

## C O N T E N T

II. LEGAL AND REGULATORY FRAMEWORK.....	79
1. Amendments in the sub legislative legal acts stipulated in the TA .....	80
2. Individual licenses for carrying out telecommunications of the type “point-to-multipoint” .....	81
3. Individual licenses for geostationary orbit positions .....	81
4. Liberalization of the telecommunications market for fixed public telephone networks and fixed voice telephone services.....	82
5. Representation in court.....	82
6. Administrative penal activities of CRC.....	82

## II. LEGAL AND REGULATORY FRAMEWORK

During the year 2006, CRC has continued the formation of legal regulatory order, corresponding the new trends in development of telecommunications and harmonized with European legislation, in connection with commitments, undertaken upon association of Bulgaria with the European Union. The Commission has also continued the activity of introduction of Regulatory framework 2002, visually to complete the work of drafting of a Bill on electronic communications and at the end of the year a draft has been brought in the National Assembly.

The most important characteristics of a draft, determining a regulatory framework of electronic communications are:

### **National regulatory body**

The structure and independence of national regulatory body have been retained - Communications Regulation Commission (CRC). The procedure for consultations with market participants, with national competition body - Commission for Protection of Competition (CPC), with Electronic Media Council (EMC), with European Commission (EC) and with national regulatory bodies of member-states, has been described in details.

### **Authorization**

The provision of electronic communications networks and services, without usage of scarce resources, is on the basis of general authorization. The enterprises, which are willing to provide electronic networks or services, have to notify CRC, that they will undertake certain activity, by complying with provided about that conditions, without being necessary the issue of an express authorization or of another administrative act by CRC, in order the enterprise to be able to start it's activity.

In the case when the usage of scarce resource is necessary for provision of electronic communications networks and/or services, CRC has to issue an authorization for usage of scarce resource. In cases when number of candidates is greater that the free resource available, CRC has to hold a tender or competition, for the issue of authorization. To the enterprise, which has won the tender or competition, have to be provided individual rights for usage of scarce resource - frequencies and numbers. The basic criteria, according to which the winner of competition has to be determined, are provided by the act.

### **Significant Market Power (SMP)**

The obligations, imposed to SMP operators, under TA remain in force, up to conclusion by the Commission of market analyses and determination of enterprises with significant market power, upon which specific obligations have to be imposed.

CRC carries out a discussion with interested parties, about the measures, which it intends to impose a given enterprise and coordinates them with CPC. The Commission publishes the results from a discussion, with the exception of confidential information.

The regulator notifies EC and national regulatory bodies of member-states for determination of SMP enterprises on the respective markets, about the obligations, which it intends to impose those SMP enterprises, as well as provides information about the reasons, due to which it imposes such measures.

### **Access and interconnection**

The access and interconnection between the networks of enterprises takes place on the basis of contract.

CRC has to carry out an analysis of wholesale markets, including for access and interconnection. The Commission may specify an enterprise with significant market power on those markets and impose obligations for transparency, placing on equal footing, separate accounting and orientation of expenditures.

The definition for "access" is enlarged and includes means and/or services for access as connecting equipment, access to physical infrastructure, functional systems, roaming access etc.

### **Universal service**

The scope of universal service is retained, as technological restrictions, regarding the connection are avoided through introduction of the notion "fixed location", in the place of "fixed point of network".

CRC may specify different enterprises to provide elements of universal service, bearing in mind that the universal service has to cover the whole territory of the country. The enterprises have to offer special tariff packages for consumers with low incomes and for disabled persons. The targeted indicators for quality of universal service shall be determined and controlled by the regulator.

Through a fund mechanism shall be shared the expenditures (between suppliers of electronic communications networks and services) for provision of universal service in economically non-profitable areas. The social funds shall be used for provision of universal service to disabled persons and to consumers with particular social needs.

### **Protection of interests of consumers**

The consumers must be entitled to sign contracts with enterprises. The enterprises have to publish general conditions for their relations with end users. The enterprises have to provide valid information about the prices, tariffs and quality of services.

In order to protect the interests of end users and to promote the real competition, CRC may apply the limit of prices for retail prices, measures for individual supervision of given prices or measures for determination of prices on the basis of expenditures, or of prices, offered on similar markets.

