

Current and interdisciplinary issues in telecommunications (from the Volume Editor)

Articles

Jan Siudecki, **Memorandum of the President of UKE and telecommunications industry as an instrument of service quality provision**

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- I. Initial remarks
- II. Legal nature of sanctioned self-regulation
- III. Reasons for undertaking self-regulatory initiatives and their sanctioning
- IV. Memorandum as a response to asymmetrical information between the regulator and the regulated
- V. Conclusions

Summary: Author analyses the agreement on telecommunications services quality, concluded in October 2012 between the President of UKE and service suppliers as a form of sanctioned self-regulation. In this article the reasons for undertaking this voluntary commitment by industry have been analyzed as well reasons for their sanctioning. The author tries to establish the legal nature of the concluded agreement and assess if the expectations of the President of UKE as to the reduction of informational asymmetry have been met.

Keywords: alternative methods of regulation, sanctioned self-regulation, service quality, telecommunications, President of UKE, informational asymmetry.

Patryk Koralewski, **Foundations of data processing for marketing purposes according to telecommunication law**

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- II. Relationship between sectoral and general provisions regarding processing of personal data for marketing purposes
 1. Preliminary remarks
 2. Conflict rule indicated in Article 5 of Personal Data Protection Act
 3. Coincidence of legal norms
 4. Complementary relationship of the general and sectoral rules of law
- III. Data processing in the telecommunication sector
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IV. Data processing terms

1. Terms of data processing for marketing purposes on the grounds of Article 165.4 Telecommunications Law
 - 1.1. Consent as the basis for data processing
 - 1.2. Consent purpose and its binding role
2. Terms of data processing not indicated in Article 165.4 of Telecommunications Law
3. Terms for data processing created outside the framework of communication in telecommunication networks

Summary: The purpose of this article is to present the issue of processing data for marketing purposes by telecommunication companies. The main issue raised in the article is the relation of sectoral rules contained in Telecommunications Law to general provisions under the Personal Data Protection Act. The issue requires analysis of a conflict occurring between these laws. In particular it is necessary to determine the normative content of Article 5 of Personal Data Protection Act, which is of basic importance for determining the relationship between general and sectoral provisions in this regard.

Keywords: telecommunications, marketing, data protected by confidentiality of telecommunications, traffic data, conflict rule, coincidence of law.

Mariusz Czyżak, **Changes regarding penal and penal-administrative liability resulting from the amendment of Telecommunications Law of 16 November 2012**

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- I. Introduction
- II. Modification to the rules of liability for illegal use of radio equipment
- III. Changes to the list of administrative torts
- IV. Possibility to incur penal and administrative liability having ceased to breach the law or having remedied the damage caused
- V. Changes to the financial penalty assessment basis
- VI. Closing remarks

Summary: This article is devoted to the amending Telecommunications Act of 16 November 2012 in its part related to penal and penal-administrative liability. It touches upon the following issues: penalization of illegal use of radio equipment, new list of administrative torts under Article 209 of the Telecommunications Act, the possibility to impose financial penalty in case the entity in question has ceased to breach the law or has remedied the damage caused as well as changes to the financial penalty assessment basis.

Key words: telecommunications, financial penalty, radio equipment.

Bożena Marciniak, **Transfer and lease of individual rights to use radio frequencies in the EU spectrum policy**

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- I. Introduction
- II. Secondary trading model of radio spectrum management
 1. A renewed approach with regard to radio spectrum management

2. Transition of frequency reservations to the market oriented economy and radio spectrum liberalization
- III. Transfer and lease of individual rights to use radio frequencies in the UE legal framework
 1. Formation and development of the concept concerning a secondary trading of rights to use frequencies
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 4. Co-ordination and unification of conditions regarding transfer or lease of individual rights to use radio spectrum
 - 4.1. Multiannual radio spectrum Policy programme
 - 4.2. Draft regulation „Connected Continent”

IV. Conclusions

Summary: The aim of this publication is to present the EU legal regulations concerning the issue of transfer and lease of individual rights to use radio frequencies. The basic function of these regulations is to increase users' access to frequencies and more effective and efficient use of spectrum. This publication presents the formation and development of the EU concept of transfer and lease of individual rights to use radio frequencies, legal framework in force and consequences of these regulations for EU member states.

Key words: telecommunications, radio frequencies, radio spectrum management, EU legal regulations, transfer and lease of individual rights to use radio frequencies, secondary trading of rights to use radio frequencies.

Daria Kostecka-Jurczyk, **An efficient competitor test and hypothetical reasonably efficient competitor test in the assessment of margin squeeze in the telecommunication sector**

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- I. Introduction
- II. The concept of margin squeeze
- III. Margin squeeze and other pricing practices
- IV. As efficient competitor test in the decisional practice of European Commission and Courts
- V. Hypothetical reasonably efficient competition test
- VI. Legal classification of price squeeze in telecommunication – as efficient or hypothetical reasonably efficient competitor test?
- VII. Conclusions

Summary: The aim of this article is to show the role of as efficient competitor test in the assessment of the abuse dominant position in the form of margin squeeze in telecommunication sector. The article also concerns with difference between “as efficient competitor test” and “hypothetical reasonably efficient competitor test” and presents the arguments for and against using these two tests as a tool of the assessment of margin squeeze.

