

## **Transition to Digital Broadcasting**

The transition from analogue to digital technology, which includes TV broadcasting, is an undisputable global fact. This is a trend no individual country can avoid.

Experience from abroad suggests that, after the problems in Great Britain and Spain in 2002 and given the new developments since 2004, the policymakers in digital broadcasting (this involves primarily broadcasting using terrestrial transmitters, but also satellites, cable and other transmission platforms/networks) have adopted a strategy for maximum elimination of potential problems.

Since the process of transition to digital broadcasting must be understood as a society-wide phenomenon (with an effect on the citizens, public administration, services, industry, etc.), the following facts must be taken into consideration for its successful commencement and further development:

- the commencement of the transition must be thoroughly planned and commenced in a condition where the parties concerned and the conditions for the transition are duly prepared (in a market as small as the Czech Republic, fundamental errors would be particularly difficult to remedy),
- the new service will be capable of bringing added value to the users compared to the existing situation (new channels, mobility, portability, easy control, new applications, etc.)
- the transition to digital broadcasting should be accompanied by a broad discussion amongst all the parties concerned (with the emphasis placed on user briefing events),
- regarding the content of terrestrial digital broadcasting, emphasis should be placed on high-quality free channels, and
- on open international standards where technologies are concerned.

As for satellite broadcasting, it is obvious that the benefit for users in nation-wide broadcasting will consist in a wide range of channels, given the almost inexhaustible capacity. Cable networks, on the other hand, may provide interactive two-way applications provided that there is a certain degree of variety of channels. The potential of broadcasting using terrestrial broadcasting technology, with a similar degree of variety of channels as that provided by cable networks, lies in the mobile and portable capability (it can be received e.g. in means of public transport or without a traditional TV aerial).

It is reasonable to expect that the transition to digital satellite and cable networks will be driven only by market forces, with no fundamental State intervention. Although the communication and technology policy of the State should take an integrated view of all the transmission platforms while remaining platform-neutral, there are general reasons why the transition to digital terrestrial broadcasting requires State intervention. These include, in particular, the following:

- the services (this concerns TV broadcasting in particular) provided via the digital terrestrial network should participate in the preservation of the social and, in particular, cultural specificities of the Czech Republic (while preserving the possibility of access by foreign parties in accordance with European legislation – the “Television without Frontiers” Directive). The special licence mode or the “must carry” obligation for the operators of electronic communications networks – the obligation to distribute

channels determined by the “State” – is a related issue. Given the nature of broadcasting using cable and satellites, there is no guarantee that the market forces would ensure such activities by themselves within the aforementioned transmission platforms;

- avoiding the so-called digital divide and the consequent information divide, e.g. between urban and rural areas (the issue of effectiveness of the construction of cable networks for the operators concerned), between the wealthier and the less well-off social groups (cable and satellite channels are mostly provided for consideration),
- of the 3.92 million television households in the Czech Republic, 68.3% (2.68 million) receive exclusively terrestrial television broadcasting; 12.8% (0.5 million) receive satellite broadcasting; and 18.9% (0.74 million) receive signal via the cable network (source – SES),
- strengthening the position of the Czech Republic on the European media landscape (creating jobs, production of programmes, etc.),
- enabling the fulfilment of the provisions of Section 3 (1) of Act No. 483/1991 Coll., on Czech Television, as amended, and Section 3 (1) of Act No. 484/1991 Coll., on Czech Radio, as amended, since it is necessary to create grounds for Czech Television and Czech Radio so as to enable them to effectively fulfil the public-service tasks resulting from the aforementioned laws; establishment of the so-called public service multiplex,
- improving the effectiveness of use of a limited source – the frequency spectrum, which is public property.

The benefit/drawback aspect brought by the transition to users (viewers, listeners, users of additional services) should be the main criterion for defining the position of the State in the period of transition to digital broadcasting.

### **Transition to Digital Broadcasting in the Czech Republic**

By virtue of Resolution No. 696 of 9 July 2001, the Government took into cognizance the draft **Strategy of Transition to Digital Radio and Television Broadcasting in the Czech Republic** (hereinafter the “Strategy”) as an initial strategic document, provided that it would be extended with a proposal for the further procedure on the basis of the results of the international coordination of the frequencies required for achieving the objective of the first stage of the transition, after the demands for funding public-service broadcasting are specified, on the basis of experience in broadcasting terrestrial digital television and after launching the initial two nation-wide digital multiplexes.

The Government also imposed on the Minister of Culture, by virtue of the aforementioned Resolution, to submit a proposal for amendment to the legislation on radio and television broadcasting, in cooperation with the Minister of Transport and Communications, and it imposed on the Chairman of the Czech Telecommunication Office (hereinafter the “CTO”) to provide for an international coordination of frequencies and to set up the relevant plans of broadcasting networks in cooperation with the Chairman of the Council for Radio and Television Broadcasting (hereinafter the “Council”) as soon as the results of the international frequency coordination make this possible.