### **Personal data protection**

The privacy of communications is guaranteed by the law. The tapping, the taping and the storage of communications from other persons, without the express consent of consumers, is prohibited. The protection of data may be violated only in the case of criminal investigations or at national security, defence and public order.

### **1. Amendments in the provided by TA sub-legislative legal acts**

During the year have been drawn up and adopted amendments and/or supplements in some of provided by TA sub-legislative legal acts, which has established an opportunity for finalization of applied legal framework of telecommunications, providing an opportunity for real establishment and development of liberalized market.

1.1. By its Regulation № 291 from 30.10.2006, the Council of Ministers, by the proposal of CMC, has adopted amendments and supplements to a Tariff on the fees, which are collected by the Communications Regulation Commission, under the Telecommunications Act, adopted by RCM № 71 from 07.04.2004 (published - SG № 31 from 16.04.2004) - The Tariff). The amendments aimed at precision of the amount of fees, in order to be achieved more complete correspondence with basic principles, set in TA (and with principle for placing on equal footing of operators, in particular), as well as at compliance of fees with expenditures of CRC, related to licensing, registration and control of conditions, provided by licenses, and at establishment of prerequisites for more efficient usage of scarce resource - a radio-frequency spectrum. The initial fees have been introduced for two new types of telecommunication networks, visually - from immobile radio-service - for provision of services, using a scarce resource - numbers, as well as for an autonomous telecommunication network, according to TETRA standard. The proposal for introduction of those fees is motivated by basic purposes of TA, related to efficient usage of scarce resource, as well as by general interest protection.

In connection with provision of article 43, paragraph 3 of TA, where has been provided annually, up to September 30, the CRC, to offer the Council of Ministers to adopt the level of annual license fees, for provision of regulation activities, which the Commission administers as incomes under its budget, a draft for RCM, provided the retention of annual license fee, for provision of regulation activities, pointed out in article 6 of the Tariff. The new positions in the Tariff have been introduced, as a differentiation has been made between analogue and digital broadcasting on one side, and between short waves broadcasting for the territory of the country and outside it - on the other.

1.2. By its Regulation № 77 from 07.04.2006 the Council of Ministers, by the proposal of CMC, has adopted amendments in the Ordinance for determination of procedural rules and of technical parameters for work of telecommunication networks of stationary radio-service, adopted by RCM № 214 from 12.08.2004 (published SG № 75 from 27.08.2004). With the amendments, have been redistributed the permissible frequency distributions within the frequency range of 26 GHz, for carrying out of telecommunications through telecommunication networks from stationary radio-service, of a type: "point to many points" and has been provided an opportunity for more flexible and efficient usage of that frequency range. The basic purposes of TA, visually - to be provided prerequisites for efficient usage of scarce resources - radio-frequency spectrum, the development of telecommunications market and of competition among operators, have been achieved.

1.3. By Regulation № 76 of CM from 07.04.2006 - the Council of Ministers, by the proposal of CRC, has adopted a supplement to Ordinance for determination of procedural rules and technical parameters for work of radio-service "Broadcasting". Thereby has been secured the appropriate infrastructure, necessary for

urgent control measurements in real conditions (without stopping the work of radio transmitter), as well as is guaranteed the authentic information through practical measurements for availability or lack of inter-modulation products, which influence the safety of civil aviation.

1.4. In SG № 62 from 01.08.2006, has been published the Ordinance № 6 from 21.07.2006, regarding the conditions and the order for issue of individual licenses, without competition or tender, for carrying out of telecommunications through differentiated telecommunication networks from a mobile radio-service, for professional purposes, issued by the Chairperson of State Agency for Information Technologies and Communications (SAITC), by the proposal of CRC.

With that ordinance have been specified the conditions and the order, upon which the regulator issues, without competition or tender, individual licenses for realization of telecommunications through telecommunication networks of mobile radio-service, for professional purposes.

1.5. Ordinance № 14 from 2004 (regarding the conditions and the order for carrying out of telecommunications through radio-installations and networks from radio-installations, for own purposes through the usage of radio-frequency spectrum for general usage) has been amended by the proposal of CRC, by an Ordinance for amendment and supplement of that act, issued by Chairperson of SAITC, published - SG № 80 from 03.10.2006. The amendments concerned the technical characteristics of part of radio-installations and networks of radio-installations, using a spectrum for general usage.

