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V. MARKET REGULATION

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. CRC follows the development of the telecommunications market, studies it and makes forecasts while regularly collects and processes information on the activities done by the telecommunication operators and on the basis of the information received elaborates analysis of the telecommunication networks and services. Through this analysis the Commission gets a feedback for the market reaction on the regulatory mechanisms applied over the telecommunication operators. The ultimate purpose of market regulation is to ensure choice, price and quality for the consumers of telecommunication services.

Having in mind that the activities related to analysis and regulation of the electronic communications services market has a priority, it will be really important for the experts of the Commission in 2007 to study the experience of the EU Member States in implementation of the provisions of 2002 Regulatory framework, including through participation in international forums and working groups and cooperation with regulatory authorities from other countries.

1. Annual report 2005

In 2006 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 2005 and is based on information received for the activities of around 1120 operators of public telecommunication networks, providing telecommunication services through them, as well as of Internet service providers on free regime. For the collection of the necessary data special forms – questionnaires were created and sent out. Working group of CRC experts, including economists, engineers and law experts reviewed and made an up-date of the content and format of the questionnaires in order to renew and make more precise the scope of parameters for market monitoring and assessment. A database by the type of the telecommunication activities is built up and kept up-to-date on the basis of the information collected.

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 2006 were elaborated.

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 have elaborated the annual analyses on the availability of effective competition 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 research was done following the provisions of 1998 EU Regulatory Framework and taking into account the market shares of the operators in the relevant market as a basic criterion when designating operators with significant market power (SMP).

Following conducted market analyses, CRC, by Decisions No 1315 of 20.06.2006 and No 13172 of 20.06.2006, has designated for third consecutive year 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. As

SMP operator BTC is further designated with performance of the specific obligations provided in the Telecommunications Act and the individual license of the operator, such as obligations for interconnection, provision of special and unbundled access, collocation and shared use of premises, telecommunication facilities, ducts, towers and others; universal telecommunication service provision, as well as the obligations regarding the provision of leased line services.

Based on the results received from the analysis of the market of mobile telephone networks and provision of voice telephone services through them, CRC, by Decision No 1316 of 20.06.2006 has designated once more MOBILTEL EAD as an operator with significant market power on that market and imposed on the entity further performance of 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. The Commission also designated as operator with significant market power on the same market COSMO BULGARIA MOBILE EAD.

4. Price regulation

According to its powers stipulated in the Telecommunications Act, CRC has undertaken the following price regulation activities:

A) Prices for fixed voice telephone services

By Decision No 1048/16.05.2006 CRC sent back the submitted in April BTC AD proposal for change in prices of the fixed voice telephone service because of discrepancy in the consumption volumes included in the price basket and because of the availability of different time zones for local calls compared to those for long-distance calls.

By Decision No 1458/11.07.2006 The Commission sent back again the amended BTC proposal for change in prices of the fixed voice telephone service. This was motivated with the fact that the proposed prices premise price squeeze towards the rest of the market players and that is why are based solely on the significant market power on the fixed voice telephone service market and that the discrepancies in the time zones for local and long-distance calls were not eliminated.

In October 2006 BTC submitted for a third time amended proposal for change in prices of the fixed voice telephone service. It was based on the grounds and motives of CRC to send back the prices for amendment for a second time. With the proposed amendments the time zone discrepancies were eliminated and in order to ensure that price squeeze will not be applied, BTC concluded additional agreements as part of the interconnection agreements negotiating lower prices for some of the interconnection services.

Along with the standard tariff prices for fixed voice telephone services, the tariff plans for residential and business subscribers were also examined.

The tariff plans “At Home”, “At Home City”, addressed to residential subscribers and offered by the company on commercial basis, were changed regarding their names and the volume of the included minutes in the tariff plan.

After the adoption of the CRC decision No 323/23.02.2006 by which was terminated the offering of the business tariff plan “BTC Mega” because of lack of evidence for the fulfilment of the provisions of article 216, par. 4, item 4 of the TA, according to which the service price can not be under the service provision costs, the company was offering to its business subscribers on commercial basis the tariff plans “BTC Office” and “BTC Planet”. While examining the fixed voice telephone service price proposal BTC didn't propose any changes regarding these packages, neither in the volume of minutes included.

