TELECOMMUNICATIONS
Central and Eastern Europe

Quarterly Updates

January 2007

ABBREVIATIONS

AEC	Agency for Electronic Communications, the Former Yugoslav Republic of Macedonia
ANRC	National Authority for Communications Regulation, Romania
APEK	Agency for Electronic Communications and Post, Slovenia
CRC	Communications Regulation Commission, Bulgaria
CTA	Croatian Telecommunications Agency, Croatia
CTU	Czech Telecommunications Office, Czech Republic
ENCB	Estonian National Communications Board, Estonia
IGTCI	General Inspectorate for Communications and IT, Romania
MCA	Malta Communications Authority, Malta
NHH	National Communications Authority, Hungary
PUC	Public Utility Commission, Latvia
RRT	Communications Regulatory Authority, Lithuania
TA	Telecommunications Authority, Turkey
TUSR	Telecommunication Office of the Slovak Republic, Slovakia
UKE	Office for Electronic Communications Regulations, Poland

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EXECUTIVE SUMMARY

This report covers the key regulatory developments in the telecommunications sector over the past three months in the 12 new European Union Member States as well as in Croatia, Macedonia and Turkey.

EU ACCESSION AND CANDIDATE COUNTRIES

On January 1, 2007 Bulgaria and Romania joined the EU, which has now 27 Member States. In accordance with the EU accession commitments, Bulgaria and Romania had to complete the transposition of the EU 2003 electronic communications regulatory framework by January 1, 2007. This formal requirement was met only by Romania. In terms of practical implementation, both countries still have to address a number of issues in the field of electronic communications in order to achieve compliance with the EU rules, including implementation of fixed and mobile number portability.

Starting from this report, Cullen International's CEE Telecommunications service extends its coverage to include the Former Yugoslav Republic of Macedonia (Macedonia). The country submitted its application for EU membership in March 2004 and was granted candidate status in December 2005.

IMPLEMENTATION OF EU 2003 REGULATORY FRAMEWORK

In December 2006 the European Commission opened two new infringement proceedings against Poland concerning lack of independence of the NRA and unavailability of caller location information for calls to the single European emergency number 112 made from mobile phones. Several already open infringement cases against Hungary, Latvia, Slovakia and Poland were moved on to the next step of the infringement procedure as described in this report. One case against Latvia regarding the availability of a comprehensive directory enquiry service was closed.

Out of the 10 new Member States that joined the EU in May 2004, only the Czech Republic and Slovenia, have completed their analyses of all 18 markets listed in the Commission recommendation on relevant markets. Cyprus, Hungary, Latvia, Lithuania, Malta and Slovakia are nearly finished, still having to notify to the Commission and other NRAs just one or two of the markets, usually the wholesale markets for international roaming (market 17) or broadcasting transmission services (market 18). The Polish NRA has notified 15 markets, but recently faced a veto by the Commission over its proposal to include broadband access lines in the product market definition of the retail markets for access to the fixed public telephone network (markets 1 and 2). Still lagging behind is Estonia that so far has notified only three out of 18 markets! At the same time, the Hungarian and Slovenian regulators have been progressing with their second round market analyses.

FIXED WHOLESALE

The Bulgarian regulator requested the fixed incumbent operator, BTC, to offer wholesale bitstream access services following a dispute between BTC and two alternative operators. The Croatian regulator approved a new reference unbundling offer of the incumbent operator T-Com that includes shared access to the incumbent's local loops for the first time. The Czech fixed incumbent operator published its first reference offer for wholesale line rental, which is currently being assessed by the regulator.

In Macedonia, the first interconnection agreement was signed between the fixed incumbent operator, MakTel, and the major alternative fixed operator On.net.

The Turkish regulator approved a new reference interconnection offer of the incumbent operator Turk Telekom and its first reference unbundling offer. The regulator also requested Turk Telekom to provide third party billing services to alternative CS/CPS operators.

MOBILE WHOLESALE

The Hungarian regulator finalised its second round of analysis of the wholesale market for voice call termination on individual mobile networks (market 16). The final decision foresees a glide path of reductions in MTRs in three steps for all three mobile operators – Magyar Telekom (T-Mobile), Pannon and Vodafone - to reach a uniform target price of 6.60 eurocents per minute from January 1, 2009.

Three Polish mobile operators – Orange, Polkomtel and PTC – agreed to reduce their MTRs by 30% for peak hours and by 20% for off-peak hours. Following an assessment of the new MTRs, the regulator announced its intention to impose a further (still to be decided) reduction in MTRs of the three operators.

The Romanian regulator decided to postpone the implementation of the second step of the glide path reductions of MTRs of Orange and Vodafone by one year. The regulator, nevertheless, is sticking to the final target rate of 5.03 eurocents per minute to be implemented by the two operators from January 1, 2009.

RETAIL

The Bulgarian regulator approved new retail tariffs of BTC that involve some increases in monthly subscription fees and reduced prices for international calls. The Croatian regulator requested the mobile operator VIPnet to modify tariffs for one of its prepaid packages that according to the regulator constituted predatory pricing. The Polish regulator imposed several fines on the incumbent operator TPSA for the failure to submit for the regulator's approval its broadband Internet offers, including its first 'naked DSL' offer.

The implementation of mobile number portability in Bulgaria initially scheduled for January 1, 2007 is delayed as the mobile operators failed to reach an agreement on the technical solution and procedures. In Estonia, the regulator took over the operation of the centralised number portability database after the previous database operator failed to ensure interoperability with the regulator's numbering reservation database. The Macedonian regulator adopted a set of measures introducing the requirement for operators to introduce number portability in fixed and mobile networks from July 1, 2007.

UNIVERSAL SERVICE

The Estonian regulator decided that the cost of universal service provision in 2007 will not be shared by operators, because Elisa, the mobile operator designated as the new universal service provider has voluntarily committed itself to apply a much lower retail access fee than the one envisaged by the regulator. The Polish incumbent operator, TPSA, was designated as the universal service provider until 2011. The Romanian regulator, ANRC, has designated universal service providers for telecenters in 123 new localities. Telecenters are foreseen in the Romanian law as means to ensure universal access to telephone and Internet services in rural areas. So far, ANRC has organised tenders for the installation of telecentres in 331 localities.

The Macedonian regulator adopted a set of secondary legislation regulating the procedure for designating the universal service provider, retail price regulation and compensation of the universal service net cost. The Slovenian regulator reduced the minimum data rate requirement for functional Internet access to be provided by the designated universal service provider, Telekom Slovenije, from 56 kbps to 28.8 kbps.

BROADBAND WIRELESS ACCESS

Public tender procedures for the nation-wide assignments of BWA spectrum were completed in Bulgaria in the 26 GHz band and in Estonia in the 450 MHz band. A further public tender procedure for regional BWA licences in the 3.5 GHz band is underway in Croatia. Regulators in Macedonia, Poland, Romania and Slovakia have launched consultations on BWA spectrum covering several available bands.

2G/3G MOBILE SPECTRUM

The Estonian regulator announced Bravokom Mobiil, the largest MVNO in Estonia, the winner in the tender procedure for the fourth 3G licence. In Macedonia, Mobilkom, the mobile subsidiary of Telekom Austria, was the sole bidder for the third 2G licence. In Romania, following a public tender procedure two new 3G licences for the provision of UMTS services were issued to RCS&RDS, a major alternative fixed operator and cable provider, and Telemobil (Zapp), the operator of a public CDMA2000 network.

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I EU ACCESSION OF BULGARIA AND ROMANIA

On January 1, 2007 Bulgaria and Romania joined the European Union, which has now 27 Member States. It is the fifth enlargement since its creation and follows closely the accession of 10 countries mostly from Central and Eastern Europe in May 2004.

These two new members applied to join the EU in the early 1990s along with eight other former communist CEE states plus Cyprus and Malta. However, they were slower in carrying out economic and political reforms and were not invited to join the EU in 2004. Bulgaria and Romania were only found to have met the EU membership criteria in September 2006.

These two countries represent 6% of the EU population and less than 1% of its GDP. They are the poorest members of the EU, with GDP per head about a third of the EU average. However, their economies are growing quickly, at 5-7% per year.

See Table 1 on telecommunications and economic statistics in the CEE Telecom Cross-Country Analysis.

This accession has had consequences on the voting balance in the European institutions as highlighted below.

A. Institutional changes

For a more detailed description of the EU treaties and institutions, see CI's Guidebook Part B.

1. Council

In the Council of the EU, the qualified majority voting is set at 255 votes out of a total of 345 instead of 234 out of 321.The votes of Romania and Bulgaria are respectively 14 and 10.

The Council's rules of procedures also provide that when a decision is to be adopted by qualified majority (which is the case for telecommunications legislation), if a member of the Council requests, it must be checked that the Member States constituting the qualified majority represent at least 62% of the total EU population. If not, the text is not adopted. From 2007, the threshold of 62% is established as 305.5 million people out of a total of 492.8 million. Romania with a population of 22.3 million will certainly become a strategic ally for any Member State which wants to block the adoption of a text. Bulgaria has only 7.5 million people so will have a less important role to play.

2. European Parliament

In the European Parliament, 53 seats were added (35 for Romania and 18 for Bulgaria). The Parliament has now 785 members instead of 732. The new MEPs from Bulgaria and Romania, nominated by their national parliaments, will sit until the next European Parliament elections

(2009). These nominations changed the power division in this institution as they favoured the Group of the Alliance of Liberals and Democrats for Europe (ALDE), the third party in the Parliament. However, the Group of the European People's Party (EPP) is still the first party (35%) before the Socialist Group (27.5%). The new MEPs also permitted the creation of a far right party, the Identity, Tradition and Sovereignty Group. The group has now achieved the necessary quota of 20 MEPS to form an official parliamentary bloc, due to six far right MEPs of Romania and Bulgaria.

3. European Commission

In the European Commission, there are now 27 Commissioners instead of 25 (one per Member State). Leonard Orban, the Romanian commissioner, is responsible for Multilingualism. Directorate-General Health and Consumer Protection is headed now by two commissioners: Markos Kyprianou, the Cypriot commissioner, retains the health portfolio, whilst Meglena Kuneva, the Bulgarian commissioner, has taken over the consumer protection portfolio, which of course has relevance to telecommunications operators.

4. Other institutions

The Court of Justice and the Court of First Instance have two new members as well as the European Court of Auditors and the European Central Bank. The advisory committees of the EU (the Committee of Regions and the European Economic and Social Committee) have 27 new representatives: 15 for Romania and 12 for Bulgaria.

B. Transposition of EU regulatory framework

For an overview of national transposition measures in all CEE countries, see Table 3 *in the CEE Telecom Cross-Country Analysis.*

In accordance with the EU accession commitments, Bulgaria and Romania had to complete the transposition of the EU 2003 electronic communications regulatory framework before the date of their accession to the EU on January 1, 2007. This formal requirement was met only by Romania.

In terms of practical implementation, the two new Member States still have to meet some important requirements in order to comply with the EU rules. Among the major issues are the universal service framework, availability of number portability in fixed and fixed and mobile networks (currently unavailable in both countries), access to emergency services, universal directories and directory enquiry services.