1.6. The drawn up by CRC Ordinance № 19 from 21.07.2006 on conditions and order for the issue of telephone directories, including the work with databases, their transfer and usage, as well as the provision of telephone enquiry services (Published - SG № 63 from 04.08.2006), has been issued by a Chairperson of SAITC. By that ordinance have been specified the conditions and the order for the issue of telephone directories, including the work with databases, their transfer and usage, as well as the provision of telephone enquiry services within the scope of universal telecommunication service.

1.7. Throughout the year, has been issued by the Chairperson of SAITC, a drawn up by CRC Ordinance № 20 of 21.07.2006, regarding the conditions and the order for provision and usage of functions of network "calling line identification" and "connected line identification" (published - SG № 63 from 04.08.2006). By the ordinance, have been specified the conditions and the order for provision and usage of calling line identification (CLI) and connected line identification (COL), in public mobile and fixed networks, including their transfer through the points of interconnection.

1.8. The Ordinance № 13 of 2003 on specification of types of telecommunication activities, subject to individual licensing and registration under a general license, has been supplemented by an Ordinance for its supplement, issued by the Chairperson of SAITC (published - SG № 100 of 12.12.2006). The supplement is expressed in addition of a new type of telecommunication activity, which takes place on the basis of an individual license- realization of telecommunication activities, with provided individually specified scarce resource - radio-frequency spectrum, through telecommunication networks, for provision of voice telephone service and transfer of data.

1.9. Ordinance № 16 from 2004 about the rules for distribution and procedures for provision for usage, reservation and deprivation of numbers, addresses and names, has been supplemented by an Ordinance for its supplement, issued by a Chairperson of SAITC (published - SG № 100 from 12.12.2006). The supplement is expressed in addition of a new type of telecommunication activity, which takes place on the basis of an individual license - realization of telecommunication activities, with provided individually specified scarce resource - radio-frequency spectrum, through telecommunication networks, for provision of voice telephone service and transfer of data, for which has been provided the usage of numeration capacity.

**2. During the year 2006, CRC has implemented a tender procedure for the issue of individual licenses**, for carrying out of telecommunications through a public telecommunication network of immobile radio-service, of a type "point to many points", within the frequency range 26 GHz, on the territory of the Republic of Bulgaria. After its carrying out, the Commission has decided to be issued individual licenses, for carrying out of telecommunications through a public telecommunication network of immobile radio-service, of a type "point to many points", within the frequency range 26 GHz, to: "BULGARIAN TELECOMMUNICATION COMPANY" PLC, "KOSMO BULGARIA MOBILE" Single member PLC, "MAX TELECOM" Single member Ltd., "NEXCOM - BULGARIA" Single member PLC and "TRANS TELECOM" Single member Ltd., with national coverage, for the term of 15 (fifteen) years.

**3. By its Decision № 1632 of 03.08.2006 and a Decision № 2277 of 14.12.2006, CRC has issued two individual licenses** (to "BALKANSAT" Single member Ltd. and "BULSATCOM" PLC, with which has respectively provided a position of geostationary orbit, provided for the Republic of Bulgaria, in the plan

under Supplement 30C of Radio-regulation (RR) of International Telecommunications Union (ITU), on the position  $(50,4 \pm 10)^\circ$ , for carrying out of telecommunications through a system BUL00000, by immobile satellite radio-service, with national coverage, and a position of geostationary orbit, provided for the Republic of Bulgaria, in the plans under Supplement 30 and Supplement 30 A of Radio-regulation (RR) of International Telecommunications Union (ITU), on the position minus  $1,2^\circ$ , for the system BUL02000 of radio-service satellite broadcasting, with national coverage.

**4. Liberalization of telecommunication market of fixed public telephone networks and fixed voice telephone services** and establishment of an opportunity for the entry of new alternative operators on the market.

By Decisions № 1315 of 20.06.2006 and № 1317 of 20.06.2006 CRC has again specified BTC PLC as an operator with significant market influence (OSMI), regarding the provision of service "leased lines", as well as the market of fixed public telephone networks and fixed voice telephone services.