Key words: abuse dominant position, margin squeeze, as efficient competitor test, hypothetical reasonably efficient competitor test.

Ewa M. Kwiatkowska, **Quantitative evaluation methods of competitiveness of the telecommunications markets (practical aspects)**

Table of contents:

- I. Introduction
- II. Empirical base
- III. Market share
- IV. Measures of market concentration
 1. Introduction
 2. Concentration ratio
 3. Herfindahl-Hirschman Index
- V. Conclusions

Summary: The article analyses quantitative methods of assessing the competitiveness of the telecommunications markets. The paper presents market share – quantitative criterion which describes telecom enterprise and the relevant market. Constructions and practical application of various measures of market concentration calculated on the basis of market shares (concentration ratio, the Herfindahl-Hirschman Index and HHI delta) are analysed.

Key words: quantitative criteria, evaluation of competitiveness, telecommunications markets, market share, Herfindahl-Hirschman Index, concentration ratio.

Marlena Wach, **International roaming regulations – new possibilities or challenges?**

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- I. The beginning of international roaming regulations
- II. *Ex post* and *ex ante* regulations on telecommunications market – domestic analysis on wholesale roaming markets
- III. Regulatory actions concerning international roaming at the EU level
 1. Telecommunications law sources
 2. Regulatory trends in international roaming services
 3. Roaming regulations
- IV. A single market for telecommunications services
 1. Introductory remarks
 2. Projected changes in regulation of roaming within the single market
 3. Abolition of roaming charges
 4. Completing the objectives of the European Digital Agenda
- V. Positions and the potential consequences of the new regulation

Summary: This article applies to antitrust and regulatory activities concerning international roaming led by a European Commission and national regulators authorities. The basis and objectives of regulation at the level of the EU-wide roaming in the form of further roaming regulations are discussed. Inability to achieve in a short time the goals of the Digital Agenda, in accordance with up to 2015 roaming meant that under the draft regulation on the single market were introduced the amendments to roaming regulation 531/2012 in force since 1 July 2012. The article focuses on the direction of these changes and the status of work on the proposal.

Key words: roaming, international roaming, roaming regulation, single market, Digital Agenda for Europe, abolishment of roaming charges, telecommunication market, ex post and ex ante regulation.

Renata Śliwa, **Outline of economic analysis of regulatory policy in telecommunications industry**

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- I. Introduction
- II. Regulatory independence against interest groups
- III. Intersubject relations in a regulated sector
 1. Regulated firm-regulator relations
 2. Regulator-society relations
 3. Regulator-politicians relations
- IV. Reassurance of the desired behavior against the possibility of dominant economic power emergence in telecommunications sector in Poland
- V. Summary

Summary: The paper presents a trial of the depicting the approach to regulatory policy through the lens of intersubject relations in the process of sectoral regulation. The divergence of aims attached to different actors/subjects in regulated sector is the fundamentals of intersubject relations. The adequate shape of the relations determines the effectiveness of regulated enterprises as well as the welfare of service consumers.

Key words: regulatory policy, independence of regulator, policy analysis, infrastructure competition.

Legislation and case law reviews

Tables of judgments of the Supreme Court, Court of Appeals in Warsaw and Competition and Consumers Court in telecommunications cases for the 1. half of 2013 (Ewa M. Kwiatkowska)

Tables of judgments of the administrative courts in telecommunications cases for the 1. half of 2013 (Magdalena Jachimowicz-Rolnik)

Telecommunications regulation – promotional sales. Judgment of the Competition and Consumers Protection Court of 6 November 2012, XVII AmT 50/11 (Patrik Koralewski)

Telecommunications regulation – pro-EU interpretation of Telecommunications Law. Judgment of the Supreme Court of 19 December 2012, III SK 3/12 (Magdalena Jachimowicz-Rolnik)

Book reviews

Mateusz Chołodecki, *Kontrola sądowa decyzji Prezesa Urzędu Komunikacji Elektronicznej [Judicial control over decisions of the President of Electronic Communications Office]*, Wydawnictwo Naukowe Wydziału Zarządzania Uniwersytetu Warszawskiego, Warszawa 2013, ss. 316 (Waldemar Hoff)

V. Mayer-Schonberger, K. Cukier, *Big Data: A Revolution That Will Transform How We Live, Work, and Think*, Houghton Mifflin Harcourt 2013, ss. 242 (Wojciech Dziomdziora)

Marlena Wach, *Regulacyjne i cywilnoprawne aspekty roamingu międzynarodowego [Regulatory and civil law aspects of international roaming]*, LEX a Wolters Kluwer business, Warszawa 2013, ss. 460 (Edyta Rosińska-Wielec)