1. Bulgaria

In Bulgaria, the legislative process of adopting the new Electronic Communications Act transposing the EU 2003 regulatory framework into the national law is moving rather slowly.

On September 20, 2006 the National Assembly of Bulgaria had the first vote on the draft Electronic Communications Act. Subsequently, the draft was returned to the leading parliamentary committee for Transport and Communications for implementation of amendments and clarifications requested by the parliament. The committee is currently finalising its review of the draft Act. The second vote in the National Assembly is planned for February 15, 2007.

The current Telecommunications Act was adopted in October 2003 and has undergone several amendments since then. The Act is largely based on the former EU 1998 ONP regulatory framework, although some of its elements are either missing or have not been transposed correctly into the Bulgarian law. For example, the current Act does not define the national market for interconnection. For this reason, mobile termination rates have been left unregulated as under the 1998 framework the cost orientation obligation can only be imposed on a mobile operator that is designated to have SMP in the combined national interconnection market.

2. Romania

Romania was one of the first countries in Europe to adopt already in 2002, and on its own initiative, national legislation that is based on the EU 2003 regulatory framework. Since then the Romanian regulator has been carrying out an analysis of relevant markets as foreseen by the EU framework, although without the requirement to notify its draft market analysis decisions to the Commission and other NRAs under article 7 of the Framework Directive.

On September 13, 2006 the Romanian government adopted Government Emergency Ordinance No.70 on *"amendment and completion of certain normative acts in the field of electronic communications and of postal services"*. The new ordinance creates a mechanism, applicable once Romania joined the EU on January 1, 2007, for the notification to the Commission and other NRAs of the market analysis decisions adopted by the Romanian NRA. At this stage, however, it is not yet know when the Romanian NRA will start notifying the results of the market analyses to the Commission and other NRAs under article 7 of the Framework Directive.

II EU CANDIDATE COUNTRY – MACEDONIA

From January 1, 2007 Cullen International's CEE Telecommunications service extends its coverage to include the Former Yugoslav Republic of Macedonia. The constitutional name of the country is "Republic of Macedonia". However, the country is not recognised under this name by parts of the international community. The EU refers to the country by the provisional reference under which it was admitted to the United Nations: "the former Yugoslav Republic of Macedonia". In the CI reports, the country will be referred to with a shortened name as "Macedonia".

Macedonia submitted its application for EU membership on March 22, 2004. On December 17, 2005 the Council decided to grant candidate status to the country. However, no date has been specified for the start of membership talks.

A. Regulatory institutions for electronic communications

The Ministry of Transport and Communications implements government policy in the electronic communications sector. In particular, the Ministry is responsible for preparing legislation in cooperation with the Agency for Electronic Communications (AEC), which is the independent national regulatory authority. AEC was established in 2005, following adoption of the Electronic Communications Law of March 5, 2005.

AEC is governed by a Commission and its day-to-day activities are managed by a Director. The Commission consists of five members, including the President, who acts as a chairperson of meetings of the Commission. The President and members of the Commission are appointed for a five-year term by Parliament. The Director is appointed by the Commission following a public competition procedure. The term of office of the Director is five years, with a possible re-appointment for an additional consecutive term of office.

B. Regulatory framework

The primary law regulating the sector is the Electronic Communications Law of March 5, 2005. The law is largely based on the EU 2003 regulatory framework. It defines the NRA and its responsibilities, establishes a general authorisation regime for electronic communications undertakings, and requires the NRA to define relevant electronic communications markets and analyse them for the purpose of identifying undertakings with SMP and imposing ex ante regulatory obligations. The adoption of the secondary legislation is a responsibility of AEC and by end of 2006 this task was essentially completed.

The incumbent telecommunications operator AD Makedonski Telekomunikacii (MakTel), and its mobile subsidiary T-Mobile, are 51% owned by Magyar Telekom/Deutsche Telekom. The second mobile operator Cosmofon is owned by the Greek incumbent telecommunications operator, OTE.

The implementation of the Electronic Communications Law, however, in some aspects has been delayed due to the existing concessions between the government, MakTel and its mobile subsidiary T-Mobile, and Cosmofon. Under the Electronic Communications Law introducing a general authorisation regime, these concessions had to be harmonised with the new law within nine months from its entry into force in May 2005. This process, however, has not been completed until now.

NB. In addition to authorisations for the provision of telecommunications services under the old Telecommunications Law, concessions contain authorisations for the use of frequencies and specific requirements in terms of quality of service and regulations of end user prices.

On December 12, 2006 the government discussed how the existing concession agreements should be put into compliance with the general authorisation regime established by the Electronic Communications Law. The government has instructed AEC to issue authorisations for use of frequencies to the two mobile operators, as well as to confirm the notification of MakTel and the two mobile operators. In addition, the government instructed the Ministry of Transport and Communications to prepare an amendment to Article 69 of the Electronic Communications Law in order to harmonize the length of the radiofrequency authorisation with the provisions of the existing concession agreements.

In December 2006, AEC also completed the secondary regulation setting out the administrative charges applicable under the general authorisation regime, as described below.

C. AEC annual administrative charges

On December 29, 2006 AEC adopted a By-law on the methodology of calculating the annual remuneration for supervision of the electronic communications market. The by-law establishes that public electronic communications networks and/or services providers shall pay an annual administrative fee to AEC. The maximum amount of the fee may not exceed 0.5% of the annual gross revenue derived from the provision of public communications networks and/or services during the previous calendar year.

For the purpose of calculating the annual administrative fee, public electronic communications providers are divided into five categories according to their annual gross revenue, as shown in the table below:

Category	Gross Revenue (MKD)	Percentage
I	Up to MKD 1m (€ 16,500)	0.1%
II	MKD 1m - 10m (€ 16,500 - € 165,000)	0.2%
III	MKD 10m - 100m (€ 165,000 - € 1.65m)	0.3%
IV	MKD 100m - 500m (€ 1.65m - € 8.2m)	0.4%
V	Above MKD 500m (€ 8.2m)	0.5%

Table 1 – AEC annual administrative fees

III IMPLEMENTATION OF EU 2003 REGULATORY FRAMEWORK

A. Infringement proceedings

For a description of the steps in the infringement procedure, see CI's Guidebook Part E.2.3.

In December 2006 the European Commission opened two new infringement proceedings against Poland concerning lack of independence of the NRA and unavailability of caller location information for calls to the single European emergency number 112 for calls made from mobile phones.

The Commission also moved some already open cases against Member States for incorrect implementation of various aspects of the EU 2003 regulatory framework on to the next step of the infringement procedure as shown in the table below. One case was closed.

Step in infringement procedure	Country	Infringement
First step - Opening of new infringement case (letter of formal notice)	Poland	Lack of independence of NRA
	Poland	Unavailability of caller location information for calls to single European emergency number 112 (for calls made from mobile phones)
Second step - Reasoned opinion	Latvia	Unavailability of caller location information for calls to single European emergency number 112
	Slovakia	Lack of independence of NRA: NRA is funded from the same budget chapter as the Ministry responsible for the ownership of the incumbent operator
Third step - Referral to European Court of Justice	Hungary	Act on Radio and Television prohibits cable TV operators from providing cable TV services to more than one third of Hungarian population
	Poland	Obligation to negotiate interconnection is extended to cover all forms of access and applies to all operators (including those without SMP).
Closure of case	Latvia	Comprehensive directory enquiry service is now available

Table 2 - December 2006 round of infringement proceedings

In total, since the entry into force of the EU 2003 regulatory framework, the Commission has opened infringement proceedings against all 25 EU Member States in over 80 cases. Some 50 cases are still open, out of which 20 are addressed to the new Member States.

A list of all open infringement proceedings, together with their status, is available on the DG Information Society website.

B. Market analyses in EU-12 Member States

For an overview of the status of market analyses notifications submitted to the Commission at the end of January 2007, see CI Market Analysis Database. More details on market analyses in individual Member States are discussed in later sections of the report.

The summary matrix in the CI Market Analysis Database shows that, to date, out of the 10 new Member States that joined the EU in May 2004 only NRAs in the Czech Republic and Slovenia have notified to the European Commission their analyses of all 18 markets listed in the recommendation on relevant markets.

Following their accession on January 1, 2007, Bulgaria and Romania must now start their analyses of the 18 relevant markets. The expected timing of the market analyses by the two new Member States is not known at this stage. Romania has already been following since 2003 the market analysis approach under the EU framework, although the market definitions used were sometimes different to those in the Commission list and there was no requirement to notify these market analyses to the Commission and other NRAs.

Over the past three months, a number of other regulators managed to catch up with their more advanced peers and are now nearly finished, still having to notify just one or two of the markets. Regulators in Cyprus, Lithuania and Slovakia each have notified all but one relevant market – the wholesale national market for international roaming on public mobile networks (market 17). Three other regulators in Hungary, Latvia and Malta (after a withdrawal by the Maltese regulator) still have to notify broadcasting transmission services (market 18), in addition to market 17.

The progress has been much slower in Estonia and Poland. Estonia has completed only three market analyses – the wholesale markets for unbundled access (market 11), broadband access (market 12), and voice call termination on individual mobile networks (market 16). National consultations were completed on the wholesale markets for fixed call origination, transit and termination (markets 8-10), but the draft measures have not yet been notified to the Commission and other NRAs.

The Polish regulator, UKE, has analysed all but three relevant markets – the wholesale markets for fixed transit services (market 10), trunk segments of leased lines (market 14), and access and call origination on mobile networks (market 15) where the original notification was withdrawn. The Commission, however, questioned some of the UKE's conclusions, in particular regarding the retail fixed access and calls markets (markets 1-6). Consequently, UKE was ordered to withdraw its notifications on the markets for retail fixed access for residential and non-residential customers (markets 1 and 2), as the Commission did not accept UKE's finding that retail broadband access is part of the relevant product markets and should be subject to the same set of regulatory obligations as narrowband access.

The Commission closed its investigation into UKE's analysis of the retail markets for fixed local, national and international calls for residential and non-residential customers (markets 3 to 6) with comments after an additional two months (so-called 'phase 2' investigation). The Commission had initially questioned why UKE did not include in its proposed market definitions national and international calls provided through 0708 dial-in premium rate numbers and pre-paid calling cards. Closing its investigation, the Commission re-stated its position that calls made through premium rate numbers and pre-paid calling cards should be included in the relevant markets, but on the basis of additional data on market shares provided by UKE during the phase 2 investigation, the Commission concluded that this would not have a decisive impact on the finding of SMP in any of the four markets. The Commission therefore withdrew its serious doubts and closed its investigation of all four markets at the end of phase 2 with comments asking UKE to include the additional market data in its final decisions and to carry out a new analysis of the markets within one year of the final decisions.

Another phase 2 investigation for an additional two months (until March 29, 2007) recently opened by the Commission concerns the Maltese regulator's proposal to designate the incumbent telecommunications operator, Maltacom, and the cable network operator, Melita Cable, as having joint SMP in this market.

NRAs in Hungary and Slovenia have not waited for the Commission to publish its revised list of markets (not expected now until summer 2007) and started their second round of market analyses (although Hungary still has to complete the analysis of markets 17 and 18 in the first round). The Hungarian NRA has completed its second round analysis of the wholesale market for voice call termination on individual mobile networks (market 16) imposing glide-path of reductions in MTRs of the three mobile operators for the period of 2007-2009.