The tariff plans (“Low user plan”, “1-st group disabled person”, „ Plan for Social and Healthcare Organizations” - according to their names pronounced in the BTC price list) offered by the company pursuant to its obligation for provision of universal telecommunication service didn't undergo any changes compared to the prices and conditions offered by the company during the previous year.

By Decision No 2280/14.12.2006 CRC judged that the changes in the fixed voice telephone service prices proposed in October 2006 are in compliance with the provisions of the TA and according to the proposal the changes in the price levels compared to the prices in force, weighted with the number of subscriber lines and the call minutes volumes are as follows:

1. For opening of telephone line – **decrease in the connection fee** for all subscribers (residential and business) by 26,75%¹.

¹ This percentage does not take into account the data for the number of lines as well as the revenues from initial connection to ISDN line, R2D and 1-st group disabled person.

2. For monthly rental – **increase in the monthly rental price for all subscribers** (residential and business) by 26,98%.

3. For calls:

3.1. For local calls of subscribers on time based charging – **decrease by 1,87%**, the decrease for residential subscribers amounts to 0,45% and for business subscribers to 3,13%.

3.2. For long-distance calls of subscribers on time based charging – **increase by 6,54%**, the increase for residential subscribers amounts to 8,97% and for business subscribers to 2,84%.

3.3. For international calls of subscribers on time based charging – **decrease by 11,60% for all subscribers**, the decrease for residential subscribers amounts to 12,84% and for business subscribers to 10,55%.

The time zone for calls, off peak time, 21.00-7.00 in working days, Saturday, Sunday and official holidays, remained unchanged for all type of calls.

B) Prices for interconnection

By Decision No 572/30.03.2006 CRC approved the draft Reference Interconnection Offer (RIO) of BTC. In order to enhance competition and to protect the consumers' interests, as well as because of lack of enough evidence for cost orientation of the prices set by the company, the Commission imposed price limitations for the interconnection services. The imposed limitations provide for decrease in the interconnection prices not less than 10% compared to those stipulated in the RIO approved by Decision No 1410/29.06.2004.

C) Prices for local loop unbundling

By Decision No 1459/11.07.2006 CRC approved draft Reference Unbundled Offer (RUO) of BTC and imposed price limitations for the prices of the local loop unbundling services. The intervention is based on the Commission's power to regulate the prices for the telecommunications services for which is found abuse of dominant market position in accordance with the Competition Protection Law. The upper price limit for the monthly rental prices provide for price decrease by over 20% compared to those stipulated in the RUO approved by CRC Decision No 2297/29.12.2004.

D) Mobile termination rates

By Decision No 1322/28.06.2006 CRC opened up a public consultation procedure for reduction of the rates for termination on mobile cellular telecommunication networks and originating from the networks of operators providing fixed voice telephone service. Within this procedure, taking advantage of the gap in the legislation in force in 2006 (lack of formal legal ground for the Commission to impose the obligation for termination rate reduction), the mobile operators rejected the proposal for glide path reduction on free will.

E) Cost regulation

By Decision No 882/11.05.2006 CRC imposed amendments in the cost accounting system of BTC in order to eliminate the discrepancies regarding the services offered by the company and the services included in the system approved in 2004. In September BTC submitted corrected draft of the cost accounting system. Not all instructions given by Decision 882/11.05.2006 were covered, therefore, CRC, by a new decision imposed on the company the obligation to eliminate the discrepancies found.

