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SELECTED ASPECTS OF THE TELECOMMUNICATION MARKET
– EXAMPLES OF POLAND AND DENMARK

Summary

The article presents the legal basis for regulating the telecommunications markets of the European Union countries. The aim of the article is to present the shape of the Polish telecommunications market compared to the Danish telecommunications market. Although the legal basis for the telecommunications markets of EU countries is the same, but the development of individual markets varies widely. In the summary further steps planned for the development of a single EU telecoms market are being indicated.

Keywords: telecommunication market, telecommunication law.

Introduction

Some of activities aimed at creating a competitive market, on the path to the single European market, include demonopolization and liberalization of the telecommunication services.

The telecom market has been attracting competitors and undergoing major changes. The most typical qualities of the market transformation include the following:

- on the supply side, telecommunication services are provided by new domestic companies and allied with them foreign entities,
- entry of global operators on domestic telecom services markets, usually by acquiring a stake in domestic companies. Such new entities at the supply side of the market can be divided into two groups competing with traditional operators, namely:

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- companies originating from the telecom market which seek new growth opportunities in other countries based on their accumulated capital and considering exhausted growth capacity on their domestic markets, and
- companies from other sectors, in particular those operating based on the network infrastructure (e.g. rail, power), as well as hi-tech sector companies (e.g. IT companies).

The article aims at presenting telecommunication markets in Poland and Denmark and their prospective changes.

1. Regulatory issues of the EU telecom market

The EU regulatory framework consists of a number of laws specified below.

- Directive 2002/21/EC of the European Parliament and the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108, 24.04.2002.
- Directive 2002/20/EC of the European Parliament and the Council of 7 March 2002 on the authorization of electronic communications networks and services (Authorisation Directive), OJ L 108, 24.04.2002.
- Directive 2002/19/EC of the European Parliament and the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), OJ L 108, 24.04.2002.
- Directive 2002/22/EC of the European Parliament and the Council of 7 March 2002 on universal services and users' rights relating to electronic communications networks and services (Universal Services Directive), OJ L 108, 24.04.2002.
- Directive 2002/58/EC of the European Parliament and the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.07.2002.
- Directive 2002/77/EC of the European Parliament and the Council of 16 September 2002 on competition in the markets for electronic communications networks and services, OJ L 349, 17.09.2002.

In November 2009, the regulatory framework for electronic communications was adopted, whereas its transposition to national bodies of law in member states was to take place by May 2011. The framework consisted of the following:

- Regulation of the European Parliament and of the Council no. 1211/2009 of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC),
- Directive of the European Parliament and of the Council 2009/136/EC of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and

- services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation no. 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws,
- Directive of the European Parliament and of the Council 2009/140/EC of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and service, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities and 2002/20/EC on the authorisation of electronic communications networks and services.

The new pieces of EU legislation aimed at further strengthening of consumer rights. New provisions provided users with the right to change fixed line or mobile phone operators while keeping the same phone number within one working day. Now, consumers need to be informed in detail about products and services they use. According to new regulations, contracts must contain information about the minimum quality of services provided and compensation once the provider fails to meet such requirements. Furthermore, protection against spam and data loss has been increased. Internet providers, banks, and telecom operators are required to protect personal data of users, their e-mail addresses, information about on-line banking accounts and provide information to customers and authorities about any loss or leakage of data (Solek, Kuder 2010, p. 785). Based on new laws, the Body of European Regulators for Electronic Communications (BEREC)² was established. The BEREC comprises heads of national telecom regulators from all 27 member states. The BEREC is an advisory body supporting national telecom regulators, in particular regarding their regulatory decisions having cross border impact.

2. The telecom market in Denmark

Denmark is one of the most developed countries in the world regarding telecommunication and IT technologies. Liberalization of the telecom market means that Denmark has some of the cheapest telecommunication services among OECD countries and is one of the leaders in using the Internet, public on-line services and e-business. In 2014, Denmark was ranked number one in the EU Digital Agenda Scoreboard. In nearly 100 areas, the contact between the citizen and the public administration may take place via electronic channels. The Danish telecom market comprises over 9000 ICT companies employing nearly 100,000 people.

The efficiency is measured by reaching the desired effect at the lowest cost possible. The outlays we make to achieve the effect are expressed in a monetary value and

² BEREC – Body of European Regulators for Electronic Communications.

thus translated into cost. Being one of the richest countries in the world, Denmark is ranked 5th by the World Economic Forum (WEF), based on the competitiveness and effectiveness. The ranking reflects the use of technology in the development of a country and enhancing its competitiveness. Denmark was distinguished in the ranking by the World Economic Forum for its liberalization of the telecom market, convivial environment for the development of computer technologies and broad access to e-administration. The survey by the World Economic Forum has been conducted since 2001 and takes into account among others technology infrastructure and preparedness of the society for its use, legal regulations, efficiency of administration, as well as current status.

