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II. LEGAL AND REGULATORY FRAMEWORK

1. Review of the European regulatory framework for electronic communications

In 2013, the European Commission launched a process for review and revision of the 2009 Regulatory Framework for electronic communications by adopting the following documents:

- Commission Recommendation of 11 September 2013 on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment¹;

To stimulate the investments in broadband next generation optical networks, the Recommendation develops further the requirements of the Regulatory Framework² on the ways for application of the specific obligations for non-discrimination and for determination of cost-oriented wholesale prices by the undertakings having significant power on Markets 4³ and 5⁴ of Recommendation 2007/879/EC on the relevant markets.

One of its main provisions is the opportunity not to impose an obligation to set cost-oriented prices, but only on the condition that the provided wholesale access is equivalent to the one delivered by the undertaking having significant power on the market to its own retail services division.

- Directive of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks;

The proposal of the European Commission extended on 26 March 2013 is for the document to be a regulation, but with the legislative resolution of the European Parliament on 15 April 2014 on its adoption at first reading, it was changed to a directive and the original text was further amended. The Council accepted the amendments proposed by the European Parliament, and the adopted Directive 2014/61/EU⁵ must be transposed in the national legislations up to 1 January 2016, and its provisions shall become applicable as of 1 July 2016.

The Directive is aimed at promoting the building of broadband high-speed NGA networks by creating conditions to reduce the cost of their deployment. Among its main provisions is to ensure the right of the operators of electronic communications network to access the physical infrastructure of undertakings providing communal services (transport infrastructure and the transmission and distribution technical infrastructures of the power supply, water supply, sewerage, etc.). Requirements are imposed for optical in-building cabling of all newly constructed or undergoing overhaul repair buildings. Short terms are envisaged for the issue of construction permits and a consistent system is established to ensure transparency in terms of the available physical infrastructure and the intended construction works, as well as a procedure for resolution of disputes concerning the access provision.

- Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC, 2002/22/EC of the European Parliament and of the Council, and Regulations (EC) No 1211/2009 and (EU) No 531/2012⁶.

¹ <http://eur-lex.europa.eu/legal-content/BG/TXT/PDF/?uri=CELEX:32013H0466&qid=1400681282689&from=EN>

² Commission Recommendation 2010/572/EU of 20 September 2010 on regulated access to Next Generation Access Networks (NGA), Off. J. of EU L251 of 25.09.2010

³Market for wholesale provision of (physical) access to the network infrastructure (including shared or stand-alone unbundled access to a subscription line) in a fixed location.

⁴ Market for wholesale provision of broadband access

⁵ Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks, Off. J. L155/23.05.2014.

⁶ <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20130627.do>

The proposal was submitted by the European Commission on 11 September 2013. With a legislative resolution of 3 April 2014⁷, the European Parliament adopted the proposal for a regulation at first reading with amendments. Currently, it is still under review by the Council in compliance with the ordinary legislative procedure under Art. 294 of the Treaty on the Functioning of the European Union.

This Regulation establishes the regulatory principles and detailed rules necessary to complete the European single market for electronic communications. Basically, the provisions of the document refer to the registration regime under general authorizations and the establishing of the European electronic communications provider concept, to the coordinated use of the radio frequency spectrum within the framework of the single market, the European wholesale access products, the network neutrality, the protection of the users' rights, and the international roaming within the European Union.

With the legislative resolution at first reading, the European Parliament adopted the removal of the status of the single European provider of electronic communications and of the European products for wholesale access. Significant amendments are also approved in the remaining thematic sections, and the provisions concerning the users' rights are presented as an amendment of the Universal Service Directive⁸. It is recommended in principle that the proposed Regulation should be reconsidered within the framework of the full revision of the 2009 Regulatory Framework at the beginning of the following parliamentary mandate.

- Proposal for a Commission Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services

The European Commission conducted public consultations on the revision of the Recommendation at the end of 2012 (from 16 October 2012 until 8 January 2013)⁹. In addition, a survey was published which has been assigned by the Commission to the consulting companies Ecorys and IDATE – "Future electronic communications markets subject to ex ante regulation"¹⁰. In January 2014, the Commission published on its website¹¹ a revised draft Recommendation on the relevant product markets within the electronic communications sector susceptible to ex ante regulation and a draft Explanatory note to it that reflect the statements received during the public consultations.

