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V. MARKET REGULATION

Telecommunications market monitoring and research are of great importance to the practical implementation of effective regulatory policy by CRC. In order to carry out its regulatory functions, the commission regularly collects and processes data on the activities done by the telecommunication operators and on the basis of the information received elaborates analysis of the state and of the telecommunication networks and services market and predicts its development. Through the market analyses done CRC gets a feedback for the market reaction on the regulatory mechanisms applied over the telecommunication operators. The application of adequate regulatory measures in a transparent and non-discriminatory way is of key significance for creation of effective competitive environment and building up confidence in the market players, as well as for encouraging investment in the sector. The final purpose of market regulation is to ensure choice, price and quality for the consumers of telecommunication services.

1. Annual report 2004

In 2005 the annual analysis of the state and development of the Bulgarian telecommunications market for the preceding year and on the market regulation activities was elaborated. The analysis is part of the annual report of CRC for 2004 and is based on information received for the activities of 1000 operators of public telecommunication networks, providing telecommunication services through them, as well as of around 170 Internet service providers. For the collection of the necessary data special forms – questionnaires were created and sent out. A database by the type of the telecommunication activities is built up and kept up-to-date on the basis of the information collected.

During the year, for the first time working meetings with representatives of telecommunication operators associations and the main market players were held. The purpose of the meetings was to get a feedback for the content of the CRC annual market analysis and to optimize the data collection process. Content and scope of the 2004 CRC Annual Report, scope and format of the questionnaires for report of the telecommunication activities carried out, as well as possibilities for making the data collection process easier through contemporary methods for filling and distribution of the report forms were discussed in the meetings.

2. Market monitoring

With regard to the current monitoring of the state of the telecommunications market as a whole and of the separate market segments, surveillance according to number of parameters, defined by CRC, is carried out. The scope of parameters covers the information needed for the implementation of the specific market regulation functions stipulated in the Telecommunications Act, as well as for submission of data for the market development to international institutions and organizations of which under international agreements CRC is a member. Information is also collected within market monitoring projects.

According to the licensing conditions every six months CRC gathers and processes data from the operators on the markets of fixed and mobile telecommunication networks (the operators carrying out the rest of the telecommunication activities should report once a year). For the operators, carrying out activities on these market segments, questionnaires for report of the activities during the first half of 2005 were created.

CRC experts regularly follow the studies in the field of telecommunications done by world and European telecommunications organizations (including the European Telecommunications Standards Institute and the International Telecommunications Union), examine in details the European legislation, the Recommendations of the European Commission for implementation of the new EU regulatory framework, as well as the best practices of other European regulatory authorities. It aims at assisting the CRC in application of effective regulatory policy, taking into account the peculiarities of the telecommunications market in Bulgaria and with regard to the upcoming implementation of EU 2002 Regulatory framework since the beginning of 2007.

3. Designation of operators with significant market power (SMP)

Pursuant to the provisions of the Telecommunications Act in force and approved by CRC Methodology on conditions and procedure for designation of operators with significant market power, the experts elaborate annually analyses on the availability of effective competition and follow the dynamics in the market shares of the operators on the following market segments: fixed telephone networks and provision of fixed voice telephone services, provision of “leased lines” service and mobile telecommunication networks and provision of voice telephone services through them.

The analyses for the purposes of designation of operators with significant market power (SMP) comprise the following stages:

- definition of the relevant market;
- data collection through questionnaires created according to the provisions of the Methodology and market research;
- determination of the market share of each of the operators on the relevant market and application of additional criteria if needed;
- designation of SMP operators on the relevant market.

Following conducted market analyses, CRC by Decisions No 1742 of 12.09.2005 and No 2389 of 21.12.2005, has designated again BTC AD as a SMP operator on the markets of fixed telephone networks and provision of fixed telephone services and provision of the leased lines service. Being a SMP operator, on BTC are imposed specific obligations provided in the Telecommunications Act, for example, obligations for interconnection, provision of special access and of collocation of premises, telecommunication facilities, ducts, towers and others; universal telecommunication service provision.

During the year, the CRC experts have also carried out analysis of the market of mobile telephone networks and provision of voice telephone services through them. On the basis of the received results, CRC, by Decision No 2393 of 21.12.2005 has designated again MOBILTEL EAD as an operator with significant market power on that market. The regulator has imposed on the entity the specific obligations stipulated in the Telecommunications Act with regard to interconnection: following the principles of non-discrimination, transparency and confidentiality when providing interconnection services.

4. Price regulation

In accordance with the provisions of the Telecommunications Act, CRC regulates the prices of the operator with significant market power on the markets of fixed telephone networks and provision of fixed voice telephone services and provision of “leased lines” service for the following services:

1. fixed voice telephone service;

2. interconnection;
3. provision of the minimum set of leased lines;
4. special access;
5. local loop unbundling;
6. collocation of premises and telecommunication facilities.

CRC experts have conducted analysis and have elaborated report on BTC AD proposal for changes in the prices for fixed voice telephone service. The price changes have been adopted by Decision of CRC No 291 of 22.02.2005.

Analyses concerning the approval of prices for collocation of premises and telecommunication facilities, as well as for interconnection were made during the year. The procedure of approval of the general conditions for collocation of premises and telecommunication facilities goes on during 2006.

With regard to the approved by CRC Costing system of BTC AD, in 2005 the operator commissioned auditing of the System to McKinsey&Company. As a result of the audit, there were no changes in the principles and methodology of cost distribution.