Because of the capacity of "OSMI", for BTC PLC, continued to be in force the imposed in 2005 **specific obligations, provided in TA**, which concern:

- Carrying out of **interconnection** of network of BTC PLC with the network of other operators, abiding by the specific requirements of chapter VII, section I of TA, as well as determination of expenditure orientated prices for provision of interconnection services, which have to be specified according to the provisions of article 215, paragraph 1, point 2 and article 216 of TA;

- Provision of service **"leased lines" of minimum package**, upon observation of requirements of chapter VII, section III of TA and determination of prices for provision of that service, in compliance with article 215, paragraph 1, point 3 and article 216 of TA;

- Provision of **unbound access to subscription line** of BTC PLC, as well as determination of prices for provision of unbound access, at the values, specified according to the requirements of article 215, paragraph 1, point 5 and article 216 of TA;

- Provision of **specific access to fixed telephone network** of BTC PLC, at prices, specified according to the requirements of article 215, paragraph 1, point 4 and article 216 of TA;

- Provision of **joint usage of premises, telecommunication equipment, channels, towers and other devices**, part of BTC PLC network, upon expenditure orientated prices.

By a decision № 1316 of 20.16.2006 г. CRC has **specified "MOBILTEL" Single member PLC and "COSMO BULGARIA MOBILE" Single member PLC as operators with significant influence on the market of mobile telecommunication networks** and the provision of voice telephone services through them. In order not to be permitted the unfair competition, to be prevented an abuse with significant market power and to be protected the interests of consumers, the regulator has bound "MOBILTEL" Single member PLC to continue to fulfil the obligations, already imposed, connected with interconnection. "COSMO BULGARIA MOBILE" Single member PLC, with a view of capacity of "OSMI", has been imposed the same obligations.

## **5. Procedural representation**

5.1. Before the Supreme Administrative Court - throughout the year, the lawyers of the Commission have taken part in preparation and procedural representation of about 120 cases, before the Supreme Administrative Court (SAC).

5.2. Before district and regional courts - among the issued penal provisions (PP), have been appealed 140, under TA and 2, under PSA, as in their greater part the cases established, of administrative-penal character, are still pending before various instances, before district and regional courts in the country.

## **6. Administrative-penal activity of CRC**

6.1. An analysis of administrative-penal activity.

During the year 2006, the administrative-penal activity of CRC has been connected with control on the fulfilment of conditions of individual and general licenses, on behalf of telecommunication operators and with inspections of appeals of citizens and operators lodged, regarding the violations of TA, as well as with putting an end of illegal carrying out of various types of telecommunication activities.

Great attention has been paid, on behalf of regulator, to the provision of universal telecommunication service.

#### 6.2. Penal provisions issued

During the year 2006, have been **issued 214 PP**, 5 of which are for violation of Postal Services Act (PSA), and the remaining - for administrative offences under TA. The greatest part of administrative offences under TA, are for completion of wordings of article 241, paragraph 1 of TA; there are a number of violations of conditions of individual licenses, issued to operators or of general licenses, under which the operators possess a registration. There are wordings applied, which also provide the most rigorous sanctions, provided in TA - those of article 233.

Throughout the year **17 resolutions** have been issued by the Chairperson of CRC, for termination of administrative-penal proceedings.

There is a trend observed, to a less number of administrative offences, related to non-fulfilment of conditions of individual/general licenses, but there is a lasting trend to non-provision to CRC of information, about the activities of operators for the preceding year.

Regarding the collection of fines, imposed by PP and of pecuniary sanctions for administrative violations of TA, it has to be pointed out that, to the operators, which have not paid the sums due, have been sent invitations for voluntary execution, with which they have been provided the opportunity, within 7 days term to liquidate them. In the case, when the sums, pointed out, have not been paid, the files, with PP, entered into force, have been sent within a due time to the Agency for State Receipts, for execution. The number of PP, entered into force, sent for execution is 48, and separate courts, have officially sent the PP, validated by them.

As a consequence of actions undertaken, has been increased the collectability of public state receipts of CRC, under penal provisions (PP), entered into force.