In 2015, in Denmark, operators planned mergers with telecom companies. However, the European Commission objected stating that this might have had an adverse impact on the competitive telecom market. Although the Danish telecom market is liberalized, competitive and it seems that any intervention is not needed, at least four operators are needed with their own infrastructure in order to maintain competition on the cellular phone market.³ The European Commission monitors all telecom markets, since due to excessive number of alliances even an ideal market is prone to distortions.

3. The telecom market in Poland

The Polish telecom market is mature and competitive. However, contrary to the Danish market, it is young. In the past, the regulator had to intervene and reduce rates on the cellular phone market, whereas in the years to come, market factors and competition between operators will come into play. In order to meet the growing expectations of customers, operators need to invest in the development of their infrastructure. They seek alliances and new market segments that could improve their competitive position in the future.

In the coming years, the largest operators will continue implementing their current strategies of building telecom conglomerates offering a wide range of services from virtually every market segment (Drab-Kurowska, 2006, s. 198). Of course, in the case of individual companies, benefits of their mainstream activity are going to be highlighted (e.g. cheaper IP based calls, mobility, digital quality of communication channel, etc.). The more services, the more sales opportunities and thus the greater loyalty of customers. The latter becomes very important when the market becomes highly saturated.

In the case of the fixed line phone segment, still several years ago, based on the analysis of the Danish market (as of 2014 Denmark 44% and Poland 30%) with relatively higher saturation as regards the fixed line phone than in Poland, we could assume that after a downturn period the increase in the income generated by households may have a positive influence on the growth of the fixed line phone market. At the moment, such an assumption seems little plausible, since the number of households that do not need fixed

³ Pronouncement by Margrethe Vestager, EU Competition Commissioner.

line phone is growing and it is not only because of reducing unnecessary additional cost. In this particular context, the current forecast for the fixed line phone market should consider further erosion in terms of lines, subscribers and reduced income for operators.

4. EU regulatory framework

The digital single market strategy defines 16 major activities in 3 policy pillars, which the Commission intends to implement by the end of 2016. Pillar 1 Providing consumers and companies with better online access to digital goods and services all over the EU by:

- 1) regulations facilitating cross border e-commerce,
- 2) more effective and cohesive enforcement of regulations on cross border protection of consumers,
- 3) improved and affordable parcel delivery,
- 4) putting an end to geo-blocking which discriminates consumers,
- 5) identifying competition issues that may have impact on EU e-commerce markets (Czaplewski, 2007),
- 6) modernizing and Europeanizing copyright law,
- 7) reviewing the Satellite and Cable Directive,
- 8) reducing tax burden due to different VAT regimes.

Pillar 2 Creating relevant environment and level playing field for digital networks and innovative services to promote their development through:

- 1) reform of EU telecoms rules,
- 2) reviewing legal framework for services to reflect the digital reality (Czyżak, 2014),
- 3) comprehensive analysis of the role of online platforms (search engines, social media, online shops with applications, etc.) on e-commerce and solving the issue of illegal content in the Internet,
- 4) strengthening trust in online services (Kotylak, 2009), mainly regarding personal data processing,
- 5) partnership with the industry regarding cybersecurity in terms of technology and web based security solutions.

Pillar 3 Digital potential as a driver for growth in the European economy:

- 1) proposing and promoting free flow of data in the EU, encouraging innovative solutions, and initiating actions by cloud computing (Dziembek 2010), certification of cloud services, changing suppliers in the cloud and establishing a 'research cloud',
- 2) defining priorities for developing standards and interoperability in areas crucial for the digital single market, such as e-health,
- 3) ensuring digital support for citizens aimed at developing skills necessary for the efficient use of the Internet (Kuczera 2012),
- 4) initiative of e-administration to link registers of companies all over the EU and ensuring interoperability.

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WYBRANE ASPEKTY RYNKU TELEKOMUNIKACYJNEGO NA PRZYKŁADZIE POLSKI I DANII

Streszczenie

W artykule zaprezentowano podstawy prawne regulujące rynki telekomunikacyjne krajów Unii Europejskiej. Celem artykułu jest zaprezentowanie kształtu rynku telekomunikacyjnego polskiego na tle rynku telekomunikacyjnego duńskiego. Mimo że podstawy prawne są takie same dla rynków telekomunikacyjnych krajów UE, to rozwój poszczególnych rynków jest zdecydowanie różny. W podsumowaniu wskazano, jakie kolejne kroki są planowane dla rozwoju jednolitego rynku telekomunikacyjnego UE.

Słowa kluczowe: rynek telekomunikacyjny, prawo telekomunikacyjne.

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