The Slovenian regulator has notified to the Commission its second round analysis of wholesale market for unbundled access (market 11) proposing to change the price control obligation on Telekom Slovenije from the present fully allocated cost methodology to long-run incremental cost (LRIC).

C. Legal issues – Poland, Slovenia

For an overview of national transposition measures in all CEE countries, see Table 3 in the CEE Telecom Cross-Country Analysis.

1. Poland – Amendments to the Telecommunications Act

On January 30, 2007 the president of the Republic of Poland approved amendments to the Telecommunications Act that were adopted by the Sejm (the lower house of the Parliament) on December 8, 2006 and by the Senate (the upper house of the Parliament) on December 21, 2006.

The amendments cover procedural matters regarding allocation of spectrum rights and the fees for these rights under. In particular, the provisions are intended to clarify the rules for assigning spectrum rights following a public tender procedure.

The new provisions will enter into force within 14 days from their publication in the Official Journal. Another set of amendments to the Telecommunications Act is also currently under preparation. In September 2006 the government announced that the process of inter-ministerial consultations had begun.

2. Slovenia – Amendments to the Electronic Communications Act

On December 12, 2006 amendments to the Electronic Communications Act were published in the Official Journal. The amendments are intended to transpose in the national law the Data Retention Directive 2006/24/EC (see EU Telecom Tracker 21) introducing a mandatory data retention period of 24 months, and address a number of other issues including the introduction of digital terrestrial television. The switch-off of analogue terrestrial broadcasting in Slovenia is scheduled for 2012.

The amendments came into force on December 27, 2006.

D. Institutional changes – Romania, Slovakia

1. Romania – ANRC transformed in ANRCTI

On December 22, 2006 the Romanian government approved an Emergency Ordinance 130/2006 re-organising the National Regulatory Authority for Communications (ANRC) into the National Regulatory Authority for Communications and Information Technology (ANRCTI). The authority is organised and operates under the co-ordination of the prime minister and is fully self-financed. The new institution takes over the budget and personnel of the former ANRC. The ordinance was published in the Romanian Official Journal on December 29, 2006

ANRC stated that the reason of the emergency ordinance was *'the full harmonisation of the national legislation with the EU legislation as well as the necessity to regulate the information technology domain in close connection with electronic communications and postal services, since they are convergent domains.'*

The former ANRC president, Dan Georgescu, and vice-president, Alexandrina Hirtan, were nominated by the prime minister as the new institution's president and the vice-president, respectively in accordance with the government decisions published in the Official Journal on January 3, 2007.

Shortly before this institutional change, the Romanian High Court of Justice ruled that the mandate of the previous ANRC president, Ion Smeeianu, was abusively revoked by the government decision in 2005 when Mr Smeeianu lost his position. The Court also stated that Smeeianu has the right take back his position as ANRC president. With the transformation of the ANRC into ANRCTI, the effect of the Court decision is unclear.

2. Slovakia –TUSR management changes

On December 11, 2006 Milan Luknar finished his six-year term as TUSR's Chairman. The Slovak Parliament designated Banislav Macaj as the new Chairman for the next six years. Mr Macaj worked previously for eTel Slovensko.

The Ministry of Transport, Posts and Telecommunications is drafting a bill proposing to merge the Telecommunications Office (TUSR) and the Postal Office and to finance the new entity from a separate budget chapter. So far, TUSR was financed from the budget chapter of the Ministry of Transport, Posts and Telecommunications that is also responsible for the state ownership of the incumbent operator. The new act should enter into force end of 2007 or beginning of 2008. The proposed measure follows the infringement proceeding launched by the European Commission in 2005 regarding the lack of independence of TUSR.

IV FIXED WHOLESALE

A. Fixed interconnection – Estonia, Macedonia, Poland, Slovakia, Turkey

For an overview of fixed call termination and reciprocity of interconnection charges in all CEE countries, see Tables 4 and 5 in the CEE Telecom Cross-Country Analysis.

1. Estonia – Market analysis

ENCB held a national consultation from December 14, 2006 to January 15, 2007 on its draft decisions on the wholesale markets for call origination, transit and termination (markets 8-10). ENCB had already consulted on its draft decision on these markets in April – May 2006, but decided to review its initial proposals based on some of the received comments.

The relevant product market definitions correspond to those in the Commission recommendation on relevant markets. The table below summarises ENCB's proposals for SMP designation and regulatory obligations.

Relevant market	Operator(s) with SMP	Regulatory obligations on operators with SMP
Market 8	Elion (incumbent)	• Provision of access on reasonable request, including collocation and facility sharing services (ducts, housing, masts) • Non-discrimination • Transparency, including publication of a reference offer • Cost orientation and cost accounting (fully distributed historic costs) • Accounting separation
Market 9	• Elion (incumbent) • Eleks Telefon	**Elion** • Provision of access on reasonable request, including collocation and facility sharing services (ducts, housing, masts)

Relevant market	Operator(s) with SMP	Regulatory obligations on operators with SMP

	• Elisa Datacommunications
	• Norby (mostly FWA networks)
	• RIKS
	• Starman (cable network)
	• STV (cable network)
	• Tele2
	• Televõrgud (Estonian Energy Company's entity)
	• Top Connect
	• Via Tel
		• Non discrimination
		• Transparency, including publication of a reference offer
		• Cost orientation and cost accounting (fully distributed historic costs)
		• Accounting separation
		Alternative network operators
		• Non-discrimination
		• Transparency (at the request of either ENCB or interconnecting operator, publication of information on network features, terms and prices)
		• Price regulation based on benchmarking
		  • Average EU termination rate at single transit level according to the European Commission annual implementation report (see EU Telecom Tracker 9)
		  • ANO may ask ENCB to allow higher charges, if this can be justified with costs (based on fully distributed historic costs)

Market 10	• Elion (incumbent) • Elisa Datacommunications	**Both operators with SMP** • Provision of access on reasonable request, including collocation and facility sharing services (ducts, housing, masts) • Non-discrimination • Transparency, including publication of a reference offer • Cost orientation and cost accounting (fully distributed historic costs)

Table 3 – Proposed SMP designations and regulatory obligations in markets 8-10, Estonia

2. Macedonia – First interconnection agreement

On November 15, 2006 the major alternative ISP On.net, controlled by the Slovenian incumbent operator Telekom Slovenije, signed an interconnection agreement with the incumbent operator Makedonski Telekomunikacii (MakTel) for the provision of fixed voice telephony services. This is the first interconnection agreement MakTel has completed since the market was liberalised in January 2005.

On.net entered the domestic fixed line telephony services market in January 2007, becoming the second fixed operator in the country after MakTel. The new entrant announced that it plans to compete with MakTel by offering lower prices for international and long distance calls based on CS/CPS.

3. Poland – Call termination on alternative fixed networks

On October 18, 2006 the European Commission closed its investigation into the market analysis notification submitted by UKE proposing to designate 29 alternative fixed network operators as each having SMP on the wholesale market for call termination on individual fixed networks (market 9).

UKE proposed to impose on all 29 ANOs the regulatory obligations of access, non-discrimination and transparency limited to the requirement to publish terms and conditions for call termination. The Commission closed its investigation at the end of phase 1 with one comment questioning the asymmetric application of remedies on the ANOs as opposed to the incumbent operator Telekomunikacja Polska (TPSA), in particular, the fact that UKE did not impose any price control obligations on the ANOs.

Previously on September 18, 2006 UKE adopted a final decision designating the incumbent operator TPSA as having SMP in market 9 and imposing the regulatory obligations of access, transparency including the requirement to publish a RIO, non-discrimination, accounting separation and price control based on LRIC (see EU Telecom Flash 74/2006).

4. Turkey – Reference interconnection offer

On November 23, 2006 the Telecommunications Authority published a new Turk Telekom RIO setting lower call origination/termination rates applicable from March 1, 2007.

B. Unbundled access – Croatia, Estonia, Latvia, Slovenia, Turkey

For an overview of RUO status and LLU charges in all CEE countries, see Table 8 in the CEE Telecom Cross-Country Analysis.

1. Croatia – Reference unbundling offer

On December 15, 2006 the CTA council approved with changes the new RUO of the incumbent operator T-Com. The new RUO introduces the provision of shared access to T-Com's local loops.

CTA ordered T-Com to stop higher one-off charges for full unbundled access to loops that are suitable for provision of ADSL services. According to the regulator, the cost of the copper loop is the same regardless of whether or not the loop is suitable for provision of high speed Internet services. There were no other changes to T-Com's full access prices. For shared access, CTA approved T-Com's proposed one-off charge of Kuna 550 (€ 75.80), but rejected the proposed monthly fee of Kuna 47.55 (€ 6.55), imposing a fee of Kuna 22.37 (€ 3.08). The fees were set based on benchmarking against LLU prices in the EU-15 member states in 2004.

The new T-Com RUO has been published on CTA's website.

2. Estonia – Market analysis

ENCB held a national consultation from November 10 to December 10, 2006 on its draft decision analysing the wholesale market for unbundled access (market 11).

The relevant product market definition proposed by ENCB corresponds to market 11 in the Commission recommendation on relevant markets. ENCB proposed that fibre, LAN and FWA-based access networks are not part of the relevant product market. The geographic scope of the market is Estonia.

ENCB proposed to designate the incumbent operator, Elion, as having SMP and to impose the following regulatory obligations:

- provision of access on reasonable request, including collocation and facility sharing services (ducts, housing, masts);
- non-discrimination;
- transparency, including publication of a reference offer;
- cost orientation and cost accounting (fully distributed historic costs); and
- accounting separation.

ENCB will notify the proposed measures to the Commission and other NRAs once it has analysed all the comments received in the national consultation.

3. Latvia – Market analysis

On December 8, 2006 the European Commission closed its investigation into the market analysis notification submitted by PUC on the wholesale market for unbundled access (market 11) at the end of phase 1 without comment. PUC has not yet adopted the final decision.

PUC notified its draft analysis to the Commission and other NRAs on November 10, 2006. The relevant product market definition corresponds to market 11 in the Commission recommendation on relevant markets. PUC proposed that wireless solutions, power line communications and fibre are not part of the relevant product market.

According to PUC, there were no transactions in the wholesale unbundled access market in Latvia in the period of the market analysis. The analysis was therefore carried out based on the downstream retail markets for voice telephony provided at a fixed location so as to ascertain the necessity of wholesale regulation. The incumbent operator, Lattelecom, had a market share of over 92% in 2005 on the retail market for fixed access lines.

PUC proposed to designate Lattelecom having SMP and to impose the following regulatory obligations:

- provision of access on reasonable request;
- transparency, including publication of a reference offer;
- non-discrimination;
- price control, based on FDC and current cost (as described in PUC Decision No. 281 of November 30, 2005 on methodology of cost accounting); and
- accounting separation.

Lattelecom submitted a contribution to the national consultation, arguing that more than one geographic market should have been identified and that fixed-to-mobile substitution should have been taken into account when analysing retail voice telephony services.