The Ministry of Culture, in cooperation with the Ministry of Transport and Communications, produced a draft law which was aimed at fulfilment of the task pursuant to the aforementioned Government Resolution and which amended the Act on Radio and Television Broadcasting,

the Act on the Czech Television, the Act on the Czech Radio, the Act on Radio and Television Licence Fees and the Act on Administrative Fees. The CTO raised fundamental comments within the commentary procedure related to the strategic issue of defining the powers of the Council and the CTO. The CTO fundamentally disagreed with the proposed broadening of the competence of the Council to include granting of licences to multiplex operators, because the operation of a multiplex, as proposed in the submitted legislation, constituted, according to the CTO, the operation of a telecommunications network and, therefore, the CTO had exclusive competence to grant licences. Since the fundamental variance between the positions of the Ministry of Transport and Communications and the CTO was not successfully settled, the Minister of Culture initiated a meeting with the participation of the Minister of Transport and Communications, the Minister authorised to manage the Office for Public Information Systems, the Chairman of the CTO and the Chairman of the Council. The following matters resulted from the aforementioned meeting and the meetings that followed:

1. According to the Strategy, the availability of coordinated frequencies in the extent essential for setting up at least two prospectively nation-wide broadcasting networks was a basic prerequisite for the commencement of the first stage of transition to terrestrial digital broadcasting. The failure to fulfil the aforementioned prerequisite signified a considerable change in the principles anchored in the applicable Strategy.
2. The EU regulations adopted at the time, referred to as the “telecommunications package” were also relevant for the legal stipulation of the distribution of terrestrial digital broadcasting. A requirement for separation of the regulation of the broadcasting content from the regulation of its transmission resulted from the new regulatory framework as a consequence of the progressing convergence of transmission networks and services.

The Minister of Informatics who, in the meantime, became responsible for this area instead of the Minister of Transport and Communications, was therefore asked by Government Resolution No. 159 of 12 February 2003 to produce, in cooperation with the Minister of Culture, an update of the Concept that would reflect the changes that had occurred since the original Strategy was produced.

On 28 April 2004, the Minister of Informatics, in cooperation with the Minister of Culture, presented to the Government the Strategy of Commencement of Digital Television Broadcasting in the Czech Republic in the Period from 2004 to 2006. The objective of the strategy was to enable the commencement of digital television broadcasting under the existing legislation. The strategy concentrated exclusively on the period of commencement of digital broadcasting, where analogue broadcasting would not be restricted yet. The Government expressed its consent to the commencement of proper digital broadcasting in 2004 to 2006 by virtue of Government Resolution No. 395 of 28 April 2004 and imposed on the Minister of Informatics, in cooperation with the Minister of Culture, *inter alia*, to submit to the Government a draft strategy of development of digital broadcasting in the Czech Republic by 31 March 2005. The aforementioned task was postponed to September 2005 by virtue of a Government Resolution of 29 June 2005.

The adoption of the Electronic Communications Act was to have a significant effect on the future development of digital broadcasting in the Czech Republic. The “telecommunications package” was to be transposed into Czech legislation by virtue of the aforementioned Act and the laws in the area of radio and television broadcasting were to be simultaneously amended.

Given that adoption of the draft Electronic Communications Act, including the section amending the legal stipulation of radio and television broadcasting by Parliament was uncertain, the Minister of Informatics proposed its removal, which subsequently indeed occurred. However, the Act on Radio and Television Broadcasting was amended during the legislative process by virtue of amendment proposals in that the provisions thereof pertaining to the set of technical parameters (i.e. the definition of frequencies) would not apply to terrestrial digital broadcasting. Furthermore, the Act on the Czech Television and the Act on the Czech Radio were amended. An obligation to set up the public-service multiplex (a summary data flow comprising individual channels, multimedia content and complementary services) was stipulated for the Czech Television together with the Czech Radio.

In connection with the removal of the section concerning radio and television broadcasting from the Act and in connection with the creation of the public-service multiplex, the Minister of Informatics promised, during the discussion of the draft Electronic Communications Act in the Parliament, that the Government would forthwith submit an amendment to the Act on Radio and Television Broadcasting that would enable the commencement and development of digital broadcasting.

The draft amendment of the Act on Radio and Television Broadcasting was approved on 6 April 2006 after long discussion in the Parliament and was promulgated in the Collection of Laws as Act No. 235/2006 Coll.

### **Main Changes in Connection with Digital Broadcasting:**

- adjustment and completion of the definition tools (*definition of the services associated with the channel, interactive programme guide*)
- broadcasting using remote access (the internet) is not considered to be radio or television broadcasting
- the commencement of licence proceedings was modified (*e.g. commencement on the initiative of an applicant for a licence*)
- ban on cross ownership (*simultaneous existence of individual authorisation for the operation of a multiplex and the actual licence for the operation of digital terrestrial broadcasting*)
- plurality of information in nation-wide digital broadcasting (*e.g. one person cannot be the holder of more than two licences for the operation of nation-wide terrestrial broadcasting authorising him/her to distribute full-format channels*)
- adjustment of the possibility of making changes in the set of technical parameters for analogue broadcasting and newly also in the diagram of use of radio frequencies for digital broadcasting.