The proposal does not envisage any significant changes in terms of applying the principles of competition law to the definition, analysis and assessment of the markets susceptible to ex ante regulation. It introduces additional explanations in relation to the current trends on the electronic communications markets, such as the advance of Over-The-Top services, the wide use of bundled services, etc. The list of relevant markets in Recommendation 2007/879/EC is changed, as Markets 1¹² and 2¹³ are removed from it. The proposed new Market 3 covers two sub-markets: Sub-Market 3a "wholesale local access provided at a fixed location" which includes the products and services provided on the current Market 4, and Sub-Market 3b "wholesale central access provided at a fixed location for mass-market products" which comprises the part of products and services provided on the current Market 5 intended for residential users and small and medium-sized enterprises. The proposed new Market 4 "wholesale high-quality access provided at a fixed location" includes the products and services provided on the current Market 5 to large business subscribers, and the wholesale terminating segments of leased lines (current Market 6¹⁴).

⁷ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0281+0+DOC+XML+V0//BG>

⁸ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2012 on universal service and users' rights related to electronic communications networks and services

⁹ <http://ec.europa.eu/digital-agenda/en/news/public-consultation-revision-recommendation-relevant-markets>

¹⁰ <http://ec.europa.eu/digital-agenda/en/news/future-electronic-communications-markets-subject-ex-ante-regulation>

¹¹ <http://ec.europa.eu/digital-agenda/en/news/draft-revised-recommendation-relevant-markets>

¹² Market for access to the public telephone network at a fixed location for residential and business subscribers

¹³ Market for call origination at a fixed location on a public telephone network

¹⁴ Market for wholesale terminating segments of leased lines irrespective of the technology used for providing leased or dedicated capacity

2. Legal and regulatory framework in Bulgaria

In 2013, LEC was amended several times, whereas the changes did not arise from amendments to the regulatory framework at European level. One of the more significant amendments was related to the introduction of a provision for protection of end users when signing contracts for provision of TV programs and their right to terminate the individual contract if any TV program is removed.

The remaining amendments to LEC are related to the adopted changes in the Law on the State Agency for National Security, the Law on Special Intelligence Means, the Law on Spatial Planning, and the new Law on Public Finance which do not affect an existing regulatory framework.

During the same period, CRC adopted decisions for amendments to a part of the secondary regulations:

- Decision No. 928/2013 for amendment of the General requirements for the provision of public electronic communications (promulgated SG, issue 4 of 14 January 2014); - with a view to introducing additional provisions for protection of end users;
- Decision No. 381/2013 for amendment of the Technical requirements for the operation of land mobile networks and related equipment (promulgated SG, issue 51 of 11 June 2013);
- Decision No. 383/2013 for amendment of the Technical requirements for the operation of terrestrial networks capable of providing electronic communication services (promulgated SG, issue 51 of 11 June 2013), thus ensuring conditions for technologically neutral use of frequency band 2 GHz. With the adoption of the above decision, the provisions of Decision 2012/688/EU were transposed in the Bulgarian legislation.

3. Leading regulatory decisions of CRC in 2013

The decisions adopted by CRC that play a significant role in ensuring a foreseeable and competitive environment in the sector are:

- Decision No.134/2013 for setting cost-oriented prices for call origination on the public telephone networks provided at a fixed location and for termination rates on individual public telephone networks provided at a fixed location based on the costs incurred by an effective operator, which are calculated under the BULRIC (Bottom-Up Long-Run Incremental Costs) model provided by the Commission and under the Methodology for determining the value of the Weighted Average Cost of the Capital;
- Decision No.135/2013 for setting cost-oriented prices for call termination on individual mobile networks based on the costs of an effective operator which are calculated under the BULRIC (Bottom-Up Long-Run Incremental Costs) model provided by the Commission and under the Methodology for determining the value of the Weighted Average Cost of the Capital;
- Decision No. 195/2013 for the second round of determining, analysis and assessment of the market for access to the public telephone network at a fixed location for residential and business users (Market 1 of EC Recommendation 2007/879/EC of 17 December 2007), market for publicly accessible national telephone services provided to residential and business users at a fixed location and the market for publicly accessible international telephone services provided to residential and business users at a fixed location (Markets 3-6 of EC Recommendation 2003/311/EC of 11 February 2003), and for imposing specific obligations to the SMP undertaking on these markets;
- Decision No. 322/2013 by which CRC selects "BULSATCOM" AD as the winner of the contest, and by Decision No. 388/2013 it issued to the undertaking an authorization for

the use of individually assigned scarce resource - frequency spectrum for provision of electronic communications via electronic communications network for terrestrial digital broadcasting with national coverage for a period of 15 (fifteen) years;