4. Slovenia – Market analysis

APEK has completed its second round analysis of the wholesale market for unbundled access (market 11). APEK adopted its final decision on market 11 on January 22, 2007.

On November 22, 2006 the European Commission closed its investigation at the end of phase 1 without comment.

On October 16, 2006 APEK notified its draft decision to the Commission and other NRAs. In line with its finding in the first round market analysis in 2005, APEK proposed to maintain the designation of the incumbent operator Telekom Slovenije as having SMP. The only change proposed by APEK is concerned with the regulatory obligation of cost accounting and price control for LLU prices. Instead of the present fully allocated cost and current cost accounting methodology, APEK proposed to implement LRIC. All other regulatory obligations of access, transparency, non-discrimination and accounting separation remain unchanged.

According to the notified proposal, Telekom Slovenije will have to provide the description of its LRIC system by December 31, 2007. The first calculation of its LRIC prices will have to be provided by March 31, 2008.

5. Turkey – Reference unbundling offer

On November 22, 2006 the Telecommunications Authority published the final version of the first Turk Telekom RUO.

C. Carrier selection and pre-selection – Turkey

For an overview of fixed carrier selection and pre-selection availability in all CEE countries, see *Table 6 in the CEE Telecom Cross-Country Analysis.*

On October 13, 2006 the Telecommunications Authority published rules requiring Turk Telekom to provide third party billing services to CS/CPS operators on request, on terms to be determined by commercial negotiations. In case the parties fail to reach an agreement, TA will determine the maximum fees that can be charged for these services.

D. Wholesale line rental – Czech Republic

For an overview of WLR availability in all CEE countries, see Table 7 in the CEE Telecom Cross-Country Analysis.

On November 1, 2006 Telefónica O2 Czech Republic published its first reference offer for WLR. The offer covers resale of the incumbent's analogue PSTN and digital ISDN2 subscriptions to alternative operators.

Telefónica O2 Czech Republic was required to provide WLR by CTU final decisions designating the operator as having SMP on the retail fixed access markets for residential and non-residential customers (markets 1-2) of April 19, 2006. Subsequent CTU decisions No. REM/1/04.2006-12 and No. REM/2/04.2006-13 of April 26, 2006 established a 6-month implementation deadline for the WLR obligation, i.e. by November 2006. CTU did not impose any price control obligations for WLR offer.

Following complaints from CS/CPS operators, CTU is currently assessing the compliance of the WLR reference offer with the regulatory obligations.

E. Broadband access – Bulgaria, Czech Republic, Estonia, Latvia, Lithuania, Malta, Slovakia

For an overview of wholesale broadband offers and pricing in all CEE countries, see Tables 9 and 10 in the CEE Telecom Cross-Country Analysis.

1. Bulgaria – Bitstream access

CRC has imposed obligations on the incumbent operator BTC to provide wholesale bitstream access for two ANOs through its ADSL infrastructure:

- Orbitel EAD (Resolution No 2065 of November 9, 2006); and
- Nexcom – Bulgaria EAD (Resolution No 2276 of December 14, 2006).

The CRC decisions require BTC to present to Orbitel and Nexcom draft agreements that would specify the terms and conditions for provision of wholesale bitstream access according to operator's requests, within one month from publication date of the decisions. The drafts must be also submitted to CRC. At this stage, CRC did not specify any access points or pricing principles applicable to BTC's wholesale bitstream access offer.

In July 2006 the Supreme Administrative Court ruled that the wholesale bitstream access obligation could be imposed on BTC as a form of special access to its network. Under article 126 of the present Telecommunications Act (transposing the former 1998 ONP framework), BTC designated as the operator having SMP in the market for public fixed telecommunications networks and services must meet all reasonable requests for access to its network, including special access. The Court also ordered CRC to issue a decision mandating BTC to meet the bitstream access requests of Orbitel and Nexcom.

2. Czech Republic – Market analysis

On October 31, 2006 CTU issued a decision imposing regulatory obligations on the incumbent operator Telefónica O2 Czech Republic designated as having SMP in the market for wholesale broadband access (market 12), in accordance with the CTU final decision on market 12 of August 24, 2006.

Telefónica O2 Czech Republic is required to provide wholesale broadband access with handover at IP level on non-discriminatory conditions. Other regulatory obligations include accounting separation, transparency with publication of a reference offer. CTU decided not to impose any price control regulation on Telefónica O2 Czech Republic, although the Commission had questioned in its comments on the CTU notification published on August 11, 2006, whether non-discrimination obligation as such, even if coupled with accounting separation obligation, would be an effective remedy. So far, CTU is the only regulator in the EU that has not imposed any price control obligations after completing the analysis of market 12.

The decision entered into force on December 4, 2006.

3. Estonia – Market analysis

On November 20, 2006 the European Commission closed its investigation into the market analysis notification submitted on October 19, 2006 by ENCB on the wholesale market for broadband access (market 12). The investigation was closed at the end of phase 1 with comments (see EU Telecom Flash 134/2006).

ENCB proposed to designate Elion, the incumbent operator, as having SMP. In addition to transparency and non-discrimination obligations, ENCB proposed to require Elion to provide wholesale broadband access at DSLAM, ATM and IP network levels. Further, Elion would be subject to price control obligations:

- at DSLAM level based on cost orientation (fully distributed historic costs); and
- at ATM and IP network levels according to the efficient component pricing rule (ECPR) methodology determined in the draft decision. According to the Commission's comments, ECPR does not constitute cost orientation but is equivalent to 'retail minus' pricing.

Consistent with its previous comments in other cases, the Commission disagreed with the inclusion of cable networks in the scope of market 12. It noted that the Commission recommendation on relevant markets explicitly states that market 12 covers bitstream access and *"wholesale access provided over other infrastructures, if and when they offer facilities equivalent to bit-stream access"*. According to the Commission, the definition of a relevant wholesale market should mainly be based on demand-side substitution at the wholesale level (direct competitive constraint), of which ENCB did not provide evidence, as opposed to the methodology relying mainly on the competitive conditions in the corresponding retail market (indirect competitive constraint).

Despite this comment, the Commission concluded that the inclusion of cable networks in the relevant product market would not have changed the results of the SMP assessment, and so the exact market definition could be left open.

4. Latvia – Market analysis

On December 11, 2006 European Commission closed its investigation into the market analysis notification submitted by PUC on the market for wholesale broadband access (market 12) at end of phase 1 without comment. PUC has not yet adopted the final decision.

PUC notified its draft analysis of market 12 to the Commission and other NRAs on November 10, 2006.

PUC noted that there were almost no wholesale broadband access transactions in Latvia: in the second half of 2005, there were two operators providing together wholesale broadband access services over 146 access lines to third party ISPs, representing a value of LVL 90,000 (€ 129,000).

PUC therefore analysed the competitive situation in the downstream retail broadband market. It included xDSL products (including VDSL), cable, broadband fixed wireless access and wired solutions based on Ethernet protocol in the relevant product market definition. PUC excluded powerline communications and satellite from the relevant retail market, as they are not being used to provide bidirectional data transmission. Mobile broadband solutions were excluded as they are much more expensive than fixed broadband services.

There is a high number of suppliers on the retail market: 124 companies. The largest operator is the incumbent Lattelecom with a market share close to 50%. The rest of the market is highly fragmented with the second largest operator, Balticom, holding a market share of just above 5%. Lattelecom is the only operator offering xDSL services; the remaining operators provide broadband access mainly on the basis of Ethernet solutions and cable.

PUC proposed to designate Lattelecom having SMP and to impose the following regulatory obligations:

- provision of access on reasonable request at DSLAM and IP levels;

  NB. Surprisingly, the Commission did not comment on the absence of the requirement to offer bitstream access at the ATM-level. When the Hungarian regulator, NHH, proposed the same range of wholesale products in its notification of market 12 in May 2005, the Commission advised NHH to consider imposing the access obligation at ATM level as well (see EU Telecom Flash 85/2005).

- transparency, including publication of a reference offer;
- non-discrimination;
- price control, based on FDC and current cost (as described in PUC Decision No. 281 of November 30, 2005 on methodology of cost accounting); and
- accounting separation.

5. Lithuania – Incumbent operator fined

In October 2006 the Lithuanian Competition Council fined the incumbent operator TEO LT LTL 3 million (€ 872,000) for abuse of a dominant position in the provision of ADSL services in the form of a price squeeze between TEO LT's wholesale and retail ADSL offers. It is the biggest penalty imposed by the Competition Council on a telecommunications operator in Lithuania so far.

The case was opened in 2005 upon request of several market participants (MicroLink Lietuva, Baltnetos komunikacijos, Tele 2, Penki kontinentai, Elneta and SE Infostruktūra) who complained that TEO LT applied different prices and discriminatory conditions to different market players. The Competition Council ordered TEO LT to adjust its terms for provision of ADSL access so that direct or indirect imposition of unfair prices or discriminatory conditions to different market players is eliminated.

6. Malta – Market analysis

On January 29, 2007 the European Commission published its comments on the market analysis notification submitted by MCA on the wholesale broadband access market (market 12). The Commission expressed serious doubts about MCA's proposal to designate the incumbent telecommunications operator, Maltacom, and the cable network operator, Melita Cable, as having joint SMP in this market. The Commission extended its investigation by an additional two months (phase 2) (see EU Telecom Flash 12/2007).

MCA notified its analysis of market 12 to the Commission and other NRAs on December 29, 2006. MCA proposed to define the relevant wholesale product market as wholesale broadband access over both DSL and cable broadband platforms (including both self-supply and supply to third party ISPs). MCA argued that at the wholesale level there is demand-side substitutability for ISPs between DSL and cable networks which are equivalent in terms of functionality (similar interconnection points exist on both networks) and national coverage. Malta is in a unique position in the EU as both Maltacom and Melita Cable each have national networks covering more than 95% of households.

MCA proposed to designate Maltacom and Melita Cable as having joint SMP and to impose access to both operators' networks by third party ISPs at cost oriented prices. This would make Malta the first country in the EU to impose mandatory access to the cable operator's network following an analysis of market 12. The Commission has so far resisted all attempts by NRAs to include cable networks within market 12.

7. Slovakia – Market analysis

On November 2, 2006, TUSR adopted its final decision designating Slovak Telekom as having SMP on market for wholesale broadband access (market 12). The final decision does not specify which wholesale bitstream access products are to be provided by Slovak Telekom, although the Commission advised TUSR in its comments on the TUSR notification of market 12 (published on August 31, 2006) that TUSR should consider imposing the bitstream access obligation at IP, ATM, or DSLAM level if this is technically and operationally possible.

TUSR decided to regulate Slovak Telekom's wholesale bitstream prices based on the retail minus pricing approach. Nevertheless, the details of the pricing rule are not yet adopted. In addition, any changes in Slovak Telecom's retail prices (both permanent or temporary) shall be reflected in the corresponding wholesale prices at the same time. When Slovak Telecom launches a new retail offer, it shall add a corresponding wholesale offer into its reference offer.

Slovak Telekom appealed against the decision to TUSR chairman but the procedure is still pending.

F. Regulatory cost accounting – Bulgaria, Macedonia, Poland

For an overview of regulatory cost accounting in fixed networks in all CEE countries, see Table 11 in the CEE Telecom Cross-Country Analysis.