F) Universal service prices

Based on the universal service provision obligation imposed by CRC, BTC, in accordance with the Methodology on conditions and procedure for determination of the affordability of the universal telecommunication service (UTS) price (the Methodology), adopted by Council of Ministers decree No 229/31.08.2004, promulgated in State Gazette, no. 78/2004, has set affordable prices for the scope of services included in the UTS. According to the Methodology, the initial connection charge, the monthly rental charge and prices for local, long-distance and international calls shall be set by analogy with the prices for fixed voice telephone service, based on the consumer price basket. Therefore (excluding the initial network connection charge, which regarding the UTS comprises only the residential subscribers), for 2006 the monthly rental charge and the call prices (for local, long-distance and international calls) do not differ from the prices for the fixed voice telephone service and are part of the UTS prices.

The prices for public payphone calls are up to 20% higher compared to the price of the same type of phone call made through residential or business subscriber lines.

In 2006 BTC AD has not elaborated and published telephone directory in printed form, therefore, no prices were set in compliance with the obligation for access to directory and information services.

The provision of access to fixed voice telephone services under special conditions imposed on BTC suggests obligation for provision of the following price packages (tariff plans): „Low user plan”, „disabled people’s I group plan” and „Plan for Social and Healthcare Organizations”.

5. Provision of universal telecommunication service

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 fulfilment 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.

6. Cooperation with the Competition Protection Commission (CPC)

During the year CRC has assisted CPC in a number of investigations concerning claims regarding breach of the Competition Protection Law and mergers with the participation of telecommunication operators.

Regarding the upcoming implementation of 2002 Regulatory Framework after the adoption of the new Electronic Communications Law (ECL), joint working group of CRC and CPC experts has elaborated draft Methodology on the conditions and procedure for definition and analysis of the electronic communications networks and/or services markets and designation of operators with significant market power over them. The draft of the methodology shall be finalized after the adoption of the ECL and shall be adopted by the Council of Ministers.

In December 2006 experts from both regulatory authorities took jointly part in a workshop dedicated to “Competition policy and telecommunications sector regulation”. The workshop was held in Budapest and was organized by the Hungarian regional centre for competition (RCC). The telecommunications regulatory authorities and the national authorities for competition protection from the South-eastern Europe countries were invited to participate. The purpose of the forum was to enable discussion of common problems and to support the regulators in sharing best practices and cooperation between them. The event was a good opportunity for exchange of information among the representatives from the region with a view to the upcoming joint work of experts from both authorities for the implementation of 2002 EU Regulatory framework.

7. Participation in international projects

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.

In October 2006 in Geneva, Switzerland, experts of the Commission participated in the fifth annual meeting organized by the Development Bureau (BDT) of the International Telecommunication Union (ITU) and dedicated to the indicators for telecommunications development and the information and communication technologies sector worldwide. 150 participants from 67 countries and representatives of 11 organizations attended the forum. The purpose of the regular meetings is carrying out a revision of the sector development indicators through which ITU collects data from all the countries annually by extensive questionnaire. On the basis of it, ITU keeps up-to-date the World Telecommunication Indicators Database. Information provided, indicators’ definitions, methods for data collection, as well as its dissemination were discussed in the forum, aiming at improvement of the collection process and the adaptation of the scope of indicators to the changing needs of information for the sector.

With regard to the need for upcoming harmonized implementation of the New EU regulatory framework, more active participation of CRC within the projects of the Independent Regulators Group (IRG) is of special importance. The experts of CRC regularly submitted data for the purposes of the projects and the

elaboration of reports and were taking part in some of the IRG working group meetings: those of SMP WG, Mobile Market WG, End Users WG and Fixed Network WG.

CRC kept on its participation in the project for monitoring of the telecommunications markets in South Eastern Europe “SEE Observatory”, financed by the European Commission. Within the project, according to a broad scope of parameters, the CRC experts together with their colleagues from SAITC submitted data about the regulation practices, telecommunication services tariffs and market development, needed for the elaboration of the third periodical report. With the participation of representatives of both institutions, in April 2006 in Zagreb, Croatia the second project forum was held. The forum discussed the content and scope of the second report (published in the web pages of the European Commission and the consultant company Cullen International – contractor of the project). In the meeting the CRC representative addressed an invitation by CRC for hosting the third meeting (to be held in January 2007) and the invitation was accepted.

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.