packages which are only available on the condition of buying a cheaper package containing the channels in question.

Failure to include the required channels in the packages will be treated as a breach of the Article 43 obligation, and may lead to liability on the part of the operators in question, as well as a fine of up to 10% of the operator's income for the previous tax year.

For more information, please go to: <http://www.krrit.gov.pl/krrit/wiadomosci-krrit/news.550,stanowisko-krrit-w-sprawie-interpretacji-art-43-ust-1-ustawy-o-radiofonii-i-telewizji.html>

Russia

COMMUNICATIONS

Frequency Commission Identifies Bands for use with Long Term Evolution (LTE) Technology

At the end of 2011, the Russian Frequency Commission (the **Frequency Commission**) identified frequency bands for the LTE network, the development of which has been planned since early 2010.

The Frequency Commission has allocated the 791 - 862 MHz, 2500 - 2690 MHz and 2300 - 2400 MHz frequency bands for the LTE network and the further modification thereof. The 694 - 791 MHz frequency band may potentially also be used in relation to the LTE network. In addition, the Frequency Commission is required to consider the technical possibility of using the 880 - 915 MHz, 925 - 960 MHz, 1710 - 1880 MHz, 1920 - 1980 MHz, 2010 - 2025 MHz and 2110 - 2170 MHz frequency bands in relation to the LTE network no later than by 31 March 2012.

At this stage, certain frequency bands have been allocated to specific Russian network operators for the establishment of their LTE networks: Scartel (2500 - 2530 MHz and 2360 - 2650 MHz in Russia), MegaFon (2570 - 2595 MHz in Moscow and Moscow Region) and MobileTeleSystems (2595 - 2620 MHz in Moscow and Moscow Region).

Russian Audit Chamber Audits the Federal Service for Control over Communications, IT and Mass Media

On 31 December 2011, the Russian Audit Chamber (the **Audit Chamber**) published a report setting out the results of its audit of the activity of the Federal Service for Control over Communications, IT and Mass Media (**Roscomnadzor**). This report is also based on a review of the legislative background to Roscomnadzor's activity, as well as its financial situation, and declares that existing legislation does not allow good faith and effective competition as regards the allocation and use of spectrum frequencies.

The Audit Chamber established that Roscomnadzor's primary role as regards spectrum is currently to issue permits for the use of certain frequencies, further to "private consent" given by the Frequency Commission.

The Frequency Commission issues its "private consent" to specific legal entities, thus restricting competition. However, there is no clear legal basis under Russian legislation for the grant of such "private consent", and no procedures are available as regards contesting and invalidating the decisions of the Frequency Commission.

The Audit Chamber will continue to review the activities of the Frequency Commission and the legislative framework within which it functions in 2012.

State Authorities require Decrease in International Mobile Roaming Prices

The Federal Service for Control over Communications, IT and Mass Media (**Roscomnadzor**) and the Federal Antimonopoly Service have initiated a severe decrease in the international roaming prices set by three major Russian mobile network operators.

The prices set by these mobile network operators have always been closely monitored by the Federal Antimonopoly Service. Roscomnadzor also became involved after Prime Minister Vladimir Putin highlighted the issue.

One of the major operators – MegaFon – has already decreased its prices for calls, text messages and data transfer in certain European countries. The two other operators are expected to follow suit shortly.

Slovakia

COMMUNICATIONS

Joint public consultation on the method for allocation of the frequency bands

The Telecommunications Regulatory Authority of the Slovak Republic (**TRA**) is preparing a tender for the allocation of frequencies within the frequency bands 800 MHz, 1800 MHz and

2600 MHz. The TRA is preparing this invitation to tender for available frequencies for new generation networks in accordance with the aims set out in the Slovak National Broadband Strategy (SR Government Resolution no. 136/2011), which include promotion of the availability of broadband access networks and high-speed access services.

Please click [here](#) for more information. English-language information on the public consultation is available [here](#).

New Act on Electronic Communications

On 14 September 2011, the Slovak parliament adopted a new Act on Electronic Communications (the **New Act**) (Act no. 351/2011 Coll.). In addition to the implementation of the revised regulatory framework for electronic communications, the New Act also takes into account the findings and experience of the TRA, as well as other stakeholders and the public, as to the practical implementation of the law. The New Act contains clarification on certain parts of the old legislation, as well as revised provisions on procedural issues and administrative offences. The Act also resolves previously controversial issues related to price regulation.

An English version of the New Act can be found [here](#).