1. Bulgaria – Amendments to incumbent's CAS

On December 14, 2006 CRC issued Resolution No 2278 instructing BTC to amend its cost accounting system (CAS). BTC, designated as having SMP in the markets for public fixed telecommunications networks and services and for leased lines under the former 1998 ONP framework, is obliged to implement cost oriented prices for interconnection services, special access, leased lines, local loop unbundling and collocation. The prices are set based on fully distributed cost (FDC) methodology and current costs.

BTC is required to implement a number of changes related to definition of the network components and equipment covered by CAS calculations, definition of the cost of capital and the principles for cost allocation. Within two months, BTC has to present to CRC a revised version of its CAS.

2. Macedonia – Rate of return on capital employed

On December 4, 2006 AEC published a draft version of the document "Methodology for calculating a weighted average cost of capital (WACC)" to be used in calculating the return on the investments of SMP operators. This document discusses the principles to be used in the calculation of the cost of capital for operators obliged to provide interconnection services at cost-oriented prices. The document considers both the methodology to be used in calculating cost of capital and specific calculations that relate to the incumbent operator Makedonski Telekomunikacii (MakTel). The document provides a calculation of the cost of capital for MakTel as the only operator designated as having SMP. The aggregate WACC for MakTel is estimated in the range of 14.6% to 15.5%.

3. Poland – Rate of return on capital employed

On December 28, 2006, following a public consultation held in August 2006, UKE issued a decision setting the rate of return on capital employed at 11.47% for the incumbent operator, TPSA from January 1, 2007.

V MOBILE WHOLESALE

A. Mobile access and call origination – Hungary, Latvia

For an overview of mobile access, call origination and national roaming regulations in all CEE countries, see Tables 20 and 21 in the CEE Telecom Cross-Country Analysis.

1. Hungary – Market analysis

Between November 24, 2006 and January 2, 2007, NHH held a national consultation on a draft decision of its second round analysis of the wholesale market for mobile access and call origination (market 15). In line with its finding in the first round market analysis in 2004, NHH does not propose to designate any of the three mobile operators Magyar Telekom (T-Mobile), Pannon and Vodafone as having SMP in market 15.

NHH found that the retail mobile market is effectively competitive and so there is no need to intervene on the wholesale market to protect the interests of consumers. There are no MVNOs in Hungary.

2. Latvia – Market analysis

On December 15, 2006 the European Commission closed its investigation into the market analysis notification submitted by PUC on the wholesale market for mobile access and call origination (market 15) at the end of phase 1 without comment. PUC has not yet adopted the final decision.

PUC notified its draft analysis to the Commission and other NRAs on November 17, 2006.

PUC concluded that the market is effectively competitive. There are four mobile operators (MNOs) in Latvia. Three e operate GSM and UMTS networks: Latvijas Mobilais Telefons (LMT), Tele2 and BITE. The fourth operator, Telekom Baltija, is operates a CDMA network. At the retail level, there are also three MVNOs: Zetcom (using LMT's network), IZZI and Master Telecom (both using BITE's network). Recently, the fixed incumbent operator Lattelecom has started to negotiate an MVNO agreement with Tele2.

B. Mobile call termination – Hungary, Latvia, Poland

For an overview of mobile call termination regulations in all CEE countries, see Table 22 and 24 in the CEE Telecom Cross-Country Analysis; MTRs are shown in Table 23.

1. Hungary – Market analysis

NHH has completed its second round analysis of the wholesale market for voice call termination on individual mobile networks (market 16).

The Board of NHH adopted its final decision on market 16 on October 2, 2006. On December 19, 2006 the Board of NHH adopted price control measures for Magyar Telekom (T-Mobile), Pannon and Vodafone imposing a glide-path of reductions in MTRs in three steps to reach a uniform target price per minute for all three MNOs of Ft 16.84 (eurocents 6.60) by January 1, 2009.

The target price was calculated by NHH using a "bottom-up" LRIC model and estimates the costs of a hypothetical efficient operator terminating one third of the total traffic in Hungary.

According to the NHH final decision on market 16 of October 2, 2006, MNOs had 40 days to submit their respective cost models to prove that their cost-based MTRs differ from those determined by the NHH cost model. T-Mobile and Vodafone submitted their own cost models but these were not accepted by NHH.

2. Latvia – Market analysis

On January 26, 2007 the European Commission closed its investigation into PUC's notification of additional regulatory measures in the wholesale market for voice call termination on individual mobile networks (market 16) with comments.

PUC notified the additional measures to the Commission on December 28, 2006. This additional notification follows an earlier notification of the analysis of market 16 submitted by PUC on July 27, 2006. Then, PUC excluded BITE from its market analysis, because the new entrant launched its operations only in September 2005 after PUC had completed its market data collection. Accordingly, only three mobile operators, LMT, Tele2 and Telekom Baltija, were designated as having SMP in market 16.

PUC then also imposed an asymmetric set of remedies. LMT and Tele2 were subject to identical regulatory obligations of access, transparency (including the requirement to publish RIO), non-discrimination and price control based on FDC and current costs. At the same time, Telekom Baltija that entered market in late 2004 was only subject to lighter obligations of transparent interconnection tariffs and non-discrimination.

In its comments on the first notification, the Commission said that PUC should as soon as possible carry out a market analysis for BITE and that asymmetric remedies must be properly justified.

In its additional notification of December 28, 2006 PUC proposed to designate BITE as having SMP in market 16 and to subject the operator the same remedies as earlier applied to Telekom Baltija, i.e. transparent interconnection tariffs and non-discrimination, without any price control measures. Similar to its previous decision on Telekom Baltija, PUC stated that imposing further remedies would be too burdensome for a new entrant operator and even limit its ability to compete.

The Commission closed its investigation with one comment emphasizing its position on the asymmetric application of remedies. According to the Commission, termination rates should normally be symmetric and any asymmetry would require an adequate justification.

The Commission noted that BITE has only recently entered the market, which may justify temporarily asymmetric termination rates. However, the Commission invited PUC to ensure that termination rates of all operators take into account the necessity to become efficient over time.

3. Poland – MNOs agree to reduce MTRs

On September 27, 2006 following the adoption by UKE of the final decisions on its analysis of the wholesale market for voice call termination on individual mobile networks (market 16), three of the four Polish mobile network operators – Orange, Polkomtel and PTC agreed to reduce their MTRs by 30% for peak hours and by 20% for off-peak hours. All three MNOs have introduced symmetric MTRs that apply both to fixed-to-mobile and mobile-to-mobile calls. Operators have also simplified the tariff structure: instead of one peak and two different off-peak tariffs, there will be just one off-peak rate. The peak rate was set at Zl 0.44 per minute (11 eurocents) and off-peak at Zl 0.40 per minute(10 eurocents) for all three MNOs.

The obligations imposed by UKE on the three MNOs include the requirement to set cost-oriented MTRs and to submit proposed changes to MTRs to the regulator for approval. Since UKE did not specify a particular cost accounting methodology in its final decisions on market 16, the regulator in accordance with Article 40 (3) of the Polish Telecommunications Act can verify the proposed MTRs by using benchmarking against the rates applied in comparable competitive markets.

The fourth 3G new entrant operator, P4 (Netia Mobile) was not operational at the time of carrying out the market analysis and therefore is not covered by the UKE decision.

On October 10, 2006 UKE announced that it was planning to impose a further reduction of MTRs of the three MNOs. UKE expressed its opinion on the desired level of MTRs in a Statement on MTRs in Poland published on July 28, 2006, as shown in the table below. In December 2006 UKE also consulted on whether there should be just one MTR, without differentiation between peak and off-peak tariffs.

MTRs per min	Peak Mon-Fri 8:00-18:00	Off-peak 1 Mon-Fri 18:00-22:00, Sat, Sun and public holidays 8:00-22:00	Off-peak 2 Mon-Sun 22:00-8:00
Agreed by MNOs on September 27, 2006	Zl 0.44 (€cents 11)	Zl 0.44 (€cents 11)	Zl 0.40 (€cents 10)
UKE recommendation of July 28, 2006	Zl 0.4258 (€cents 11)	Zl 0.3144 (€cents 8)	Zl 0.2620 (€cents 7)

Table 4 – Mobile call termination rates in Poland

4. Romania – ANRC delays reduction of MTRs

On December 12, 2006 ANRC, following a public consultation, adopted the decisions on postponing the implementation of the second step of the glide path reduction of MTRs of Orange Romania and Vodafone Romania, as shown in the table below. ANRC adopted final decisions on cost-based MTRs of Orange and Vodafone based on a bottom-up LRIC model on July 7, 2006, imposing a glide path transition from the current MTRs to the LRIC-based ones (see CEE Update July 2006).

Maximum MTR, €cents/min (no peak/off-peak differentiation)	ANRC decision of July 7, 2006	ANRC decision of Dec. 12, 2006
September 1, 2006	7.21	7.21
January 1, 2007	6.40	7.21
January 1, 2008	5.67	6.40
January 1, 2009	5.03	5.03

Table 5 – Mobile call termination rates in Romania

ANRC sustains the correctness of the applied model, since the maximum level of 5.03 eurocents per minute, to be reached by the interconnection tariffs by the end of the transition period, namely January 1, 2009, is maintained.

In its decision to delay the glide path implementation, ANRC took into account both the level and the evolution of MTRs in the EU Member States, in particular the fact that MTRs of the two Romanian operators are already among the lowest in Europe.

The decision was heavily contested during the consultation period by the fixed incumbent operator Romtelecom and two other MNOs, Cosmote and Telemobil. Romtelecom stated that Romanians are currently paying among the highest retail tariffs in Europe for fixed to mobile calls and announced its intention to appeal against the regulator's decision to the court.

VI RETAIL

A. Retail price controls – Bulgaria, Croatia, Poland

For an overview of retail tariff regulations in all CEE countries, see Tables 29 and 30 in the CEE Telecom Cross-Country Analysis.

1. Bulgaria – BTC tariffs approved

On December 14, 2006 CRC adopted Resolution No 2280 approving BTC's proposal for new retail prices for fixed voice telephone services. According to article 218 of the Telecommunications Act (transposing the former 1998 ONP framework), BTC as the operator designated as having SMP in the market for fixed telephone networks and services, must notify its retail tariffs for fixed voice telephone services to CRC for approval one month before their publication.

The new retail tariffs entered into force on February 1, 2007 and involve increased monthly subscription fees for residential and business subscribers and reduced prices for international calls. CRC had rejected two previous BTC retail tariff proposals in May and July 2006, as incompliant with the Rules for retail price affordability for regulated fixed voice telephone services (see CEE Update July 2006).

2. Croatia – Control of mobile tariffs

On November 27, 2006 the CTA Council requested the mobile operator VIPnet to modify the tariffs of its 'Option Fixed' prepaid package. According to CTA, the mobile operator had practiced predatory pricing offering every month the first 500 minutes of calls to national fixed networks for Kuna 0.10 (1.36 eurocent) per minute. CTA ordered VIPnet to reduce the number of minutes to 35 minutes per month. The regulator took this decision on its own initiative and without involvement of the Competition Authority.

