

## From the Editor

### Articles

Mateusz Chołodecki, **Legal nature of consultation between the European Commission and the President of the Office of Electronic Communications in regulation of the telecommunication market**

#### Contents:

- I. Introduction
- II. Legal status of the European Commission in regulation of the telecommunication market (electronic communication market)
- III. Scope of the consultation between the European Commission and the President of the Office of Electronic Communications
- IV. Impact of the European Commission on the decisions of the President of the Office of Electronic Communications – consultation procedure
  1. Direct impact of the European Commission – article 7 Directive 2002/21/EC (veto decision)
  2. Indirect impact of the European Commission – article 7a Directive 2002/21/EC
- V. Judicial control of the decisions issued by the President of the Office of Electronic Communications as a result of consultation with the European Commission
- VI. Conclusions

**Summary:** The aim of the paper is to review the legal nature of the consultation procedure between European Commission (EC) and the President of the Office of Electronic Communications (UKE). In the procedure, EC analyses a draft of the regulatory measures notified by UKE and has right to issue a recommendation. Moreover, the author discusses a problem of the judicial control of the decision issued by UKE as a result of the consultation with EC. According to the author, only the national courts (SOKiK) are legitimate to control the decision.

**Key words:** European Commission; Office of Electronic Communications; consultation mechanism; The Court of Competition and Consumer Protection; Telecommunication law, regulation in telecommunications; procedure under Article 7 of Directive 2002/21/EC (Framework Directive); national regulatory authority, regulatory law

**JEL:** K230, K400.

Ewa M. Kwiatkowska, **Internet of Things. Medical treatment delivered by computers: fiction or reality?**

#### Contents:

- I. Introduction
- II. Internet of Things in healthcare
- III. Electronic medical records
- IV. The use of modern technologies in medicine
- V. Health related applications and peripheral devices

VI. Opportunities and threats of healthcare computerization

VII. Conclusions

**Summary:** The article discusses the Internet of Things (IoT) applications in medicine. The advantages of using electronic medical records are described. The possibilities of mobile applications and peripheral devices related to health and physical activity utilization are presented. The opportunities and threats that may arise from computerization of health care are discussed.

**Key words:** Internet of Things, electronic health records, modern technologies, mobile applications, medical care, peripheral devices

**JEL:** I18, L86

Andrzej Nałęcz, **Zero-rating in internet access services and specialised services**

**Contents:**

- I. General remarks on zero-rating
  1. The concept and types of zero-rating
  2. Positive and negative consequences of zero-rating
- II. Specific remarks on zero-rating in developing countries
- III. Zero-rating under the open internet regulation
  1. Zero-rating in internet access services
  2. Zero-rating in services other than the internet access service (specialised services)
- IV. Concluding remarks

**Summary:** Zero-rating is the practice of offering unlimited access to certain internet content to data plan subscribers in mobile communication networks. It is pertinent to the concept of network neutrality. The article explains the various types of zero-rating and presents their positive and negative consequences. The positives relate most of all to a beneficial influence on the competition between providers of internet access services. The negatives consist in a detrimental influence on the development of innovative internet content. Zero-rating is considered a threat to network neutrality even in developing countries, even though it is there that social development might benefit the most from it. The article includes an analysis and legal interpretation of the provisions of the open internet regulation, leading to the conclusion that zero-rating is not allowed in the EU in internet access service offers. It may also not be considered a type of a specialised service.

**Key words:** internet; network neutrality; zero-rating; regulation; internet access service; specialised service

**JEL:** K23

Stanisław Piątek, **New legal rules of providing internet access services**

**Contents:**

- I. Introduction
- II. EU regulation as a source of law
- III. Network neutrality as a base of open internet access
- IV. Scope of application of the regulation
- V. Internet access service, specialised service and sub-internet service
- VI. Guarantees of open internet access

## VII. Traffic management measures

1. Reasonable traffic management measures
2. Exceptional traffic management measures

## VII. Requirements concerning content of contracts and protection from non-conformity of performance

### VIII. Liability for non-conformity of service provision

**Summary:** Article presents the consequences of EU regulation 2015/2120 concerning open internet access for providers of access services and end-users. The scope and legal character of new rules are discussed. Elaborated are guarantees for end-users and restrictions imposed on service providers concerning traffic management measures. The article explains effects of new rules concerning content of contracts and enforcement of service provider's responsibility for non-performance of quality requirements of service contracts. The BEREC guidelines regarding the monitoring and enforcing the regulation were presented.