5. Universal telecommunication service provision

Universal service provision is one of the licensing conditions of BTC AD as an operator with significant market power on the markets of fixed telephone networks and provision of fixed voice telephone services and provision of “leased lines“ service. With regard to guaranteeing universal telecommunication service provision, BTC is obligated to submit to CRC data on fulfillment of that obligation, as follows: coverage, prices, quality of service, costs and revenues from provision of the service, servicing of the applications, number of refusals to provide the service and reasons for the refusals.

During the year, a fund for guaranteeing the provision of the universal telecommunication service was administrated and by Decision of CRC No 648 of 20.04.2005 Rules on its activity were adopted.

By Decision No 906 of 26.05.2005 CRC approved Rules for assessment of the net losses of the public operators from provision of the universal telecommunication service.

6. Cooperation with the Competition Protection Commission (CPC)

In 2005 CRC has signed an agreement for cooperation with the Competition Protection Commission (CPC) which is realized through bilateral exchange of information, documents and consultation, in accordance with the competence of the two authorities, stipulated by law. The agreement provides for possibilities for establishment of joint working groups, including for elaboration of sublegislative acts, arrangement of working meetings minimum twice per year and implementation of common projects. Within two joint workshops held in September and December, the experts of CRC have prepared and delivered presentations on certain topics. They concerned specialities in elaboration of market analyses for the purposes of designation of operators with significant market power, according to the old and new EU regulatory frameworks, data collection process for the purposes of market research and analysis, as well as regulation of prices of SMP operators.

During the year CRC has assisted CPC in a number of investigations concerning the competition conditions in provision of voice telephone services and telecommunication services through cable telecommunication networks and data transfer networks.

7. Participation in international projects

Being a regulatory authority, CRC keeps on submitting information for the state of the Bulgarian telecommunications market through a questionnaire of the International Telecommunications Union (ITU). The information is needed for the update of World Telecommunication Indicators Database and for the elaboration of the ITU annual report.

CRC follows the events in the sector, including those at European Commission level. The experts of the commission keep active participation in the plenary meetings, working groups and committees of international institutions and organizations, such as the International Telecommunications Union (ITU), Communications Committee of EU (COCOM), Independent Regulators Group (IRG), European Regulators Group (ERG) and other bodies involved in elaboration of mechanisms for effective market regulation. That contributes to the capacity increase of the administration and its readiness for implementation of the most contemporary regulatory practices, especially with regard to the upcoming implementation of EU 2002 Regulatory framework. CRC representatives take part in the activities of five of the working groups of the Independent Regulators Group (IRG):

- SMP Working Group;
- Mobile Market Working Group;
- Fixed Network Working Group;
- Regulatory Accounting Working Group;
- End Users Working Group.

Since the beginning of 2004 the Bulgarian regulator has observer status in the European Regulators Group (ERG) and CRC regularly participates in the plenary meetings of the organization.

In November 2005 the contract¹ for institutional partnership between the CRC and the Spanish State Secretariat for Telecommunications and for the Information Society under the Ministry for Industry, Tourism and Trade in cooperation with the Telecommunications Market Commission of Spain came to a successful end. The aim of the contract was to increase the CRC capacity for implementation of its regulatory and control functions in a liberalized market, including in the sphere of market regulation. Within the project, the CRC experts had the opportunity to study the practice of the Spanish administration in implementation of the EU 2002 Regulatory Framework, to exchange experience on certain problems and their solutions and to be trained in the details of market analyses according to 2002 Framework, as at present the CRC has no practice in that field. In the course of the project a number of problems were identified and the following recommendations on the market regulation activities were made:

- need of increase of the number of CRC experts involved in data collection and processing and market analyses elaboration, as well as need for additional technical resources – introduction of information database for the data on the carried out telecommunication activities, submitted by the operators;
- improvement of the scope of parameters followed for data collection, as well as of the parameters definitions, the format of the questionnaires and the methods for their distribution and for processing of the data gathered from the telecommunications operators;
- arrangement of regular meetings with the telecommunication operators dedicated to clarification of the content and scope of information collected by CRC with regard to implementation of its regulatory functions;
- full transposition of the 2002 Regulatory Framework provisions with regard to market analyses – implementation of the EU Recommendation on the relevant product and services

¹ contract BG2002/IB/TE01/UE “Institutional building of CRC”

markets within in the electronic communications sector sector susceptible to ex ante regulation and the Commission guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications networks and services

- amendments in the costing system of the incumbent operator;

- need for training of the CRC experts in the field of competition law and the 2002 Regulatory framework provisions; detailed studying of the EU Member States experience in the implementation of the new framework with regard to market analyses, including participation in international forums and working groups, as well as further cooperation with other regulatory authorities.

CRC has started participation in a project for monitoring of the telecommunications markets in South Eastern Europe “SEE Observatory”. The project is financed by the European Commission and is a continuation of the project for monitoring of the telecommunications sector development in the EU candidate and accession countries, which has come to an end when the greater part of the countries entered the EU in May 2004. Besides Bulgaria and Romania, also Albania, Bosnia and Herzegovina, Croatia, Serbia, Montenegro, Kosovo and Macedonia are included in the present initiative. Within the project, according to a broad scope of parameters, Bulgaria will keep on submitting data about the regulation practices, telecommunication services tariffs and market development. The experts of CRC, together with their colleagues from the State agency for information technology and communications, are engaged in the regular provision of data needed for the elaboration of the periodic reports within the project. In 2005 the first two forums of the SEE Observatory were held and the first report was adopted by the EC and published.