3. Poland – 'Naked' DSL and retail price control

The incumbent operator TPSA announced that it would start offering retail Internet DSL services ('neostrada tp') without bundling together with the voice telephony subscription ('naked DSL') from February 15, 2007. Earlier, in September 25, 2006 UKE imposed a fine of Zl 100 million (€25 million) on TPSA for the failure to comply with the regulator's decision of July 5, 2006 requiring the incumbent operator to launch a retail naked DSL offer (see CEE Update October 2006).

On December 18, 2006 TPSA informed UKE about its planned prices for the retail naked DSL offer, but did not submit these prices for formal regulatory approval. UKE announced its intention to impose another fine on TPSA.

B. Market analysis – Czech Republic, Hungary, Latvia, Lithuania, Poland, Slovakia

1. Czech Republic – Retail fixed call markets

On October 18, 2006 CTU issued decisions No. REM/'4/10.2006-65 and No. REM/'5/10.2006-66 imposing an accounting separation obligation on Telefónica O2 Czech Republic designated as having SMP in the retail markets for fixed international calls for residential customers (market 4) and national calls for non-residential customers (market 5). Both decisions entered into force on December 4, 2006. A similar accounting separation obligation was previously imposed on Telefónica O2 CR in the retail market for fixed national calls for residential customers (market 3). Accounting separation was the only obligation imposed on Telefónica O2 CR in markets 3-5, in addition to CS/CPS.

NB. The CS/CPS obligation is automatically triggered by SMP designation in retail access and/or calls markets under article 19 of the Universal Service Directive.

On October 18, 2006 CTU issued a decision removing regulatory obligations from Telefónica O2 CR in the retail market for fixed international calls for non-residential customers (market 6), following the CTU conclusion that the market is effectively competitive. Under the previous ONP framework, Telefónica O2 CR was subject to obligations of non-discrimination and accounting separation. The decision entered into force on October 25, 2006.

2. Hungary – Retail fixed call markets

Between November 24, 2006 and January 2, 2007, NHH held a national consultation on draft decisions of its second round analysis of the retail fixed local, national and international calls markets for residential and non-residential customers (markets 3-6).

In line with its conclusions in the first round market analysis in 2004, NHH proposed to maintain the SMP designation of each of the five incumbent local telecoms operators Magyar Telekom, Emitel, Invitel, Hungarotel and Monortel and not to impose any obligations on the five operators beyond the requirement to offer CS/CPS.

NB. The CS/CPS obligation is automatically triggered by SMP designation in retail access and/or calls markets under article 19 of the Universal Service Directive.

NHH found that while competition has become more intensive since the first round market analysis, markets 3-6 still are not effectively competitive and maintenance of the CS/CPS obligation is required.

3. Latvia – Retail fixed access and call markets

On January 26, 2007 the European Commission closed its investigation into the market analysis notifications submitted by PUC on the retail markets for fixed access and local, national and international calls for residential and non-residential customers (markets 1-6). The Commission closed its investigation at the end of phase 1 commenting on the lack of detail concerning the proposed price control obligation and the absence of an accounting separation obligation, without which any price control measures would seem to be difficult to enforce.

PUC notified its draft analysis to the Commission and other NRAs on December 28, 2006. PUC proposed to designate Lattelecom as having SMP in all six markets and to impose the following regulatory obligations:

- CS/CPS (markets 1-2);

  NB. The CS/CPS obligation is automatically triggered by SMP designation in retail access and/or calls markets under article 19 of the Universal Service Directive.

- cost orientation (as described in PUC Decision No. 281 of Nov. 30, 2005 on methodology of cost accounting) (markets 1-6).

4. Lithuania – Retail fixed access markets

On November 24, 2006 RRT adopted final decisions on the retail fixed access markets for residential and non-residential customers (markets 1-2). It designated TEO LT as having SMP in these markets and imposed the following regulatory obligations:

- CS/CPS;

  NB. The CS/CPS obligation is automatically triggered by SMP designation in retail access and/or calls markets under article 19 of the Universal Service Directive.

- price control and cost accounting (based on FDC and historic costs);
- accounting separation; and
- wholesale line rental (WLR). In order to ensure the effectiveness of the WLR remedy, further obligations of non-discrimination, transparency, price control and cost accounting (FDC and historic costs), and accounting separation are imposed in connection to the WLR obligation.

5. Poland – Commission vetoes fixed access markets and opens Phase 2 for fixed calls

a) Retail fixed access

On January 15, 2007 the European Commission published a decision requiring UKE to withdraw its market analysis notifications on the retail fixed access markets for residential and non-residential customers (markets 1-2).

The Commission did not accept UKE's finding that provision of retail broadband access is part of the relevant product markets and should be subject to the same set of regulatory obligations as narrowband access. So far, retail broadband access services have not been regulated in any other EU Member State (see EU Telecom Flash 07/2007).

UKE notified its analysis of markets 1 and 2 to the Commission and other NRAs on October 13 and 24, 2006, respectively. The Commission extended its investigation by additional two months (phase 2) on November 13, 2006.

UKE proposed to define the relevant product markets as comprising xDSL broadband subscriptions in addition to narrowband PSTN and ISDN connections and to designate the incumbent operator Telekomunikacja Polska (TPSA) as having SMP. UKE proposed to impose on TPSA an extensive list of regulatory obligations, including a prohibition to offer bundled services, cost-orientation and cost accounting based on forward looking fully distributed cost methodology and a requirement to submit to UKE for a formal approval its retail prices and other conditions of service provision, with a 30-days advance notice period. These regulatory obligations would also have applied to TPSA's retail broadband access offer.

b) Retail fixed calls

On December 6, 2006 the European Commission published its comments on the market analysis notifications submitted by UKE on the retail markets for fixed local, national and international calls for residential and non-residential customers (markets 3-6). UKE notified its analyses of markets 3-6 to the Commission and other NRAs on November 6, 2006.

The Commission extended its investigation by additional two months (phase 2) (until February 6, 2007), stating that UKE had not presented sufficient evidence for excluding from the scope of the relevant product markets national and international calls provided through 0708 dial-in premium rate numbers and pre-paid calling cards. The Commission says that a substantial (undisclosed) percentage of national and international calls in Poland are made in this manner, and that analysing the market without taking into account these types of calls may lead to a wrong conclusion as regards designating TP as having SMP (see EU Telecom Flash 140/2006).

On February 6, 2007 the Commission closed its 'phase 2' investigation into UKE's analysis of markets 3 to 6 with comments. The Commission had initially questioned why UKE did not include in its proposed market definitions national and international calls provided through 0708 dial-in premium rate numbers and pre-paid calling cards. Closing its investigation, the Commission re-stated its position that calls made through premium rate numbers and pre-paid calling cards should be included in the relevant markets, but on the basis of additional data on market shares provided by UKE during the phase 2 investigation, the Commission concluded that this would not have a decisive impact on the finding of SMP in any of the four markets. The Commission therefore withdrew its serious doubts and closed its investigation of all four markets at the end of phase 2 with comments asking UKE to include the additional market data in its final decisions and to carry out a new analysis of the markets within one year of the final decisions.

6. Slovakia – Retail fixed calls

On November 28, 2006 TUSR Chairman rejected the appeal of Slovak Telekom against the decision by TUSR of July 2006 designating Slovak Telekom as having SMP in the retail fixed international calls markets for residential and non-residential customers (market 4 and market 6). Earlier, on September 6, 2006 TUSR Chairman also rejected the appeal of Slovak Telekom against the decision by TUSR of July 2006 designating ST as having SMP in the retail fixed national calls markets for residential and non-residential customers (market 3 and market 5).

NB. TUSR chairman acts as the first instance for appeals against decisions of the NRA.

In markets 3-6 TUSR imposed the following remedies on Slovak Telekom: non-discrimination, prohibition to bundle the provision of call services with any other services and prices must not be excessive or unreasonably low with the aim to eliminate competition or to hinder market entry.

C. Number portability – Bulgaria, Estonia, Macedonia, Slovakia, Slovenia

For an overview of fixed and mobile number portability implementation in all CEE countries, see Tables 25 and 26 in the CEE Telecom Cross-Country Analysis.

1. Bulgaria – Mobile number portability delayed

Mobile number portability was due to become operational in Bulgaria from January 1, 2007 according to the deadline set out in the Telecommunications Act but this has not happened in practice.

On December 22, 2006 CRC adopted Resolution No 2338 that obliged mobile operators to submit to CRC by January 10, 2007 a jointly agreed procedure for providing MNP. The CRC regulations establish onward routing as a temporary solution and a centralised database with direct routing based on 'all call query' (ACQ) as the final solution.

Two mobile operators, Cosmo Bulgaria Mobile (GloBul) and BTC Mobile (Vivatel) agreed on a MNP procedure on January 8, 2007 and CRC accepted the agreement. Mobiltel, the largest Bulgarian mobile operator, however, refused to agree with the proposed procedure. According to CRC, the service could not be introduced before all the three MNOs reach an agreement.

The implementation of fixed number portability in Bulgaria is postponed until January 1, 2009.

2. Estonia – New number portability database

On January 9, 2007 the Estonian regulator, ENCB, took over the operation of a new centralised number portability database (NPDB). The new database is connected to the ENCB numbering reservation database (NRDB).

Previously, NPDB was operated by a private company, Abobase, that was in dispute with the Ministry of Economics and Communications because of the refusal to implement a technical solution interoperable with NRDB.

3. Macedonia – Number portability regulations

On December 21, 2006 AEC adopted a By-law on Number Portability. This By-law regulates the implementation of number portability in both fixed and mobile networks as well as the central reference database for number portability. The centralised database will be operated by AEC and financed from the numbering fees paid by operators.

The By-law establishes an obligation for the operators to implement number portability in fixed and mobile networks by July 1, 2007. It has not yet been decided whether the technical solution will be based on ACQ or QoR. Operators must agree on the solution by April 1, 2007. If operators cannot reach an agreement, QoR will be the default implementation.

4. Slovakia – Fixed number portability

On October 12, 2006 the European Commission sent a letter of formal notice to Slovakia, where fixed number portability is still lacking although new legislation had been introduced.

Slovak Telekom signed number portability agreements with two operators, Dial Telecom and Zeleznicne telekomunikacie. Customers can port their number from Slovak Telekom to alternative operators since December 1, 2006. ST charges Sk 1500 excluding VAT (€ 43.5) to the recipient operator and Sk 1200 including VAT (€ 34.8) to the subscribers for porting a number.

5. Slovenia – Draft amendments to number portability regulations

Between November 28 and December 28, 2006 APEK consulted on the proposed changes to the Number Portability Act covering following issues:

- introducing number portability for non-geographic freephone and premium rate service numbers;
- removing the obligatory announcement to the calling party preceding calls to ported fixed numbers and shortening the announcement for calls to ported mobile numbers;
- shortening the maximum implementation time for porting fixed numbers to 12 days; and
- reducing the one-off inter-operator fee for porting to €5 instead of the current €10 for both fixed and mobile numbers.

Some 18,000 mobile numbers were ported in first 11 months after the introduction of MNP on January 1, 2006. Some 12,000 fixed numbers were ported in first six months after the introduction of fixed number portability on May 10, 2006.