- Decision No. 467/2013 and Decision No. 621/2013 for undertaking public consultations on the prospects for use of the free resource in 1800 MHz, 2 GHz bands as well as in the 3400-3600 MHz frequency band. During the consultations, questions of public significance for the electronic communications development were raised with a view to study the business interest to the available free spectrum, including to the prospects of development of LTE;
- Decision No. 489/2013 by which CRC declared its intention to undertake an auction for issuance of authorizations for (conditional) use of individually assigned scarce resource - frequency spectrum in frequency band 2500-2690 MHz, and launched a procedure for public consultations on the declared intention. No interest for (conditional) assignment of a spectrum from the above band has been revealed by the undertakings in their statements, and by Decision No. 569 of 08.08.2013, CRC decided not to undertake an auction;
- Decisions No. No. 609, 611 and 614 of 2013 for amendments to the issued by CRC authorizations for use of frequency spectrum within the 2 GHz band. The amendments ensured neutrality in the use of the 1920-1980 MHz and 2110-2170 MHz frequency bands within the band 2 GHz;
- Decision No. 801/2013 for adoption of the draft supplement to Reference Offer for conclusion of a contract for wholesale provision of Wholesale Line Rental services to the "Bulgarian Telecommunications Company" EAD.

The total number of CRC decisions adopted in 2013 is 928, as 22 of them are appealed. Most of the regulatory decisions that were subject to court control were confirmed by the court, including in terms of their allowed preliminary execution pursuant to Art. 60, Para 1 of the Administrative Procedure Code (APC). The confirmed lawfulness of the orders for preliminary execution allowed the Commission to enforce the decisions by instituting executive procedures against the incumbent undertakings pursuant to APC. The notices for imposing periodic sanctions and fines for forced execution of the CRC decisions are partially confirmed by the court, as part of the periodic fines are reduced.

Another part of the decisions are still subject to court procedures that have not yet ended.

4. Court representation

In 2013, over 500 lawsuits were instituted before regional courts on claims against penalty notices of the CRC Chairman. The number of lawsuits instituted before administrative courts (as a second instance) was nearly the same.

In the year, the CRC lawyers took part in the preparation and procedural representation in over 180 lawsuits before the Supreme Administrative Court.

With relation to the initiated proceedings for forced execution of the Commission's decisions, the CRC lawyers took part in the preparation of the court representation in over 50 lawsuits before the Administrative Court of Sofia-City.

In 2013, CRC opened 4 procedures for the implementation of periodic sanctions under Chapter 17 of the Administrative Procedural Code to undertakings that do not observe decisions of the Commission which allowed preliminary execution.

5. Provision of electronic communications

5.1. Authorizations for use of individually assigned scarce resource

The authorizations for use of the individually assigned scarce resource - frequency spectrum issued during the year are presented in Table 10.

Table 10

<i>Authorizations under the Law on Electronic Communications</i>				
<i>Electronic communication network</i>	<i>Amendments/Supplements 2013 (number)</i>	<i>Authorizations issued 2013 (number)</i>	<i>Terminated/Revoked/ Expired 2013 (number)</i>	<i>Transfers (incl. partial)/Lease 2013 (number)</i>
<i>Electronic communication networks for terrestrial analogue broadcasting:</i>				
<i>broadcasting of television signals with national and local coverage</i>	98	-	103	-
<i>broadcasting of radio signals with national and local coverage</i>	52	6	3	17
<i>Electronic communication networks for digital terrestrial broadcasting</i>	42	1	-	-
<i>Electronic communication networks from a mobile radio service - PMR</i>	56*	46*	43	18
<i>Electronic communication networks from the aeronautical mobile radio service</i>	1	2	-	-
<i>Terrestrial network – in frequency bands 900 MHz and/or 1800 MHz</i>	9	-	-	-
<i>Terrestrial network in frequency band 2 GHz</i>	4	-	-	-
<i>Provision of positions on the geostationary orbits allocated to the Republic of Bulgaria via international agreements</i>	1	-	-	-
<i>Electronic communications networks from the fixed satellite radio service</i>	6	-	1	-
<i>Electronic communications networks from the fixed radio service of the “point-to-point” type</i>	63*	7	26	3
<i>Electronic communications networks for broadband wireless access (BWA)</i>	5	-	1	-

