EUROPEAN COMMISSION

Brussels, 17/11/2008

SG-Greffe (2008) D/206870

Český telekomunikační úřad (ČTÚ)
P. O. Box 02
CZ 22502 Praha 025
Czech Republic

For the attention of:
Mr. Pavel Dvořák
Chairman of the Council

Fax: +420 224 004 811

Dear Sir,

Subject: Case CZ/2008/0808: Modification of remedies in the market for call origination on the public telephone network provided at a fixed location in the Czech Republic
Case CZ/2008/0809: Modification of remedies in the market for call termination on the individual public telephone networks provided at a fixed location in the Czech Republic

Article 7(3) of Directive 2002/21/EC[1]: No comments

I. PROCEDURE

On 17 October 2008, the Commission registered under case numbers CZ/2008/0808-0809 notifications by the Czech regulatory authority, Český telekomunikační úřad ("ČTÚ") concerning the modification of price regulation imposed on Telefónica O2 Czech Republic ("TO2") in the wholesale market for call origination on the public telephone network provided at a fixed location in the Czech Republic[2], on the basis of a market analysis notified to, and assessed by the Commission under case number CZ/2006/0351[3]. The

[1] Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (the "Framework Directive"), OJ L 108, 24.4.2002, p. 33.

[2] Listed as market 2 of the Commission Recommendation 2007/879/EC of 17 December 2007 on relevant product and services markets within the electronic communications sector susceptible for *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, OJ L 344, 28.12.2007, p. 65. ("the Recommendation").

[3] SG-Greffe (2006) D/201232.

notifications relate also to the modification of price regulation imposed on TO2 and on other fixed telecommunications operators in the wholesale markets for call termination on the public telephone networks provided at a fixed location in the Czech Republic[4], on the basis of a market analysis notified to, and assessed by the Commission under case number CZ/2006/0358[5], while an amendment related to remedies on the termination markets was later notified under case number CZ/2007/0660[6].

A national consultation[7] was launched on 4 September 2008 and ended on 4 October 2008 with respect to the wholesale call origination market and also with respect to the wholesale call termination market on the network of TO2. The same consultation was launched on 25 September 2008 and ended on 9 October 2008 with respect to wholesale call termination markets on the networks of other operators.

On 24 October 2008 a request for information was sent to ČTÚ. The response was received on 29 October 2008.

Pursuant to Article 7(3) of the Framework Directive, national regulatory authorities ("NRAs") and the Commission may make comments on notified draft measures to the NRA concerned.

II. DESCRIPTION OF THE DRAFT MEASURE

In the draft measure assessed under case CZ/2006/0351, ČTÚ defined the market as the market for call origination on the public telephone network provided at a fixed location in the Czech Republic and designated Český Telecom[8] as having SMP on that market and subsequently imposed the following regulatory obligations: (i) transparency, (ii) non-discrimination, (iii) accounting separation, (iv) access to, and use of, specific network facilities, and (v) price control.

In the draft measure assessed under case CZ/2006/0358, ČTÚ defined the relevant markets as the markets for call termination on the public telephone network provided at a fixed location in the Czech Republic and designated all fixed telecommunications operators providing the relevant services as having SMP within their individual networks. ČTÚ subsequently imposed the following regulatory obligations on all SMP operators: (i) access to specific network elements and associated facilities, (ii) non-discrimination, (iii) accounting separation and (iv) price control. In addition, a transparency obligation was imposed on TO2.

In the current notifications, ČTÚ modifies the price control obligation imposed in wholesale call origination and termination markets on all operators with SMP, by proposing to set new price caps for wholesale call origination and termination at the first transit exchange.

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4 Listed as market 3 of the Recommendation.

5 SG-Greffe (2006) D/202046.

6 SG-Greffe (2007) D/204856.

7 In accordance with Article 6 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services ("the Framework Directive").

8 The undertaking is currently operating on the market as Telefónica O2 Czech Republic, a.s.

ČTÚ motivates its proposal by referring to its obligation to continuously monitor and evaluate the price levels that are subject to price regulation in the electronic communications sector. The prices set in accordance with the notified draft decisions should be at least equal to the costs of the operator designated as having SMP. Accordingly, ČTÚ assessed whether the prices currently in force for TO2 were at least cost oriented in relation to the results of the accounting separation information provided for 2006. In relation to setting prices for other operators ČTÚ used the LRIC model and the network topology of TO2. The fact that ČTÚ applied this method also to other operators results from the principle that networks of other operators are at least equally efficient as is the network of TO2. ČTÚ assessed the existing price caps using an updated value of Weighted Average Cost of Capital (WACC) of 11.5%. As a result of the assessment of updated cost models ČTÚ proposes to set new, lower price caps for wholesale call origination and termination at the first transit exchange[9].

ČTÚ does not modify either the previous market definition or its previous designation of undertakings with significant market power.

III. NO COMMENTS

On the basis of the notification and the additional information provided by ČTÚ the Commission has no comments[10].

Pursuant to Article 7(5) of the Framework Directive, ČTÚ may adopt the resulting draft measure and, where it does so, shall communicate it to the Commission.

The Commission's position on this particular notification is without prejudice to any position it may take *vis-à-vis* other notified draft measures.

Pursuant to Point 15 of Recommendation 2008/850/EC[11], the Commission will publish this document on its website. The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission[12] within three working days following receipt whether you consider, in accordance with Community and national rules on business confidentiality, that this document contains confidential information which you wish to have deleted prior to such publication. You should give reasons for any such request.

Yours faithfully,
For the Commission,
Fabio Colasanti
Director-General

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9 The price for minute for wholesale origination and termination at first transit exchange has been reduced from 0,38 CZK to 0,36 CZK (from approx. 1,56 €-cent to 1,48€-cent) in peak time, and from 0,19 CZK to 0,18 CZK (from approx. 0,78 €-cent to 0,74 €-cent) in off-peak time, for all operators with SMP.

10 In accordance with Article 7(3) of the Framework Directive.

11 Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC, OJ L 301, 12.11.2008, p. 23.

12 Your request should be sent either by email: INFSO-COMP-ARTICLE7@ec.europa.eu or by fax: +32.2.298.87.82.