VII UNIVERSAL SERVICE

For an overview of universal service scope and funding mechanism in all CEE countries, see Tables 27 and 28 in the CEE Telecom Cross-Country Analysis.

A. Universal service funding – Estonia

1. Estonia – Reduction of contributions to USO fund

On December 21, 2006, the Estonian government adopted an amendment to Decree no 143 of June 22, 2006 on *'determination of universal service fee for 2007'*. The amendment sets out that in 2007 the net cost of universal service provision will not be shared between operators.

According to the original version of the decree, all providers of electronic communications networks and/or services had to pay 0.01% of their annual net revenue in order to share the net cost with the universal service provider. However, the government decided to apply 0% for 2007 because Elisa, the mobile operator designated as the new universal service provider, has committed to apply a lower retail access fee than the fee estimated by ENCB (see CEE Update October 2006).

B. Designation of universal service providers – Poland, Romania

1. Poland – TPSA designated universal service provider until 2011

On November 7, 2006 UKE issued a decision designating the incumbent operator Telekomunikacja Polska (TPSA) as a universal service provider for the period from November 9, 2006 until May 8, 2011. Following a tender procedure, in May 2006 UKE designated TPSA as the universal service provider for a provisional period of six months, launching at the same time a consultation on the conditions of TPSA designation as the universal service provider for the remaining four and a half year period (see CEE Update July 2006).

The new decision finalises the designation process and regulates the quality of service requirements and the provision of services to customers with low income or special social needs. The scope of the universal service covers the following services:

- access at the subscriber's main location to the public telephone network, excluding ISDN;
- maintenance of local loops and network termination points ready for the provision of services;
- national and international calls, including, calls to mobile networks, facsimile and data transmission services, including Internet access;
- directory enquiry services and subscriber directories;

  NB. The specific requirements for the provision of directory enquiry services and subscriber directories are set out in a separate UKE decision of September 25, 2006.
- provision of public payphones; and
- facilities for the disabled.

On November 15, 2006 UKE issued a decision determining the minimum number of publicly available payphones required to be provided by TPSA:

- one payphone per 950 inhabitants of each *gmina* (the smallest administrative unit in Poland; there are about 2500 *gmina*s in total);

- one payphone per 2000 inhabitants of each *gmina* must be a payphone for the disabled.

After two years, TPSA may apply for a review of this obligation if demand for payphones should significantly reduce and TPSA could prove falling profitability of the service.

On December 5, 2006 UKE approved TPSA's proposal for terms and conditions for the provision of retail telecommunications services including the universal services.

2. Romania – Designation of universal service providers for telecentres

The Romanian legislation provides for the possibility to ensure universal access to telephone, facsimile and Internet services in rural areas by means of so-called telecentres, serving the needs of a certain community.

On December 19, 2006 ANRC designated four companies that will install telecentres in 123 further localities in rural areas with limited access to telephone services, following a tender procedure launched in September 2006. The winners are Orange Romania, Rartel, Radiocom (the National Radiocommunications Company) and Vodafone Romania.

NB. A telecentre is a public site with at least two telephone sets, two computers and one fax machine, where the end-users can make and receive local, national and international calls. A telecentre may also provide facsimile and data services at a transfer rate allowing functional access to the Internet (the minimum data rate is not mandated – CI).

The net cost for installing and running these 123 telecentres is approximately RON 5 million (€ 1.4 million), which is to be compensated by ANRC from the universal service fund. On average, the total cost of installing the equipment and supporting the operation of each telecentre for three years, as established in the tender, amounts to RON 40,438 (€11,800). After three years, the designation of the universal service provider will cease and telecentres will become property of the respective local authorities.

Between December 2004 and December 2006, ANRC organised tenders for the installation of telecentres in 331 localities. The telecentres in 124 of these localities are already functioning; the rest are due to be commissioned by mid-2007.

C. Universal service framework – Macedonia

On December 21, 2006 AEC adopted a set of secondary legislation regulating the provision of universal service that contains the following four pieces of legislation:

- By-law on prescribing the tender procedure for selection of a universal service provider;

- By-law on methodology of establishing prices for universal service;

- By-law on the method of calculating real costs and intangible benefits for the provision of universal service; and

- By-law on determination of the level of compensation for the real costs for the provision of the universal service

Prices for the universal service shall be cost-oriented and shall be equal for users across the entire territory of the country. The designated universal service provider has a right to apply to AEC for compensation for the real costs of provision of universal services, calculated as the difference between the costs of provision of universal service and the revenues plus tangible and intangible benefits arising from the provision of universal service.

The compensation for real costs of universal service provision shall be financed by providers of public electronic communications networks and services with a minimum gross revenue of € 100,000. However, the amount of operators' contributions to the universal service fund cannot not be higher than 1% of the total revenues from providing public communication networks and services.

So far, no operator has been formally designated as the universal service provider in Macedonia.

D. Functional Internet access – Slovenia

On October 28, 2006 APEK adopted an amendment to the General act on data rate appropriate for the functional Internet access. The act establishes the minimum transmission speed for data communications that must be ensured by the connections provided by the designated universal service provider (currently, Telekom Slovenije). The amendment reduces the minimum data rate to 28.8 kbps, from 56 kbps previously approved by APEK.

E. Mobile caller location for 112 emergency calls – Lithuania

On December 6, 2006 the emergency response centre (ERC) signed an agreement with the three MNOs BITE Lietuva, Omnitel and Tele2 to implement technical facilities enabling the provision of location data of mobile phone users when the single emergency call number 112 is dialled. The E112 function will allow an ERC operator to see the location of the caller on a digital map when the emergency call is answered.

The agreement will contribute to the implementation of article 26(3) of the Universal Service Directive, obliging Member States to ensure that operators of public telephone networks make caller location information available to authorities handling emergencies, to the extent technically feasible, for all calls to the single European emergency call number 112.

VIII BROADBAND WIRELESS ACCESS

For an overview of BWA licences and relevant regulations in all CEE countries, see Tables 18 and 19 in the CEE Telecom Cross-Country Analysis.

A. National licences in 26 GHz – Bulgaria

On December 14, 2006 CRC adopted Resolution No 2247 granting five national BWA licences to operate national point-to-multipoint networks in the 26 GHz band, valid for 15 years. Licences were issued to five operators that submitted bids on October 27, 2006: the incumbent operator BTC, mobile operator Cosmo Bulgaria Mobile, as well as three alternative operators Max Telecom, TransTelecom and Nexcom Bulgaria. Two of the licensees, TransTelecom and Nexcom, already own BWA licences in the 3.5 GHz band.

Since the five bidders applied only for 20 duplex channels out of the total 25 channels available in the invitation to tender published in September 2006, CRC decided to grant individual licenses to all five bidders without any competitive procedure. The one-off price for each duplex channel was set at Lev 89,600 (€ 45,000).

B. Regional licences in 3.5 GHz – Croatia

1. Withdrawal of BWA concession from Iskon Internet

On November 29, 2006 CTA decided to withdraw from Iskon Internet, a major ISP, the frequency concession for BWA services in the 3.5 GHz band covering the Zagreb county region following the acquisition of Iskon Internet by the incumbent operator T-HT (see CEE Update July 2006).

The concession for the 2x21 MHz spectrum block in question was awarded to the alternative fixed operator Optima Telecom, which was the second best ranked company and received a smaller 2x14 MHz spectrum block in the original beauty contest procedure for four FWA concessions in March 2006. This 2x14 MHz block was in turn awarded to the mobile operator VIPnet that was ranked number five in the original procedure and did not receive any frequency concession at that time.

2. New regional FWA concessions

On December 27, 2006 CTA announced a beauty contest procedure for FWA frequency concessions in the 3.5 GHz in a single region covering four neighbouring counties: Krapina-Zagorje, Varaždin, Koprivnica-Križevci and Virovitica-Podravina. Interested operators were invited to submit their bids within 45 days from the announcement.

So far, CTA has issued 42 concessions for FWA spectrum in the 3.5 GHz band covering 10 out of 20 Croatian counties and the District of Zagreb. Each concession has a 5 year validity period with the spectrum fees varying between Kuna 135,000 – 270,000 (€18,000 – 37,000), depending on the region, in the first year of operations, and 0.1% of the total service revenue in each of the four remaining years.

C. National BWA licence in 450 MHz – Estonia

On November 6, 2006 ENCB announced Televõrgud, a fixed telecommunications operator controlled by the state-owned Estonian Energy Company, the winner of the tender procedure for the national BWA frequency licence in the 450 MHz.

The tender procedure was launched by ENCB on June 19, 2006 (see CEE Update July 2006). The licence allows both fixed and mobile BWA applications, but requires the data transmission speed to be at least 144 kbps.

D. BWA licences in 3.5 GHz – Macedonia

On December 4, 2006 AEC announced its intention to launch a public tender procedure in the first half of 2007 for granting spectrum authorisations in the 3.4 – 3.6 GHz band for provision of FWA services. A working group has been established by AEC.

AEC has also sought approval from the government on the market value of the radio frequencies to be recovered as a one-time fee for the FWA spectrum authorisations.

Following the expressions of interest from potential service providers, AEC published in April and July 2006 two documents concerned with the introduction of FWA: 'Guidelines for technical and exploitation conditions for radio frequency utilisation in the 3.4 - 3.6 GHz frequency band for FWA' and 'Guidelines for introducing FWA in the 3400-3600 MHz frequency band in the Republic of Macedonia'.

E. Consultations on BWA spectrum – Poland, Romania, Slovakia

1. Poland – BWA spectrum in 3.6 – 3.8 GHz, 2200 – 2400 MHz and 2500 – 2690 MHz

In December 2006 UKE consulted on the future use of spectrum for BWA applications based on point-to-multipoint systems in three spectrum bands: 3.6 – 3.8 GHz, 2200 – 2400 MHz and 2500 – 2690 MHz.

In particular, the UKE addressed the following issues:

- whether these bands should be allocated to BWA applications on a technology-neutral basis or should be reserved for any specific standards and technology solutions, such as TDD or FDD;
- compatibility with other uses; and
- assignment methods – local, regional or national networks.

On January 10, 2007 the UKE published a summary of the received responses.

a) 3.6 – 3.8 GHz

Following two public tender procedures held in 2004 and 2005, six national licences were granted to four operators: the mobile operator PTC and three fixed operators Netia, NASK and Clearwire (two licences each of 28 MHz, and 4 licences each of 14 MHz).

Still available in this band are 12 duplex channels of 3.5 MHz each. In 2005 URTiP (the predecessor of UKE) organised tender procedures for 317 local licences in this spectrum, each covering areas of the administrative units called *powiats*. A review conducted by UKE during 2006 showed that most of the offers submitted during this tender were incorrectly assessed. Consequently, UKE decided to annul all 317 procedures and to resume the discussion on the future use of this spectrum.