Authorizations under the Law on Electronic Communications				
Electronic communication network	Amendments/Supplements 2013 (number)	Authorizations issued 2013 (number)	Terminated/Revoked/ Expired 2013 (number)	Transfers (incl. partial)/Lease 2013 (number)
<i>Electronic communications networks for fixed wireless access (FWA)</i>	1	-	-	-
<i>Authorization for the use of individually assigned scarce resource – numbers for provision of public electronic communications</i>	46	5	3	2
<i>Temporary authorizations</i>	-	10	-	-
TOTAL:	384	77	180	40

* The total number of provided radio frequencies is 317;

** Amendments and supplements to the technical data of a total of 2602 radio relay links, including provided radio frequency spectrum for new 934 links.

5.2. Notifications on the provision of public electronic communications

The notifications submitted in 2013 for provision of public electronic communications are presented in Table 11.

Table 11

Type of activity	2013 (number)
Processed notifications for provision of public electronic communications	202
Processed notifications for termination of the provision of public electronic communications	121
Issued certificates for entry in the Registry	33
Undertakings entered in the Registry	95
Undertakings deleted from the Registry	123

5.3. Provision of electronic communications through radio equipment from the amateur radio service

The authorizations, certificates and licenses for radio amateur capacity issued during the year are presents in Table 12.

Table 12

Table 13

Authorizations, certificates and licenses		Exams for radio amateur capacity	
Type of document	2013 (number)	Exams/ Examined persons	2013 (number)
Authorizations for radio amateur capacity	215	Exams	7
HAREC certificates	19	Examined persons	183
CEPT licenses	27		

In 2013, 492 call signs of amateur radio licensees, amateur radio listeners and radio clubs, of which 235 are temporary call signs, were issued. In addition, amateur radio license exams were held in the cities of Sofia, Gotse Delchev and Kazanlak.

5.4. Interconnection and access

In 2013, the Commission's activity related to the interconnection and access was mainly focused on:

- **Analysis and assessment of the actions taken by the undertakings for execution of the imposed specific obligations**

During the year, the incoming additional agreements to the interconnection contracts, as well as the signed new contracts, continued to be subject to an ongoing analysis to monitor the execution of the imposed specific obligations and price caps.

It was established that "Mobiltel" EAD, "Cosmo Bulgaria Mobile" EAD and "Bulgarian Telecommunications Company" EAD have introduced additional conditions and restrictions in their interconnection contracts which were reviewed and determined by the Commission as representing non-performance of CRC Decisions No.No. 1361/31.05.2012 and 1362/31.05.2012. These undertakings were sent calls for voluntary execution.

The introduced additional conditions and restrictions were among the causes for disputes between the undertakings for which they sought the Commission's intervention.

- **Solving disputes between undertakings**

In 2013, the procedures on disputes raised between the undertakings in 2012 were completed. CRC came out with a decision on each dispute in accordance with the request for assistance or giving mandatory instructions. Although the mandatory instructions given by the Commission are being appealed, the undertakings signed interconnection contracts in compliance with the CRC's instructions.

With relation to the 3 requests for assistance and 3 for giving mandatory instructions that were received in 2013, in compliance with the provisions of Art. 55 and Art. 56 of LEC, CRC designated specialized committees to review them. The requests were made by the undertakings "Net Connect Internet" EOOD, "Varna Net" EOOD and "669s" EOOD with relation to a dispute

that had arisen with the three largest operators – "Mobiltel" EAD, "Cosmo Bulgaria Mobile" EAD and "Bulgarian Telecommunications Company" EAD. The main disputed issues are related to:

- Non-performance of the specific obligations imposed for international traffic termination under the price conditions determined with CRC Decisions No. No. 1361/2012 and 1362/2012;
- Delayed conclusion of interconnection contract;
- Refusal to increase the interconnection capacity;
- Requirement for opening of a separate interconnection line for international traffic termination;
- Setting of additional price or non-price conditions for international traffic termination without calling line identification (CLI);
- Determining the amount of bank guarantee in signing interconnection contracts.