TRA considers electronic auction in frequency allocation process

The TRA is considering announcing a tender for the allocation of frequencies in the 800 MHz (so-called digital dividend) and 2600 MHz bands by means of electronic auctions. These auctions could take place in the first quarter of 2012.

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

Chairman of the TRA rules against compensation for Slovak Telekom

The chairman of the TRA has dismissed Slovak Telekom's appeal against a decision of the TRA which held, at first instance, that it will not grant compensation to Slovak Telekom for loss of universal service provided in the public interest in 2007 and 2008. TRA observed that the total amount of costs that Slovak Telekom claimed to have borne for providing the universal service did not have an impact on Slovak Telekom's competitive position on the market. Slovak Telekom is likely to submit a further appeal against the decision of the chairman of the TRA.

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

TRA extends licences for mobile operators

The TRA has decided to extend the licences held by mobile operators Orange Slovakia and Slovak Telekom (T-Mobile) for a further 10-year period, and has also determined the level of the one-off payments these operators are to make in relation to the extension of the frequencies allocated to them. These one-off payments were calculated on the basis of data supplied by the operators. It is likely that Orange Slovakia and Slovak Telekom will submit appeals in this respect.

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

TRA reduces payments for the right to use frequencies

The TRA has reduced the amount of payments for the right to use a specific frequency or identifier, with effect from 1 January 2012. The aim of this move on the part of the TRA is to support the development of radio access networks, particularly in sparsely populated areas. Low payments in these areas shall encourage more operators to cover loopholes in the current network. Operators will now be able to acquiring frequencies with the aim of developing new nationwide public radio networks can pay at the end of year following the year in which the frequencies are assigned.

More information can be found [here](#). The current tariff list can be found [here](#).

MEDIA

Invitation to tender for terrestrial radio frequencies

The Slovak Council for Broadcasting and Retransmission has published a list of frequencies connected with a tender for granting/changing radio licenses for terrestrial broadcasting, which was held on 21 November 2011.

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

SATELLITE

Winner of the tender for multiplex no.4 is Towercom

According to a report on the tender process for multiplex no.4, which the relevant committee has delivered to the TRA, the winner of this tender is Towercom. Towercom will therefore be the beneficiary of permits issued by the TRA (and published online), which will be followed by the assignment of frequencies.

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

Spain

COMMUNICATIONS

Government closes bidding on radio spectrum with revenue of EUR 2 billion for the Treasury

Seven of the eight operators participating in a radio spectrum auction resolved at the end of December 2012 pledged a total of EUR 185.4 million for four countrywide frequency blocks and a further four regional blocks.

Operators participating in the first frequency auction pledged over EUR 1.647 billion. This amount was added to the contribution of EUR 168 million made by operators to whom frequencies were allocated on the basis of tender proceedings.

An estimated investment of EUR 1.2 billion will be generated during the period from 2011-2013, leading to the creation of 40,000 jobs.

The auction, which was initiated by the Ministry of Industry, Tourism and Trade, will enable mobile broadband services to be provided in rural areas and 4th generation mobile phone services (LTE) to be provided.

Spanish Government approves plans to free up digital dividend

The Spanish Government has approved a Plan setting out the technical, social and transversal actions that should be taken in order to free up radio frequencies constituting the so-called digital dividend.

The target is for the 790-862 MHz waveband, currently used by television, to be freed for broadband services by 2015.

Specific action points set out in the Plan relate *inter alia* to the allocation of radio frequencies, the launch of a technical network and payment plan for temporary simulcasting, and the adaptation of receiver facilities where necessary.

The Plan also includes a series of communication actions addressed at the public and at government bodies.

Switzerland

COMMUNICATIONS

Fiber to the home

The Swiss telecom carrier SWISSCOM and various power utility companies have agreed to cooperate in the construction and/or expansion of their fiber-optic networks, and have applied for clearance by the Swiss Competition Commission (**COMCO**) in this respect, in order to avoid potential sanctions being applied at a later date.

In its final report on this issue, COMCO concluded that the co-operation agreements contain provisions on price and quantity which could seriously affect competition. One of the clauses was found to possibly lead to a monopoly on the part of the power utility company. COMCO did not formally prohibit the co-operation but warned the parties that they would be sanctioned if the realisation of their projects would effectively result in anticompetitive behaviour.

Following the publication of this report, the Basel power utility carrier IWB and SWISSCOM amended their co-operation agreement, excluding all clauses which might affect competition. The revised agreement between these parties has since been approved by COMCO.