The consultation considered four possible solutions for assigning the available spectrum:

- local tender procedures for some 200–300 licences covering areas similar to powiats surrounding larger towns and cities;
- regional tenders for licences covering areas similar to numbering zones in the public fixed network (there are 49 numbering zones in Poland);
- regional tenders for licences covering areas approximating 16 voivodships; and
- a tender for two licences with nationwide coverage.

b) 2200 – 2400 MHz

According to the national frequency allocation table, this band is foreseen for civil applications allowing both fixed and mobile services. The European common frequency allocations table, as specified in ERC Report 25 is somewhat more detailed. The UKE is now consulting on possible uses of these frequencies.

c) 2500 – 2690 MHz

According to the national frequency allocation table, from January 1, 2006 this band is allocated to the public mobile telecommunications services based on UMTS. However, until a public tender procedure for assigning the spectrum rights is announced, spectrum in this band can be used for the needs of the National Defence Ministry.

At the EU level the use of this band (so called 'UMTS expansion band') is regulated by ECC Decision(05)05 of March 18, 2005 containing a channelling plan for harmonised use by terrestrial IMT-2000/UMTS services and to facilitate cross-border co-ordination and efficient use of spectrum across Europe. This decision further specifies that:

- 2500 – 2570 MHz band paired with 2620 – 2690 MHz is reserved for FDD applications; and
- 2570 – 2620 MHz band can be used by both TDD and FDD applications.

The future use of this band is currently discussed in the Radio Spectrum Committee (RSC), in the context of the European Commission proposal to open the 2.6 GHz band on a technology-neutral basis for IMT-2000 and other technically compatible technologies (see Table 16 in the WE Telecom Cross-country analysis).

2. Romania – BWA spectrum in 3.5 GHz and 400 MHz

a) 3.5 GHz

In October 2006 General Inspectorate for Communications and Information Technology (IGCTI) held a consultation with the present FWA spectrum licence holders in the 3.5 GHz band. The consultation addressed the possible introduction of new technology-neutral spectrum assignment methods for this band and whether regional or national spectrum licences should be granted.

In Romania, seven operators hold ten national fixed wireless access licenses, while five operators hold 175 local licenses in the 3.5 GHz band. IGCTI stated that it expects the first WiMAX services will be available in Romania already in 2007.

On November 28, 2006 the Ministry of Communications and IT (MCTI) also held a public discussion on drafting the strategy for granting spectrum licences that would enable the introduction of WiMAX services.

b) PMR services in 400 MHz

On November 7, 2006 IGCTI published for consultation the task book for the granting of a new spectrum licence in the 410-415/420-425 MHz band for providing private mobile communications services based on broadband digital land mobile PMR/PAMR systems. The licensee will provide mobile services to private users such as security and ambulance, public utilities, transportation services and industry.

The current license holders in the 410-415/420-425 MHz band operating narrowband analogue terrestrial mobile services will be allowed to convert their analogue licences into digital ones upon request. The current licence holders operating fixed line services in this band will preserve their rights until the licences expire.

3. Slovakia – BWA spectrum in 26 GHz and 28 GHz

TUSR is preparing a call for tender to assign FBWA licences in the 26 GHz and 28 GHz. The details of the call for tender will be published after the public consultation that was held in December 2006.

IX 2G/3G MOBILE SPECTRUM

For an overview of 2G/3G mobile licences in all CEE countries, see Table 15 in the CEE Telecom Cross-Country Analysis.

A. Vodafone's lower 3G licence fee not state aid – Czech Republic

On December 21, 2006 the European Commission ruled that the lower price at which the third 3G licence was granted by the Czech Government in 2005 did not involve state aid as there was no discrimination against the winners of the first two licences in 2001.

In 2001, Eurotel (controlled by Telefonica since 2005) and T-Mobile, two of the three GSM operators in the Czech Republic, were each awarded a 3G licence at fees of Kc 3.5 billion (€105 million) and Kc 3.9 billion (€115 million) respectively. No other company was interested in the remaining two 3G licences at the conditions then set by the Czech authorities with the minimum fee of Kc 3.5 billion (see CEE Update December 2001).

In 2005, the Czech government awarded the third 3G licence to the remaining GSM operator, Oskar (now Vodafone) at a fee of Kc 2 billion (€66 million) (see CEE Update March 2005). Eurotel and T-Mobile subsequently complained to the Commission that the difference between the fees for the first two licences and for the third licence constituted illegal state aid to Oskar.

The Commission concluded that the lower price with respect to previous 3G licences simply reflects the change in market conditions between 2001 and 2005 (see EU Telecom Flash 3/2007).

B. Tender procedure for fourth 3G licence – Estonia

On January 19, 2007, ENCB announced ProGroup Holding, a 100% subsidiary of Bravocom Mobiil (the largest MVNO in Estonia), as winner in the tender procedure for the fourth UMTS frequency licence (see CEE Update October 2006). Bravocom must now pay its bid of Kroon 71 million (€ 4.5 million) and the annual frequency state duty fee of Kroon 0.9 million (€ 57,000) before the award of the licence.

The ENCB announcement followed several withdrawn decisions on the winner. On November 3, 2006 ENCB declared Crosson Capital, a Russian investor, as the winner. Crosson Capital's bid was Kroon 100.1 million (€ 6.3 million). However, ENCB annulled its decision on December 13, 2006 because Crosson Capital had not paid the tender and state duty fees. In the same decision, ENCB declared the second highest bidder, Renberg Investments (Kroon 93 million, € 5.9 million), as the winner. However, ENCB had to withdraw this decision also, because of unpaid fees.

Three UMTS-licences were issued to EMT, Elisa and Tele2 on the basis of direct tendering in August 2003 with a one-off fee of Kroon 70 million (€ 4.48 million) for each licence. The fourth licence remained unsold, as no bids were submitted in the auction procedure held in April 2004.

C. Tender procedure for third 2G licence – Macedonia

On January 31, 2007 AEC announced that Mobilkom, the mobile subsidiary of Telekom Austria, was the sole bidder for a third 2G mobile licence in Macedonia. Mobilkom offered to pay € 10 million for the licence.

On October 30, 2006 AEC announced a public tender procedure to award a third GSM 900/1800 mobile frequency licence and to grant additional GSM 1800 spectrum to the two current mobile operators, T-Mobile and Cosmofon.

The subject of the tender procedure is granting a spectrum authorisation to a third operator of public mobile communication networks and services on the entire territory of Macedonia in the following radio frequency bands:

- 2x25 MHz in the GSM 1800 band; and
- 2x10 MHz in the extended GSM 900 band.

At the same time, T-Mobile and Cosmofon, were invited to participate in the tender procedure for granting spectrum authorisations for two blocks of 2x12.5 MHz each in the DCS 1800 band.

The authorisations would be granted for a period of 10 years, with a possible extension for another 10 years. The minimum bid amount for a third GSM 900/1800 licence was set at € 5 million, and at € 2 million for each of the two additional GSM 1800 spectrum blocks.

Participation in the tender procedure for a third GSM 900/1800 was restricted to domestic and foreign mobile operators that have at least 2 million users and have made annual profits in 2004 and 2005 of more than € 300 million per year. In addition to the amount of the one-off fee offered for the spectrum authorisation, the most important selection criterion is the prices of the services to be offered by the third mobile operator for national traffic.

The winning bidder must start operating within six months from the day of issuing the authorisation. Within the first year of operations it must provide 30% coverage, within two years 50% coverage and within four years 90% coverage of the population.

D. Two additional 3G licences – Romania

In January 2007 IGCTI issued two new 3G licences for provision of public UMTS services to RCS&RDS, a major alternative fixed operator and cable provider, and Telemobil (Zapp), the operator of a public CDMA2000 network. The two operators were announced winners in October 2006 following a comparative selection procedure for the two available 3G licences.

The licences were issued after the two operators had paid their first $10.5 million instalments of the total $35 million licence fees. The fees are the same as those set in 2004 for the two 3G licences granted to Vodafone and Orange. Each licence will have a validity period of 15 years and may be renewed upon the holders' request for another 10 years, without payment of additional fees.

X OWNERSHIP OF OPERATORS

For an overview of privatisation status and ownership of operators in all CEE countries, see Tables 35 and 36 in the CEE Telecom Cross-Country Analysis.

A. UPC acquires two major competitors – Czech Republic

On December 22, 2006 the Office for the Protection of Competition approved the merger between the three major cable operators, UPC, Karneval and Forcable, under the following conditions:

- provision of access to programs, to which has UPC exclusive rights, to third parties on non-discriminatory conditions in all regions;
- no increase in retail prices before the end of 2007, and in 2008-2010 increase in prices cannot exceed the inflation rate;
- the program offer should be same in all areas covered by the three companies;
- accounting separation to eliminate cross financing.

B. TDC sells Radiokomunikace – Czech Republic

In November 2006 a consortium of the Lehman Brothers investment bank, Mid Europa Partners and Al Bateen investment funds bought Radiokomunikace, the operator of the Czech analogue terrestrial television and radio broadcasting network and a major provider of telecommunications services, for €1.2 billion.

Previously Radiokomunikace was almost wholly-owned by the consortium Bivideon, formed by the Danish incumbent operator TDC and Deutsche Bank.

C. TDC acquires Invitel – Hungary

In January 2007 TDC purchased Invitel, one of the four smaller incumbent local telecoms operators for € 470 million including debt. TDC, through its subsidiary Hungarian Telephone and Cable Corporation (HTCC), already owns another of the LTOs, Hungarotel, plus PanTel, Hungary's largest alternative telecoms provider.

TDC owns 63% of HTCC with the rest publicly listed on the American Stock Exchange.

D. Telekom Austria acquires eTel – CEE, Germany and Austria

On December 20, 2006 Telekom Austria acquired the business units of eTel Group in Germany. Austria, Poland, Hungary, Czech Republic and Slovak Republic. The transaction is subject to the approval by the competition authorities in all six countries where eTel is operating.

E. Lattelecom privatisation – Latvia

In December 2006 the Cabinet of Ministers discussed a possible increase of TeliaSonera's shareholding in Lattelecom and in Latvijas Mobilais Telefons (LMT). At present TeliaSonera owns 49% of Lattelecom and 60% of LMT both directly and through Lattelecom. It may become a 100% shareholder of the two companies if the Cabinet of Ministers gives its approval.

F. Romtelecom IPO and Radiocom privatisation delayed – Romania

On December 2, 2006 the Romanian Ministry of Communications and IT (MCTI) and the Greek incumbent telecom operator OTE, the major shareholders of the Romanian incumbent operator Romtelecom, agreed to postpone the Romtelecom IPO initially scheduled to take place in the first half of 2007. No timing has been indicated for the new IPO. The Romanian government currently controls 46% of Romtelecom shares and OTE holds the remainder.

The privatisation of Radiocom, the terrestrial broadcasting network operator and major provider of telecommunications services, currently 100% state owned was postponed. MCTI asked for the termination of the financial consultancy services contract with Credit Suisse First Boston because of several alleged fraudulent privatization processes involving the advisory team members.

G. Tus acquires Voljatel – Slovenia

On November 21, 2006 Mirko Tus, the owner of one of the biggest retail companies Tus and the third 2G mobile operator Tus Mobil, bought an alternative fixed operator and ISP provider Voljatel for around € 25 million. In December 2006 Tus started the first promotion of Voljatel's triple play packages offering voice telephony, broadband Internet and IP TV services.