**Key words:** internet access, traffic management, service providers, end-users, regulatory authority

**JEL:** K23

## Maria Dąbrowa, Renata Śliwa, **Maturity of regulatory regime in a process of deregulation of a sector. Telecommunication sector example**

### **Contents:**

- I. Introduction
- II. Regulatory infrastructure in an economy
- III. Methodology
- IV. Extent of deregulation of communication sector and the state of regulation of the communication sector
- V. Conclusion

**Summary:** There is an endeavor undertaken in the paper to outline the relations between deregulation phenomenon and the level of regulatory infrastructure maturity. The content of the article introduces the description of regulatory infrastructure, the methods of its presentation as well as the analytical approach to the relations between deregulation and regulatory infrastructure in telecommunications sector. The empirical analysis was directed to verify the hypothesis on the possible, positive impacts of the maturity of regulatory infrastructure on the scale of deregulation in telecommunications. The notions of the scale of deregulation and the condition of sectoral regulator were defined. The methodology of the analysis encompasses the period of 2000-2014 and the data reported within OECD databases which are complete and comparable for a particular countries. The aim of the article is the presentation of the effects of the analysis based on the research question: Does the maturity of regulatory infrastructure translate into the scale of deregulation in telecommunications sector?

**Key words:** regulatory infrastructure, deregulation, regulator of telecommunications sector, regulatory regime, maturity of regulatory regime

**JEL:** L1, L5, L8

**Ewa Galewska, Journalistic confidentiality in the codes of journalistic ethics****Contents:**

- I. Introduction
- II. Journalistic confidentiality
  1. Subjects obligated to keep journalistic confidentiality
  2. Scope of journalistic confidentiality
  3. Releasing from the obligation to keep journalistic confidentiality
- III. Codes of journalistic ethics
- IV. Summary

**Summary:** Journalistic confidentiality and revealing information constituting thereof should be examined not only as a legal problem but also issue of highly important meaning in the light of journalists' professional ethics. Journalists select values they intend to protect. When selecting such values journalists should apply provisions of law that are of key importance here. Provisions of law however should be complemented by norms of professional ethics aiming at supporting journalists making such difficult selection.

**Key words:** confidentiality; journalist; press; media; ethics

**JEL:** K290

**Mariusz Czyżak, Postal secrecy and its protection****Contents:**

- I. Introduction
- II. Notion of the postal secrecy
- III. Exclusion of the protection of the postal secrecy
- IV. Instruments of the protection postal items against the access of unauthorized persons
- V. Administrative and criminal liability resulting from the contravention of the postal secrecy
- VI. Criminal liability resulting from the contravention of the correspondence secrecy
- VII. Conclusion

**Summary:** The notion of the postal secrecy and instruments of its legal protection are discussed in the article. The obligations of postal operators to protect the postal secrecy and the penal consequences of administrative and criminal law on account of the postal secrecy contravention are presented. In the article it was also indicated that the protection of the postal secrecy does not lose its importance considering an increase of the volume of courier services related to the development of electronic commerce.

**Key words:** postal services, postal secrecy, legal liability

**JEL:** K23

## Legislation and Case Law Reviews

### Wojciech Dziomdziora, **Main changes in the law on supporting the development of telecommunications networks and services**

#### Contents:

- I. Introduction
- II. Changes done by Act amending act on support the development of services and telecommunications networks and certain other acts.
  1. Change in the objective scope of the Act
  2. Change in the subjective scope of the Act
  3. New definitions
  4. Access to technical infrastructure
  5. Information obligations and the right to inspection
  6. Protection of the infrastructure – safety, health, defense and public order
  7. Information point for telecommunications
  8. Coordination of building works
  9. Other changes in the law
- III. Summary

**Summary:** The article presents the main changes to the law on supporting the development of broadband services and networks. Changes in the subject and object scope of the Act were described. Article presents the definition of the technical infrastructure – as a new concept in the law. Discussed is the principle of access to technical infrastructure and issues of information obligations imposed on operators, and telecommunications company's right to inspect the technical infrastructure. Separate paragraph is devoted to the protection of infrastructure because of safety, health, defense and public order. Briefly presented are provisions on the point of information for telecommunications. The article also presents the new rules on coordination of construction works.

**Key words:** technical infrastructure, telecommunication infrastructure, telecommunications, broadband network, critical infrastructure, telecommunications services, telecommunications network, telecommunications provider, network operator, information point for telecommunications, coordination of works, access

**JEL:** K230

### Łukasz Pirożek, **Connections to non-geographic numbers. Comment to the judgment of the Court of Justice of the European Union of 14 April 2016, C – 397/14**

#### Contents:

- I. Introduction
- II. The subject of the case
- III. The reasons of the judgment of the Court of Justice of the EU
- IV. Summary

**JEL:** K23

## Books Reviews

**Konrad Stolarski, *Zakaz nadużywania pozycji dominującej na rynkach telekomunikacyjnych w prawie Unii Europejskiej* (Prohibition of the abuse of dominant position on the telecommunication markets in the law of the European Union)**, CARS, Wydawnictwo Naukowe Wydziału Zarządzania Uniwersytetu Warszawskiego, Warszawa 2015 (reviewed by Waldemar Hoff)

**Ewa Galewska, *Obowiązek zawarcia umowy o połączeniu sieci telekomunikacyjnych* (The obligation to conclude interconnection agreements)**, Oficyna Wolters Kluwer business, Warszawa 2015 (reviewed by Kamil Mieszkowski)