Please [Click here](#) for the final report of COMCO, or [Click here](#) for more information.

Higher download rate for DSL under universal service licence

The Swiss Federal government has decided to increase the minimum speed between the network and the user from 600 to 1000 kbit/s from 1 March 2012. At the same time, it has lowered the ceiling price of a connection permitting such a speed from CHF 69 to CHF 55 per month (excluding VAT). As the universal service licensee, SWISSCOM has since 1 January 2008 been obliged to offer internet connection with a minimum download speed of 600 kbit/s and minimum upload speed of 100 kbit/s.

As a result of the aforementioned change in broadband speeds, Switzerland has become the second EU member state (after Finland) to introduce such a broadband connection into universal service obligations.

[Click here](#) for more information.

Ukraine

COMMUNICATIONS

New regulatory authority in the telecommunications sector

In November 2011, pursuant to the requirements of the recently amended Law on Telecommunications, the President of Ukraine disbanded the National Commission for Communication Regulation of Ukraine (NCCR) and created another governmental body responsible for telecoms - the National Commission for Communication Regulation and Informatisation (NCCRI). Importantly, the new entity has not taken over the role and duties of the former Commission, which means that an entirely new regulatory framework will need to be created for the

newly-established authority. The President of Ukraine has already adopted a Regulation specifying the authorities, Chairman and members of the NCCRI.

The creation of the new authority has, however, led to certain procedural difficulties. Due to the lack of succession between the NCCR and NCCRI, all of the applications for various regulatory permits (e.g. business and frequency licenses, numbering capacity, use of radio-electronic devices, etc.) that have been submitted to the NCCR but have not been resolved will have to be re-submitted to the NCCRI. This is likely to lead to significant delays in the permit grant process.

Results of traffic termination markets analyses announced

Following adoption in September 2011 of an Order on market analysis in the traffic termination markets, on 20 October 2011 the NCCR issued the results of its analysis of fixed-line and mobile networks. The NCCR has also identified telecommunication operators with substantial market power in both networks.

Europe

COMMUNICATIONS

Green Paper “Towards an integrated European market for card, internet and mobile payments” published

On 11 January 2012, the European Commission published the Green Paper “Towards an integrated European market for card, internet and mobile payments” and opened a consultation process in this respect. The Green Paper assesses the current landscape of card, internet and mobile payments in Europe, identifies the gaps between the current situation and the vision of a fully integrated payments market and the barriers which have created these gaps. The objective of the Green Paper is to launch a broad consultation process with stakeholders to validate or contribute to the Commission’s analysis and to help identify the right way to improve market integration. The main issues identified in the paper concern: market access and entry for existing and new service providers; payment security and data protection; transparent and efficient pricing of payment services; technical standardisation and inter-operability between service providers. Through the consultation process, the Commission seeks to learn about the views of stakeholders as to which obstacles hinder further market integration and how these could be resolved.

The deadline for responses is 11 April 2012.

For more information on the Green Paper please go to:

http://ec.europa.eu/internal_market/consultations/docs/2012/cim/com_2011_941_en.pdf.

Information on how to submit a contribution in the consultation process can be found at

http://ec.europa.eu/internal_market/consultations/2012/card_internet_mobile_payments_en.htm

EU Telecoms Council expected to agree on decision on radio spectrum

On 13 December 2011, Neelie Kroes, European Commission Vice-President for the Digital Agenda, announced that it is expected that the EU Telecoms Council will agree on a Radio Spectrum Policy Programme (RSPP). The Decision on RSPP shall create a comprehensive EU spectrum policy programme for the period up to 2015 and shall be a key to reaching the Digital Agenda targets for universal broadband coverage and broadband data speeds, which can help boost innovation and growth.

Neelie Kroes stated that the programme is only be the beginning of common efforts in achieving important objectives in the coming years, which include: allowing the use of the key 800 MHz band for the next generation of wireless communications; making sure that the authorisation process is completed by the end of 2012 for this band and that the others bands are already technically harmonised; creating a European spectrum inventory and a process to support the most efficient use

of spectrum in the EU and determining the need for further harmonised spectrum for wireless broadband communications; guaranteeing competition in the use of spectrum in particular for electronic communications services; promoting more flexible spectrum management, and encouraging collective and shared use of spectrum and meeting needs for spectrum in EU policies in sectors such as transport or energy.