Each dispute was considered in compliance with the legal procedure, the reasons for filing requests were clarified, the statements of the interested parties were studied, as well as all supporting evidence. CRC came out with decisions, as it has:

- ✓ rendered assistance for the timely conclusion of interconnection contracts;
- ✓ given mandatory instructions to increase the interconnection capacity in the presence of an adequate forecast for the traffic terminated by the undertaking that had requested its increase;
- ✓ given instructions for use of an existing interconnection line for termination of both national and international traffic;
- ✓ given mandatory instructions to remove from the interconnection contracts of price and non-price caps for traffic termination without calling line identification (CLI).

Out of the requests for assistance and requests for giving mandatory instructions received in 2013, 5 of the procedures were completed by the end of the year, as interconnection contracts for traffic termination irrespective of its origin were concluded.

➤ **Approval of Reference Offers**

Approval of Reference Offer for conclusion of an interconnection contract for BTC

In February, BTC submitted a draft Reference Offer for conclusion of an interconnection contract for BTC (RIO/Reference Offer). At a meeting held with the Commission the same month, the undertaking was informed that the submitted draft does not comply with CRC Decision No. 375/2011. Following a detailed review of the repeatedly submitted draft RIO, in September, BTC was sent a letter requesting from the undertaking to submit to the Commission a revised draft Reference Offer in full compliance with the mandatory instructions given by CRC with Decision No. 375/14.04.2011 and Decision No. 1098/01.12.2011, as well as to bring the draft into compliance with the specific obligations imposed on the undertaking with Decision No. 1361/31.05.2012. The revised draft RIO was submitted by BTC within the 30-day term, as specified by CRC.

After a comprehensive analysis, with Decision No. 891/28.11.2013, CRC adopted a draft decision for approval with mandatory instructions for amendment of draft RIO and launched a procedure for public consultations.

Approval of Reference Offer for conclusion of a contract for wholesale provision of leased lines to BTC

By Decision No. 195/2013, CRC extended and amended the specific obligations of BTC as undertaking with significant power on each market for retail access to a public telephone network at a fixed location. In performance of its obligations, BTC submitted a draft supplement to Reference Offer for conclusion of a contract for wholesale provision of leased lines (Reference

Offer). Following a procedure of public consultations, CRC, with its Decision No. 801/25.10.2013, approved the submitted draft supplement to Reference Offer and gave mandatory instructions for its amendment. The amended Reference Offer is published at the website of BTC, although Decision No. 801/2013 is being appealed by the undertaking.

➤ **Introduction of IP-based interconnection**

With Decision No. 1361/31.05.2012, CRC imposed an obligation on the undertakings with significant power on Markets 2 and 3 of the Recommendation on the relevant markets of 2007 to provide IP-based interconnection. To achieve an operating compatibility between the services at national level, all aspects of the process of transition to IP-based interconnection were reviewed by a consultative structure, with the participation of CRC and the stakeholders.

CRC Decision No. 13/10.01.2013 laid down the Rules for carrying out activity by the consultative structure on matters related to IP-based interconnection (Rules). According to the Rules, four meetings of the consultative structure were held. At the meetings were discussed main issues related to the provision of IP-based interconnection, such as:

- ✓ protocols and signaling protocol versions;
- ✓ network elements through which interconnection is provided;
- ✓ capacity of interconnection lines;
- ✓ optimal number of interconnection points;
- ✓ quality of services;
- ✓ description of services, including maintenance of services, such as transmission of facsimile messages, CLIP, CLIR, call forwarding, etc.;
- ✓ term for transition to and introduction of IP-based interconnection;
- ✓ applicable standards, recommendations and technical specifications.

The work of the consultative structure ended in December with the preparation of a common position based on the received statements and minutes of conducted meetings.

The next step in the process of introduction of IP-based interconnection is to prepare a draft decision of CRC for determination of the undertakings' obligations related to the provision of IP-based interconnection which will be subject to public discussion pursuant to Art. 36 of LEC.

➤ **Analysis and assessment of the execution of Decision No. 1954/2012 by BTC**

With Decision No. 1954/27.09.2012, CRC defined BTC as undertaking with significant power on the sub-market for wholesale terminating segments of leased lines with speeds of up to 8 Mbit/s inclusive and imposed specific obligations on the company. CRC established that the undertaking has fully executed the imposed specific obligations.