Further information is available at:

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/889&format=HTML&aged=0 &language=EN&guiLanguage=en>

Information about the RSPP can be found at:

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/10/425&format=HTML&aged=0 &language=EN&guiLanguage=en>

Digital Agenda: Turning government data into gold

On 12 December 2011, the European Commission launched an Open Data Strategy for Europe, which is expected to deliver a €40 billion boost to the EU's economy each year. Europe's public administrations are sitting on a goldmine of unrealised economic potential: the large volumes of information collected by numerous public authorities and services. The strategy of the Commission to fully use that potential is as follows: firstly the Commission will lead by example, opening its vaults of information to the public for free through a new data portal. Secondly, a level playing field for open data across the EU will be established. Finally, these new measures are backed by the €100 million which will be granted in 2011-2013 to fund research into improved data-handling technologies. According to the European Commission these actions shall position the EU as the global leader in the re-use of public sector information.

More information can be found at:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1524&format=HTML&aged=0&language=EN&guiLanguage=en>

European Commission harmonises new licence-exempt frequency bands for wireless innovations

On 8 December 2011, the European Commission updated the spectrum harmonisation conditions for short-range devices (SRDs) in the internal market (Commission Decision 2011/829/EU amending Commission Decision 2006/771/EC). SRDs play an important role in the daily life of citizens. Numerous applications such as alarms, door openers, medical devices, but also local communications equipment such as Wi-Fi routers, rely on these low power radio transmitters. The newly harmonised licence-exempt frequency bands can be used by intelligent transport systems, vehicle radars and for non-specified purposes.

The Decision also amends the technical conditions for a number of devices such as Radio Frequency Identification (RFID) and inductive devices, making them less restrictive.

The full text of the decision is available at:

http://ec.europa.eu/information_society/policy/ecomm/radio_spectrum/documents/legislation/index_en.htm#Decisions

European Commission launches a public consultation on the introduction of technical harmonisation conditions in the terrestrial 2 GHz band

On 15 November 2011, the European Commission launched a public consultation on the introduction of technical harmonisation conditions in the terrestrial 2 GHz band. The terrestrial 2 GHz band has been identified in the context of the EU's Wireless Access Policy for Electronic Communications Services (WAPECS) as a band for the provision of electronic communications services, in particular wireless broadband, on the basis of flexible choice of technology and services. A substantial portion of the 2 GHz band, namely the unpaired sub-bands 1900-1920 MHz and 2010-2025 MHz based on Time Division Duplex (TDD) are largely unused even though rights of use have been granted in some Member States for many years. Therefore, in the view of the European

Commission, it is necessary for steps to be taken to make the terrestrial 2 GHz band available for a wider range of services and thus maximise its economic and social benefit.

In this context the Commission envisages the introduction of harmonised technical conditions at EU level for the terrestrial 2 GHz in the form of a Commission Implementing Decision and published a questionnaire to be answered by interested stakeholders. The consultation period closes on 27 January 2012.

Further information is available at:

http://ec.europa.eu/information_society/policy/ecomm/radio_spectrum/activities/index_en.htm#ongoing_consultations

European Parliament resolution on the open internet and net neutrality in Europe

On 7 November 2011, the European Parliament adopted a resolution on the open internet and net neutrality in Europe. The European Parliament notes that the conclusions of the European Commission's communication indicate there is, at this stage, no clear need for additional European-level regulatory intervention on net neutrality.

The European Parliament also called on the European Commission to monitor internet traffic management practices. In particular, the Commission, BEREC and NRAs are asked to closely monitor the development of traffic management practices" and that "Internet Service Providers do not block, discriminate against or impair the ability of any person to use or offer any service, content or application of their choice irrespective of source or target."

The Commission is also tasked with assessing whether further regulation is needed to ensure freedom of expression, freedom of access of information, freedom of choice for consumers and media pluralism. A final reaction Commission is expected in the third quarter of 2012, after the publication of BEREC's findings on Net Neutrality and Competition, Transparency and Quality of Service.

For further information please see <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+B7-2011-0572+0+DOC+XML+V0//EN>

MEDIA

Commission opens formal proceedings to investigate sales of e-books

On 6 December 2011, the European Commission opened formal antitrust proceedings to investigate whether international publishers Hachette Livre (Lagardère Publishing, France), Harper Collins (News Corp., USA), Simon & Schuster (CBS Corp., USA), Penguin (Pearson Group, United Kingdom) and Verlagsgruppe Georg von Holtzbrinck (owner of inter alia Macmillan, Germany) have, possibly with the help of Apple, engaged in anti-competitive practices affecting the sale of e-books in the European Economic Area (EEA)¹, in breach of EU antitrust rules.

The Commission will in particular investigate whether these publishing groups and Apple have engaged in illegal agreements or practices restricting competition in the EU or in the EEA, and is examining the character and terms of the agency agreements entered into by these publishers and retailers for the sale of e-books. The Commission has concerns, that these practices may breach EU antitrust rules, which prohibit cartels and restrictive business practices (Article 101 of the Treaty on the Functioning of the European Union).

For more information, please see:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1509&format=HTML&aged=0&language=EN&guiLanguage=en>

Commission proposes free pan-EU online arbitration scheme for cross border shopping disputes

On 29 November 2011, the European Commission proposed legislation to help consumers solve their disputes with businesses out of court. The proposal consists of a Directive on Consumer

Alternative Dispute Resolution (ADR) and a Regulation on Consumer Online Dispute Resolution (ODR), which establishes a single EU-wide online platform for resolving consumer disputes about online purchases in another EU country.

Both measures are intended to help consumers resolve disputes with traders when they have a problem with a product or service which they bought. Consumers will be able to submit their consumer contractual disputes to an ADR, wherever they shop in the EU (i.e. whether in their home country or in another EU country), whatever they buy, and however they buy it (online or offline).

Further information on the Commission's proposals is available at:
http://ec.europa.eu/consumers/redress_cons/adr_policy_work_en.htm

China

COMMUNICATIONS

Ministry of Industry and Information Technology publishes new codes of conduct for internet information service providers

On 29 December 2011, the Ministry of Industry and Information Technology (**MIIT**) promulgated several provisions on the Administration of the Internet Information Services Industry (the **Provisions**) which set out several important codes of conduct for internet information service providers (**IISPs**) with respect to fair competition and consumer rights in the internet information services sector.

According to the Provisions, IISPs are prohibited from certain types of conduct that may infringe other IISPs' lawful rights, including:

- maliciously interfering with the services provided by other IISPs on subscribers' terminals, or maliciously interfering with the downloading, installation, operation or upgrade activities of software or other products which are related to the provision of internet information services;
- fabricating or spreading false information which harms the lawful rights of other IISPs, or defaming the services or products of other IISPs;
- maliciously causing incompatibility against services or products provided by other IISPs;
- deceiving, misleading or forcing users to use or not use the services or products provided by other IISPs; and
- maliciously altering, or deceiving, misleading or forcing users to alter, the parameters of the products or services provided by other IISPs.

According to the Provisions, IISPs are also prohibited from carrying out certain activities that may infringe the lawful rights of subscribers.

The Provisions also set out several requirements for IISPs in relation to the collection, use and safeguarding of subscribers' personal information, as well as requirements for an IISP to evaluate other IISPs' services or products.

The full text of the Provisions is available at:
<http://www.miit.gov.cn/n11293472/n11294912/n11296542/14414761.html> (Chinese only).

International

SATELLITE

UNIDROIT Space Assets Protocol

The UNIDROIT Draft Space Assets Protocol to the Cape Town Convention on International Interests in Mobile Equipment (Space Assets Protocol) was intended to facilitate asset-based financing of high value mobile equipment such as satellites by establishing an international registry to record and determine priority among creditors' rights in space assets on a first-to-register basis.

However, many satellite operators, manufacturers and financial institutions have been critical in their approach to the Space Assets Protocol believing that it is inconsistent with market practices of commercial space financing and may impose an unnecessary burden on the satellite industry by way of increased insurance and transactional costs. Over 100 satellite operators, manufacturers, launch service providers, insurance and financial institutions have already written to UNIDROIT to urge it and its members to halt the adoption of the Space Assets Protocol.

The Space Assets Protocol will be the subject of a diplomatic conference of government representatives to be convened in February 2012 in Berlin for its adoption into law by participating countries. If even a few countries ratify the protocol, it will enter into force and become binding in those countries that adopt it.

Arbitration of disputes relating to outer space activities

The Permanent Court of Arbitration, an intergovernmental organisation providing a variety of dispute resolution services to the international community, adopted "Optional rules for arbitration of disputes relating to outer space activities" on 5 December 2011 which reflect the particular characteristics of disputes having an outer space component involving the private entities, states and intergovernmental organisations.

The optional rules were adopted in response to a perceived need for a specialised dispute resolution mechanism in the developing field of outer space activities.

For more details please go to: http://www.pca-cpa.org/shownews.asp?nws_id=3234-pagid=12616-ac=view

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